

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

**Date of report:** August 2, 2018

<b>Auditor Information</b>			
<b>Auditor name:</b> Traci Jacobson			
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<b>Telephone number:</b> 570-773-2158 ext 8745			
<b>Date of facility visit:</b> June 6-8, 2018			
<b>Facility Information</b>			
<b>Facility name:</b> Newberry Correctional Facility.			
<b>Facility physical address:</b> 13747 E. County Road 428 Newberry, MI 49868			
<b>Facility mailing address:</b> <i>(if different from above)</i> <a href="#">Click here to enter text.</a>			
<b>Facility telephone number:</b> 906 293 6200			
<b>The facility is:</b>	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> State	<input type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
<b>Facility type:</b>	<input checked="" type="checkbox"/> Prison	<input type="checkbox"/> Jail	
<b>Name of facility's Chief Executive Officer:</b> Jack Kowalski			
<b>Number of staff assigned to the facility in the last 12 months:</b> 200			
<b>Designed facility capacity:</b> 1104			
<b>Current population of facility:</b> 1058			
<b>Facility security levels/inmate custody levels:</b> Minimum- level 1			
<b>Age range of the population:</b> 18 and above			
<b>Name of PREA Compliance Manager:</b> Donald Curley		<b>Title:</b> PREA Coordinator/Inspector	
<b>Email address:</b> <a href="mailto:curleyd1@michigan.gov">curleyd1@michigan.gov</a>		<b>Telephone number:</b> (906)293-6222	
<b>Agency Information</b>			
<b>Name of agency:</b> Michigan Department of Corrections			
<b>Governing authority or parent agency:</b> <i>(if applicable)</i> <a href="#">Click here to enter text.</a>			
<b>Physical address:</b> 206 East Lansing MI, 48933			
<b>Mailing address:</b> <i>(if different from above)</i> <a href="#">Click here to enter text.</a>			
<b>Telephone number:</b> 517-373-3966			
<b>Agency Chief Executive Officer</b>			
<b>Name:</b> Heidi Washington		<b>Title:</b> Director	
<b>Email address:</b> WashingtonH@michigan.gov		<b>Telephone number:</b> 517-373-0720	
<b>Agency-Wide PREA Coordinator</b>			
<b>Name:</b> Charles Carlson		<b>Title:</b> PREA Administrator	
<b>Email address:</b> CarlsonC2@michigan.gov		<b>Telephone number:</b> 517-373-3966	

## AUDIT FINDINGS

### NARRATIVE

A Prison Rape Elimination Act audit of the Newbery Correctional Facility was conducted from June 6, 2018 through June 8, 2018, pursuant to audit consortium formed between the Maryland Department of Public Safety and Correctional Services, the Michigan Department of Corrections, the Pennsylvania Department of Corrections and 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, Traci Jacobson, was assisted during this audit by DOJ Certified Auditor Thomas Greishaw and Assistant David Fisher.

The auditor wishes to extend its appreciation to Warden Kowalski and his staff for the professionalism they demonstrated throughout the audit and their willingness to comply with all requests and recommendations made by the auditor both during the site visit and post audit. The auditor would also like to recognize PREA Coordinator Donald Curley for his hard work and dedication to ensure the facility is compliant with all PREA standards.

Prior to the audit, the auditor was provided a flash drive that contained all pre-audit documentation. This flash drive contained applicable policies and ample sample documentation in support of compliance with the standards and their provisions. After the on site visit, all additional documentation was received via email which included additional requested documentation. The auditor also provided the audit notices to the facility and they were posted on April 19, 2018 throughout the facility as verified by the PREA Coordinator Mr. Curley's email dated April 19, 2018 containing photographs of the notices in the housing units and general areas of the facility. It was also verified during the onsite tour that the notices were posted and inmates were aware of the audit and in fact the auditor received correspondence dated May 15, 2018 from an inmate at the facility, verifying that the notices were displayed in the facility.

The auditors arrived onsite at approximately 1000 hours on June 06, 2018. An entrance meeting was held with key administrative staff beginning shortly after 1000 hours. The auditors were greeted by the facility's administrative team and the agency's PREA staff to include Warden Jack Kowalski, Deputy Warden Andy Hubble, PREA Coordinator/Inspector Donald Curley, agency PREA Analyst Matthew Silsbury, as well as other senior managers within the facility. Introductions were made and logistics for the audit were planned during this approximately 20-minute meeting. Auditors Jacobson and Greishaw conducted Warden Kowalski's interview at the conclusion of the entrance meeting and Assistant Fisher was given the list of Random Inmates to be interviewed. Random interviews followed the format laid out by the PREA Resource Center's interview templates for inmates. At the conclusion of Warden Kowalski's interview, a tour of the facility commenced immediately thereafter with auditors Traci Jacobson and Thomas Greishaw, touring common areas together and then breaking up and touring the housing units separately.

The auditors toured all areas of the facility that were operational and that inmates and staff had access to, including; the 6 buildings outside the secure perimeter that house maintenance, business office/personnel/warehouse/grounds shop, grounds storage, powerhouse, and a plumbing shop. The secure perimeter contains 12 housing units which all, but one is interconnected by a hallway system enabling access to housing units, food service and the school/gym building. Unit #11 is the only housing unit which is not interconnected, but was also toured. The yard and outside recreational areas were also toured and the facility is surrounded with double fences, electronic detection systems, camera system, razor ribbon wire and patrol vehicles. It is important to mention that the Newberry Correctional Facility is a converted state hospital and there are several buildings outside of the secure perimeter that are condemned and not operational. Staff nor inmates have access to these building and they were not toured or included for this particular audit.

During the tour, informal interviews were conducted with 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, the auditor also informally interviewed the facility PREA Coordinator, the Deputy Warden, PREA Analyst and various Resident Unit Managers and counselors 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 compliance with the standards. Additionally, during the audit tour, the auditors sampled a minimum of 2 random inmate files on all of the housing units to verify inmate PREA education and PREA risk screening.

During the tour, the auditors observed the facility's camera monitoring system within the control center to verify that cameras were positioned in such a way as to provide adequate coverage of the housing units, yet afforded privacy in bathroom/shower areas of the facility. The facility was found to have adequate camera coverage for a total of 196. The system was a modern and robust camera system that provided great coverage of all common areas of the facility and with the ability to digitally obscure the view of the toileting areas of 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 auditor took notice to the "Knock and Announce" notices posted 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, this auditor followed the knock and announce policy on the housing units and the inmates did not seem alarmed or startled by my announcement, assuring this auditor that they have been accustomed to hearing this and aware that female staff may be on their

housing units. Following the knock and announce, opposite gender staff waited 10 seconds prior to entering the housing unit. On each housing unit a memo was found to be posted on the bulletin boards notifying the inmates that the facility's PREA "An End to Silence" handbook was located in the Library. The onsite tour did not reveal any areas to be a concern and it was obvious that the staff and administration put extensive thought and consideration into the sexual safety of the population in the placement of the additional cameras. The tour of the facility lasted the entire day and the auditors exited the facility after an exit briefing at 1645hrs.

The random and targeted inmate interviews were selected from the population list provided to the auditor on June 1<sup>st</sup>, 2018 which listed housing unit, DOB and Race as well as those inmates who were in the targeted populations. The auditor selected four inmates from each housing unit focusing on assuring that the races varied as well as the ages and those inmates in the targeted populations were all included to be interviewed as there were only a total of 15 identified and. Overall, a total of 51 inmates were selected with 42 being available and agreeing to be interviewed during the audit. The assistant and this auditor interviewed 21 random inmates and 21 targeted inmates that consisted of two inmates who identified as LGBTI, two who reported victimization during risk screening, three who reported sexual abuse, eight who had a physical disability, one who had a cognitive disability, two hearing impaired, and two limited English proficient inmates. One of the random inmates was an inmate who wrote a letter to the auditor who had filed a complaint about sexual harassment at another facility. The following interviews were not conducted as they were not available at this facility, youthful inmate, and an inmate in segregation for high risk of sexual victimization. As previously mentioned, while the tour was in progress on day one, assistant David Fisher began conducting random inmate interviews in a private room within the facility.

The auditor then selected a minimum of one officer from each housing area, covering both shifts, with 2 additional staff chosen from general areas with a total sample size of 14 random staff interviews. The specialized staff interviewed were, the Warden, an Intermediate or Higher level facility staff member, medical and mental health staff, Administrative (HR) staff, SANE nurse(via telephone), Volunteers and contractors, investigative staff, staff who perform screening for risk of victimization and abusiveness, staff on the incident review team, designated staff member charged with monitoring retaliation, first responders and intake staff. A total of 14 additional targeted staff were interviewed.

The auditors arrived onsite at approximately 1000 hours on June 07, 2018 and were greeted by key facility administrative staff in preparation for the second day of the audit. Audit logistics were discussed and the auditor provided the facility with the names of the random staff selected for interviews and discussed the targeted staff to be interviewed. The auditors were led to their respective offices after the entrance meeting and the two DOJ auditors commenced with simultaneous interviews of first shift staff and the assistant continued with his random and targeted inmate interviews. At the conclusion of these interviews, the auditors began interviewing the second shift staff. It is important to note that Newberry Correctional Facility operates with two shifts, the first shift running from 0600 hours to 1800 hours and the second shift starting at 1800 hours and running to 0600 hours. When interviews were completed with first shift staff, the auditors turned their attention to the specialized staff interviews. Interviews followed the format laid out by the PREA Resource Center's interview templates for each specialized category of staff. The auditors and assistant then completed the second shift random staff interviews and conducted an exit briefing at 2100 hours, agreeing to return on June 08, 2018 at 0900 hours to address any concerns and conduct the exit brief with facility staff.

The auditor was unable to complete the following specialized interviews staff due to the matters not being applicable, line staff who supervise youthful inmates, education and program staff who work with youthful inmates (youthful inmates are not housed at the facility), Non- Medical Staff involved in cross gender searches (no such searches performed) and the agency contract administrator (the agency does not contract for the confinement of its inmates).

The agency head's designee and agency PREA Administrator were interviewed in person during a previous audit as part of the Agency audit. telephone interviews were conducted with representatives of Helen Newberry Joy Hospital (who provides SAFE/SANE and forensic examination advocacy services to the facility) and a representative of the the Diane Pepler Resource Center who provides advocacy services to the facility.

The auditors returned on June 8, 2018 at 0900 to conduct our exit briefing at Newberry Correctional Facility with Warden Kowalski and his administrative staff and designated staff. The auditors briefly described the audit process and the pending report compilation. The audit team could not provide specifics concerning individual standard compliance, as the lead auditor continues to have considerable work to do, in order to properly assess compliance. The audit team commended facility personnel, and provided deserved comments concerning the positive facility culture, the evident teamwork and conscientious attitude of staff, the quiet and controlled nature of the facility, the staff and inmate interactions, the feeling of relative safety by the inmates and staff, the friendly, and the relaxed professionalism exhibited by the proud employees.

This auditor was afforded with the opportunity to review in entirety the 9 facility investigations prior to the onsite audit as they were included on the flashdrive. These were the only investigations during this audit cycle. No new investigations were initiated from the time the flashdrive was received to the onsite audit. Of the 9 investigations, one was a Sexual Assault allegation and it was Unfounded, 4 allegations of Sexual Harassment that were unsubstantiated and 4 allegations of non-consensual sexual acts that were all unsubstantiated. This auditor found the investigations to be thorough and well prepared and organized and meeting the standards.

Throughout the pre-audit, onsite audit, and post audit, open and positive communication was established between the auditor and both the

agency and facility staff. During this time, the auditor discussed all concerns with PREA Analyst Matthew Silsbury, who filtered request to the appropriate staff. Through a coordinated effort by Mr. Silsbury and key staff at the Newberry Correctional Facility all informational requests of the auditor were accommodated prior to the completion of the report.

## **DESCRIPTION OF FACILITY CHARACTERISTICS**

The Newberry Correctional Facility is a minimum-security prison with a designed capacity to hold 1104 inmates. NCF is located on the site of the former Newberry State Hospital. The facility opened in 1996 as a level II facility and in 2008 additional beds were added. In 2012 the facility was converted to a secure level I facility. In 2013 the facility transitioned to 12 hour shifts which run from 6am to 6pm and 6pm to 6am with a 2-10 shift as well as 2 transportation staff and a 6am to 2pm staff person. While there are many unusable or unoccupied buildings on the site, the current facility utilizes 6 buildings outside the secure perimeter. The secure perimeter contains 12 housing units, which all but one is interconnected by a hallway system enabling access to housing units, food service and the school/gym building. Unit #11 is the only housing unit which is not interconnected. The housing units are dormitory style living.

The perimeter security consists of double fences, electronic detection systems, camera systems, razor ribbon wire and patrol vehicles. The staffing plan has been developed in accordance with PREA 115.13 in order to address appropriate staffing levels and video monitoring to ensure the protection of offenders from sexual abuse and they also abide with generally accepted detention and correctional practices. All areas that would be considered "blind spots", i.e., offices, closets, have their doors closed and locked at all times unless supervised by a staff member. Areas can also be viewed by video surveillance. In addition, areas such as coolers, freezers and the warehouse have video surveillance in them.

The facility offers academic and vocational programming as well as religious and self-improvement programs. Programs include Educational classes, Employment Readiness, Substance Abuse Education, Thinking for a Change, Violence Prevention, Blood Borne Pathogen Training, Religious Services, Law Library and General Library, Recreational programming, A shelter Dog Program, Vocational Plumbing and Electrical and self help groups. Prisoners are provided on-site routine medical and dental care. Serious problems are treated at the Helen Newberry Joy Hospital.

The facility is designed to operate a maximum capacity of 1104 inmates. On the last day of the audit, there were 1090 inmates present. The auditor observed that the inmate population consisted predominately of Caucasian and African- American inmates. Other ethnic groups were not widely observed throughout the tour.

There are a total of 200 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, Inspectors, Deputy Warden and Warden. The layout of the housing units require the officer to do regular rounds of the unit with video surveillance supplementing the rounds.

During the audit tour and through informal interviews with staff and inmates, the auditor was left with the general sense that staff and inmates felt safe at the facility.

## **SUMMARY OF AUDIT FINDINGS**

This is the final report for the Newberry Correctional Facility and the Michigan Department of Corrections. This auditor feels that the facility has met the 43 standards that are applicable to them and are in compliance with these standards.

Number of standards exceeded: 0

Number of standards met: 43

Number of standards not met: 0

Number of standards not applicable: 0

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

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC Prison Rape Elimination Act Manual: April 2017 (all)
  - b. PD03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (all)
  - c. DOM 2016-17 Director's Office Memorandum (all)
  - d. NCF OP 03.03.140 Prohibited Sexual Conduct Involving Prisoners (all)
  - e. Position description PREA Administrator Manager (pp 1-8)
  - f. Budget and Operations Administration Organization Chart (all)
  - g. Statewide PREA Coordinator List: 2017-06-13 (p1-2)
  - h. Facility organization chart
2. Interviews:
  - a. PREA Coordinator
  - b. Random Inmates
  - c. PREA Administrator (conducted during the Agency level audit)
3. Site Review Observations:
  - a. PREA signage

115.11 (a) The Newberry Correctional Facility (NCF) has a comprehensive policy on their zero tolerance of sexual abuse and sexual harassment. Agency policy 03.03.140 and the PREA Manual outline the agency's approach to implementing the zero-tolerance policy. Local operating procedures OP 3.3.140 outlines the facility's approach to implementing agency policy. The auditor reviewed these documents in their entirety to determine compliance with this provision.

115.11 (b) The agency PREA Manual is a document that serves to unify the agency's approach to implementing the PREA standards that were previously covered by Department policies relative to such areas as segregation, employee training, prisoner placement, health care, etc. The agency PREA Manual supersedes all policies that were issued prior to its issue in September 2015 and its updated version of 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 prisoners, 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, prisoner 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.(a-2)

Provision (b) was audited at the agency level and found in compliance; however, it will be addressed in part in this report. According to the PREA Manual, the position of 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. During an interview with the PREA Administrator, it was explained that the title of PREA Administrator is used to accommodate existing Michigan Civil Service title rules. Through an interview with the PREA Administrator, he 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. This auditor was informed during an interview with the agency PREA Administrator that the agency titles were modified to accommodate existing Civil Service title rules within the state of Michigan. The PREA Coordinator for the Newberry Correctional Facility

is the Inspector. This position reports directly to the Warden. 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. Specifically, the PREA Coordinator shared that he coordinates his efforts to implement PREA through communication with his supervisory staff and through trainings and addresses matters related to compliance as he becomes aware of them.

115.11(c) Based on a review of the PREA Manual and interviews with the PREA Administrator and facility PREA Coordinator, the auditor determined compliance with provision (c). The PREA Coordinator (aka PREA compliance manager) reports that he was given sufficient time and authority to develop, implement and oversee agency efforts to comply with the PREA standards. He felt that his Warden gave him time and authority to implement training and make changes when it was required to meet standards or improve practices in reference to the PREA standards.

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

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

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

The following evidence was analyzed in making the compliance determination:

- 1 Documents:
  - a. Email & Request for Proposal Regarding Contracting for Reentry Services (pp. 1-3)
  - b. Lake County-Residential Reentry Program Updated Contract September 2017 (pp27-29)
  - c. 115.12 (b) memo
- 2 Interviews:
  - a. PREA Administrator (conducted during the Agency level audit)
  - b. PREA Coordinator
  - c. Department's Contract Administrator (conducted during the Agency level audit)

115.12 (a) Through a review of the PREA Manual and interviews with the PREA Administrator and PREA Coordinator, and reviewing the audit notes from the Statewide audit that interviewed the Department's Contract Administrator, the facility provided documentation for a Request For Proposal (RFP) and the recent awarded contract for reentry services that the agency entered into in September 2017. This RFP contained language to ensure that any successful bidder for an awarded contract would be required to be compliant with the PREA Standards. The contract was awarded to Lake County Residential Reentry Program in September 2017 and their contract contained their requirement and intent to be in compliance with the PREA standards which demonstrates the Department's compliance with this provision.

115.12 (b) The contract contained the verbiage for the Department to monitor the contract to ensure that the contractor is in compliance with the PREA Standards and a memo was provided by the facility to demonstrate that monitoring was conducted with assuring that the Lake County Residential Reentry Program is meeting the established PREA standards as set forth in the contract and are therefore in compliance with this provision.

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

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



- Does Not Meet Standard (requires corrective action)

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC Prison Rape Elimination Act Manual: April 2017 (pp 20-21)
  - b. Facility staffing plan
  - c. Deviations (pp1-3)
  - d. CAJ-1027 Annual Staffing Plan Review Form (p 1)
  - e. 2016 NCF PREA Staffing Plan Review CAJ-1027 (p 1)
  - f. PD 04.04.100 Custody, Security and Safety Systems (SS-UU, XX)
  - g. OP 04.04.100H Administrative Rounds (pp. 1-2)
  - h. Intermediate or high level rounds (pp1-127)
2. Interviews:
  - a. Warden
  - b. Random Inmates
  - c. Random Staff
  - d. Intermediate/High level facility staff
- 3 Site Review Observations:
  - a. Housing unit tours
  - b. Familiarity of staff with inmates
  - c. Camera placement and video coverage
  - d. Adequate staff presence
  - e. Daily shift assignments

115.13(a-1) Interviews with the Warden and PREA Coordinator reveal that no significant changes were made with respect to the number of personnel at the facility. The video surveillance system includes a total of xxx cameras. The facility upgraded its camera coverage capabilities during the Department's camera enhancement project in 2017. During the audit tour, the auditors received a demonstration of the camera system's capabilities and were impressed with how the system serves to augment staff supervision in all areas of the facility. The auditors also made note that housing areas and common areas were designed in such a fashion as to provide straight lines of sight when officers were doing rounds. A review of the facility's staffing plan and interviews with the PREA Coordinator and Warden 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. The operational staffing plan was originally predicated on 1104 inmates and the facility's average daily population has averaged 1058 and after review and discussion the auditor found the facility to meet this subsection.

115.13 (a-2&3) The Newberry Correctional Facility does not have any judicial or federal findings of inadequacy. No documentation could be found and the Warden confirmed that there are no findings.

115.13 (a-4&9) The Warden and PREA Coordinator both confirmed that their internal audits and Auditor General Audits tend to be a higher standard and they must immediately correct any deficiencies that are noted. The Warden had the last Audit for our review and no staffing violations or deficiencies were noted and he assured that after any audit, the outcomes are considered in the staffing plan if necessary.(a-9) The auditor felt the facility demonstrates that it takes these subsections into consideration when reviewing their staffing plan.

115.13 (a-5) The Warden reports, the Inspector has camera operations meetings to address camera placement and blind spots where staffing may be required or cameras may need to be placed. This was also evident in the facility tour that camera installation and blind spots were well thought out and talked about amongst the administrative staff, assuring the auditor that they address this in their staffing plans.

115.13 (a-6&8) The administrative staff also takes into consideration the inmate composition, both the Warden and the PREA Coordinator were versed in the type of inmates they were housing. Newberry Correctional Facility houses level 1 inmates. Both administrators mention that the majority of the inmates are focused on their reentry and programming. This requires them to consider the need for staffing in the program buildings as well as camera placement. They report that when new programs are introduced that they may have to adjust staff or even programming times as not to conflict with the staffing plan, to assure to protect against sexual abuse. The Warden also reports that he

has the latitude to run essential assignments based on programming and institutional need.

115.13 (a-7) The auditor was able to review the daily rosters along with the staffing plan to collaborate the Warden's account of having 1 Captain and 3 Lt's, and 5 Sergeants on each shift. During the day they also have 2 RUM's (Resident Unit Managers) assigned to the housing Units. During the onsite tour the auditor was also able to meet and speak to these supervisory staff proving their placement is considered in the staffing plan.

115.13 (a-10&11) During the Incident Review Team meetings staffing is always addressed if it is a concern. Both the Warden and PREA Coordinator confirmed that if staffing is an issue the staffing plan is discussed and if it would need to be changed they would recommend a change. This was also collaborated through the interview with the staff member sitting on the Incident Review Teams. It is evident to this auditor that the facility is taking this and any other relevant factors into consideration when addressing adequate staffing levels and plans. It is also important to mention that this facility also takes into consideration other Department Incident Review outcomes and have placed cameras where there have been issues such as freezers/coolers.

115.13 (b) According to interviews with the PREA Coordinator and Warden, the agency does not ordinarily deviate from its staffing plan. The Warden reported that all posts are filled either through voluntary overtime or mandated overtime; however, there could be situations that warrant them to deviate from the staffing plan based on the following five factors, 1) Sick Leave, 2) FMLA, 3) Staff Vacancies, 4) Emergency Weather and 5) Lack of Staff to Mandate. According to the Warden the facility would document any deviations from the staffing plan however the facility has not had any issues that they were not able to address as they staff for a number of treatment programs that they can cancel and utilize the staff assigned to those positions for mandatory areas, therefore the auditor found them in compliance with this subsection.

115.13 (c1-3) The PREA Manual states that the Warden and PREA Coordinator are involved in "at least" annual reviews of the facility staffing plan. This plan is subsequently forwarded to the agency PREA Administrator for review. The Warden and PREA Coordinator report being involved in the staffing plan for the facility and the review of agency policy dictates that it is reviewed annually. The Warden reports that he covers this in his regular administrative staff meetings and they discuss staffing coverage, video coverage and any necessary or new resources that may be needed. Staffing Plan reviews are conducted more frequently than annually, the facility is compliant with this subsection.

115.13 (d) PD 04.04.100 Custody, Security and Safety Systems and the PREA Manual establish policy for unannounced supervisory rounds. During the on-site portion of the audit, this auditor asked staff and inmates on every housing unit and in various areas if they regularly see administrative staff in that area and without hesitation those questioned would respond in the affirmative. When asked if they would be announced or unannounced rounds the staff would say they were unannounced and that they would typically see the administrative staff more frequently due to the layout of the facility. The facility also provided documentation during the pre-audit phase that demonstrated that their staff were meeting the requirements of the minimum rounds set forth in the NCF OP 04.04.100H Administrative Rounds.

Through interviews with the PREA Coordinator and review of tour scan activity, facility Lieutenants/Captains would make daily rounds inside the institution and at least weekly rounds in each housing unit. The Wardens would make rounds inside the institution at least monthly, The Deputy Warden completed rounds on a weekly basis and on 2<sup>nd</sup> shift at least one time a month. The Inspector made rounds inside and outside the perimeter at least one time a month and the RUM's made regular rounds of their assigned areas. These rounds covered both shifts and the inmates interviewed reported being familiar with the administrative staff. A facility Deputy Warden was interviewed regarding unannounced rounds and reported that he typically makes rounds in the facility and policy stipulates that they are unannounced so he randomly just walks around and does it when staff does not suspect it. He reported that rounds used to be documented in the unit log books in green ink but now they use the Guard 1 electronic tour system and facility administrators are assigned a round reader to electronically scan and log their presence within the area being toured. 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 Lieutenants and at least weekly presence of Captains, Deputy Wardens and other key administration staff on the housing units. The Warden and PREA Coordinator are able to print out tour reports to demonstrate that tours are being completed and on all shifts. The auditor reviewed the tour reports conducted for the month of January 2018 and it was evident that the tours are being completed and randomly. When speaking with line staff they report that the Administrative staff, from the LT.'s to the Warden, are visible and that they are not notified of when they will be touring. A review of agency policy, interviews with the facility administration, informal interviews with line staff, inmates and a review of tour reports allowed this auditor to find compliance with this provision.

#### **Standard 115.14 Youthful inmates**

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

relevant review period)

- Does Not Meet Standard (requires corrective action)

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (pp11-12)
  - b. PD 05.01.140 Prisoner Placement and Transfer (Y-Z)
  - c. Newberry Memo and Web Page (pp1-4)
2. Interviews:
  - a. Warden
  - b. PREA Coordinator
3. Site Review Observations:
  - a. Inmate population

115.14 (a, b-1-2, c) Agency policy 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, it was observed that the Newberry Correctional Facility does not house youthful offenders and is therefore compliant all of the subsections of this standard.

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

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p16)
  - b. PD 04.04.110 Search and Arrest in Correctional Facilities (Q, W, Z)
  - c. Michigan Compiled Law 764.25 (b) (p1)
  - d. Personal Searches Training Module (hr 5-4)
  - e. PD03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (GGG)
  - f. MDOC Knock & Announce Sign
  - g. Bi-Lingual Privacy Notice Sign
  - h. PD 04.06.184 Gender Identity Disorder (GID)/Gender Dysphoria (I)
  - i. OP 04.04.110E Search & Arrest of Prisoners, Employees & Visitors (p 2)
  - j. Cross Gender Strip Search Memo

- k. Non-Routine Strip Search Records for 2017 (pp1-44)
  - l. NCF Posted Housing Unit Rules (p.2)
  - m. Personal Searches Training-GID and Transgender (All)
  - n. Custody and Security in Corrections Part 2-Searches (computer based training) (pp 1-59)
  - o. Cross Gender Search Training Records (pp1-12)
  - p. Refresher training records-July 30, 2018
2. Interviews:
    - a. PREA Coordinator
    - b. Random Staff
    - c. Random Inmates
    - d. Medical staff
    - e. Transgender Inmates
  3. Site Review Observations:
    - a. Shower and toilet areas in housing units
    - b. Posted Knock and Announce signs
    - c. Observance of Knock and Announce procedures.
    - d. Posted housing unit rules
    - e. Observation of video surveillance/black out of shower/bathroom areas where necessary.

115.15 (a). 04.01.140 SEARCH AND ARREST IN CORRECTIONAL FACILITIES and the PREA Manual establish procedures to limit cross gender viewing and were reviewed in determining compliance with provision (a) of the standard. The facility stated no cross-gender strip searches or visual body cavity searches were conducted during this audit period.

115.15 (b). Newberry Correctional Facility houses only male offenders. (N/A)

115.15 (c). Policy 04.04.110, and the PREA Manual establish policy for provision (c) of the standard and were reviewed in determining compliance. Agency policy 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. The PREA Manual directs that pat-searches of female inmates be conducted by female staff only. These policies require that visual body cavity searches be completed by licensed medical professionals. It is recommended within policy that an additional staff be present during the course of such a search and that a staff person must be of the same gender as the person receiving the visual body cavity search. The training module was also viewed and staff are trained on the strip search policy.

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 receive regular training on search procedures. A random female staff member reported during a formal interview that, as a female staff member, she is quite knowledgeable that she is not permitted to conduct strip searches at the facility. It is also noted that there are a small number of female staff employed by this facility. The auditor notes that the facility does not house female inmates, allowing this auditor to determine compliance with provision (c) of the standard.

115.15 (d). 03.03.140 PROHIBITED SEXUAL CONDUCT INVOLVING PRISONERS, the PREA Manual, 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 and in the bathroom areas of the housing units. Opposite gender staff announcements were made on all housing unit tours and staff waited 10 seconds after making the announcement prior to entering the unit to afford time to ensure privacy. This auditor being a female was able to observe that the inmates were aware of what I was doing and did not seem alarmed by the announcement or unaware that it was required.

With a few exceptions, inmates who were informally interviewed during the audit tour consistently reported that female staff announce themselves when entering the housing units however it was brought to this auditor's attention that there are not many females working in the facility. While some of those stated that it is sometimes difficult to hear the announcement, the practice is in place. Formal random inmate interviews also produced a consistent acknowledgement of opposite gender announcements however 4 of those random interviews said they never heard an announcement.

The practice of opposite gender announcements was routinely observed during the audit tour and robust signage was observed throughout the facility to advise inmates of their privacy expectations. During formal interviews with random staff, most reported opposite gender announcements were made for female staff. Informal interviews with line staff during the audit tour confirm that opposite gender announcements were being made routinely and that inmates were able to dress, shower or toilet without being viewed by staff of the

opposite gender. During the tour of the housing units, this auditor would ask offenders if they felt they had privacy to dress and shower without being viewed by the opposite sex and all assured me that they did.

115.15 (e). The PREA Manual, NCF OP 04.04.110E and 04.06.184 GENDER IDENTITY DISORDER (GID)/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. 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. The transgender inmates housed at the facility were interviewed and denied being examined or strip searched for the sole purpose of determining genital status to find compliance with this provision.

115.15 (f). 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). All but one of the 14 randomly interviewed staff reported that they were trained how to conduct a cross-gender pat-down search and searches of transgender and intersex inmates however 5 were not able to articulate the technique. Training records were reviewed and staff were all trained on proper cross gender search techniques according to these records. 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 pre-audit sample training records relative to transgender/intersex searches. The audit team recommended that the facility provide a refresher course so that all staff are familiar with the technique and they complied by July 30, 2018 with having all of their staff retrained in cross-gender, GID pat-down searches. A review of the training materials, random interviews with staff and a review of 5 of the random staff interviewed training records demonstrates compliance with provision (f) of the standard

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

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p 18)
  - b. Director’s Office Memorandum 2017-16 (pp1-2)
  - c. Deputy Director Memorandum Regarding Interpreter Services (p 1-2)
  - d. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (EEE)
  - e. MDOC Identifying and Addressing Sexual Abuse and Sexual Harassment Braille (Cover)
  - f. Privacy Sign (Spanish)
  - g. Tri-fold (Spanish)
  - h. DVD “Taking Action” (CC)
  - i. Sexual Abuse Poster-Spanish Photo
  - j. Bi-lingual Privacy Notice Sign
  - k. Sexual Violence Tri-fold Pamphlet (Spanish)
  - l. Sexual Violence Tri-Fold Pamphlet (Braille)
  - m. Bi-Lingual RAINN Poster
  - n. Bi-Lingual Informed Consent Poster
  - o. NCF Prisoner Guide Book (Spanish) (pp1-42)
  - p. NCF Prisoner Orientation packet (Spanish) (pp 1-13)
  - q. Documentation of Interpreter Services Purchase Order(pp 1-3)
  - r. Documented use of inmate interpreters (pp1-10)
  - s. Email-staff notification of Interpreter services available-(July 11 2018)

2. Interviews:

- a. Disabled/Limited English Proficient Inmates
  - b. Random Staff
  - c. Informal interviews with line staff
3. Site Review Observations:
- a. Teletype machine
  - b. Posted PREA reporting information-Spanish version
  - c. Spanish guide book
  - d. Kiosk

115.16 (a-b). The agency PREA Manual requires that the Department provide prisoner education in formats understandable by the entire prisoner population. Policy 03.03.140 specifies that the agency PREA Administrator 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 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 limited English proficient 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. Documentation of staff training on PREA compliant practices for LEP and Disabled inmates is located on slide 59 of 102 in 2016 PREA Web Based Training.

An interview with 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 Arabic and Spanish. (Department Audit)

Posters displaying PREA reporting information were observed to be posted in each housing unit in Spanish. The facility provides its prisoner guidebook in both English and Spanish. The agency publishes a Spanish version of its PREA brochure. Several LEP inmates were interviewed and one who was unable to read and they all reported that the Department made sure that the PREA information was communicated to them in a fashion that they could understand and the information was available to them via printed documentation or interpreter services. The facility also provided the purchase order for the interpreter services they have with Real Time Translation which does written or over the phone interpreting, and the log of documented use of interpreter services placing them in compliance with subsections (a) and (b) of the standard.

115.16 (c). Agency policy 03.03.140 and PREA Manual prohibit the use of inmate interpreters and were reviewed in determining compliance with provision (c). During random interviews with custody staff and informal interviews with line staff during the audit tour, most 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. Staff generally said they would refer to the Inspector if an inmate was having difficulty communicating a PREA complaint and he would arrange for the services however this auditor discussed with the PREA Coordinator that all staff should be aware of how to contact the interpreter services in case he was not available and he sent out a facility wide notification on June 11, 2018. I received follow up verification on July 11, 2018, satisfying that the facility is in compliance with this subsection.

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

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (pp 18-20)
  - b. PD 02.06.111 Employment Screening (D, E, F, J, K, R, s)
  - c. PD 02.04.140 Human Resource Files (CC 1 and 6)
  - d. Corrections Officer Recruitment (#9, 10, 11, 12)
  - e. Corrections Supervisor Application Questions (#12,13,14,15)
  - f. Corrections Sergeant Application Question (#15)
  - g. Background checks for newly hired staff (pp1-8)
  - h. Background checks volunteers-contractors (pp1-2)
  - i. Documentation of Lein checks run on all employees (pp1-5)
  - j. Follow up email verifying that lein checks were run again in June 2018 (July 03, 2018)
  - k. Requests for information on employees applying to work (pp1-9)
2. Interviews:
  - a. Human Resource Supervisor
  - b. Warden
3. Site Review Observations:
  - a. Review of online personnel files for promotional, new hires and current employees
  - b. Verification of LIEN checks
  - c. Verification of Questions on Applications being answered in the negative

115.17 (a 1-3). 02.06.111 EMPLOYMENT SCREENING (D) and the PREA Manual (pp 18-19) establish procedures for hiring and were reviewed in determining compliance with provision (a 1-3). 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 and Corrections Supervisor were reviewed and provided as proof to demonstrate the agency and facility considers these factors for hiring and promotional decisions. The facility conducts background checks on all staff every three years and on ammunition handlers every year. Through an interview with the Human Resource Director, these background screenings (LIEN checks) are conducted in the Records office, Control Center or the Captain's office. The facility conducts checks on those staff directly hired, currently employed and those staff transferring into the facility, while the Department's central office staff complete the LIEN's (backgrounds) on all new hire custody staff. Human resource staff are required to review the criminal background (LEIN Check) verification form within files prior to issuing staff their identification to enter the facility.

A review of facility hiring records, agency application materials, interviews with the agency PREA Coordinator and Human Resource staff confirm that the Newberry Correctional Facility is in compliance with provision (a 1-3) of the standard.

115.17 (b). Policy 02.06.111 (E), the PREA Manual (p 19) and applications for employment were reviewed in determining compliance with provision (b). Adequate screening for incidents of sexual harassment are present within the materials. 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. The HR staff person explained in an interview that any candidate with a history of engaging in sexual harassment would not be hired or promoted.

A review of policy and the interview with Human Resource staff confirms that the facility is not responsible for conducting background checks of custody staff. This function is completed at the agency level by central office staff. However, every applicant to the Michigan Department of Corrections must complete an electronic application process where sexual harassment screening takes place. Human Resource staff at the facility monitor responses in those application materials to consider the sexual harassment history of candidates for hire and promotion. Sample applications for a new hire and promotion were reviewed. Both employment application materials (questions #12 and #15) demonstrate consideration of incidents of sexual harassment in the hiring process to find compliance with this provision.

115.17 (c). 02.06.111 EMPLOYMENT SCREENING (F, K, R) and the PREA Manual (p 18) establish procedures for hiring and were reviewed in determining compliance with this provision. A review of policy and the interview with Human Resource staff confirms that the facility is not responsible for conducting background checks of newly hired custody staff. This function is completed at the agency level by central office staff and provided to the facility staff when they are hired. The auditor was able to verify the background checks for newly hired staff and background checks for volunteers and contractors that were directly hired through the facility as well as review the Authorization for Release of Information and Verification of Employment, potential employees/contractors are required to sign and included with an authorization for release of information to former institutional employers for information on substantiated allegations of sexual abuse/harrasment or any resignation during a pending investigation of an allegation of sexual abuse or harassment.

115.17 (d). Agency policy 02.06.111 and the PREA Manual were reviewed in determining compliance with provision (d). The facility provided adequate pre-audit sample documentation of background checks for contractors as proof of this provision of the standard. An interview with HR staff revealed that background checks for contractors are conducted out of the records office at the facility. Additional documentation of background checks for contractors were requested and provided onsite in support of finding compliance for provision (d).

115.17 (e). According to policy 02.06.111 EMPLOYMENT SCREENING (S), the PREA Manual (p20) and staff interviews, LEIN checks are completed by the records supervisor every 3 years. The pre-audit documentation demonstrated that all LEIN checks were completed in 2015 and were due to be completed in 2018. On July 3, 2018 this auditor received documentation that all current staff and contractor LEIN checks were completed for the year 2018. This auditor found that the facility exceeds the provision of this standard as it only stipulates every five years however they complete them every three years for all staff and every year for all ammunition qualified staff in which the Captain completed all 16 of those checks for 2018 and documentation was provided.

115.17 (f). The facility provided and the auditor reviewed sample applications for hires of new corrections officers (question#12) and two promotional applications (question #15) and the MDOC PREA Manual (p 19) 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 PREA Manual requires that employees have an ongoing obligation to disclose any sexual misconduct. The facility demonstrates compliance with this provision.

115.17 (g). Agency policy 02.06.111 (J) and the PREA Manual, which were reviewed by this auditor, affirmatively states that material omissions regarding such misconduct or the provision of materially false information are grounds for termination. The agency policy and the PREA Manual sufficiently cover provision (g) of the standard. The facility indicates that there have been no instances where such material omissions have been noted.

115.17 (h). Agency policy 02.01.140 HUMAN RESOURCE FILES (CC 1&6), and the PREA Manual establish procedures for provision (h) of the standard to ensure information on substantiated allegations of sexual abuse or sexual harassment are provided to requesting agencies regarding former MDOC employees and were reviewed by this auditor. The facility provided Department documentation of responses provided to other facilities for review to assist this auditor in determining the MDOC's compliance with this provision.

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

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p 21)
  - b. Sample of CAH-135 Project Review and Approval (1)
  - c. Monitoring technology upgrades
2. Interviews:
  - a. PREA Coordinator/Inspector
  - b. Warden
  - c. Informal staff interviews
3. Site Review Observations:
  - a. Camera placement



b. Video monitor

115.18 (a) The PREA Manual (p 21), was reviewed in determining compliance and 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. Interviews with the PREA Coordinator/ Inspector and the Warden confirm that with the expansion to the monitoring/camera technology, they took into consideration the sexual safety of the population. During the tour it was obvious that the camera placement, line of sight and safety were at the forefront of the project. Additional cameras were added to that facility to ensure inmate safety and PREA compliance.

115.18 (b) The facility Inspector stated in an interview that the facility's recently upgraded camera system expanded coverage to include 215 cameras. The facility carefully considered the placement of its cameras to cover virtually all common areas where viewing is permissible. The auditor observed the view from all cameras and was particularly impressed with their ability to black out areas to afford privacy to the offender while providing the staff the ability to assure safety and security. During the demonstration of the camera system, staff articulated that the cameras have significantly enhanced their visibility and deterred forbidden activity. The facility also installed an electronic tour scan verification system that was observed during the tour. This system is in operation. Not only does this system ensure that rounds are being made, it also ensures that such rounds are done irregularly and by whom. The camera upgrade and tour verification system demonstrates that the agency and facility are dedicated to compliance with this provision.

### Standard 115.21 Evidence protocol and forensic medical examinations

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (pp26-30)
  - b. MDOC Crime Scene Management and Preservation Manual (all)
  - c. PD 03.04.100 Health Services (UU)
  - d. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (pp 9-10, X)
  - e. Director's Letter of Agreement
  - f. Victim Advocate Memo and Training Curriculum Requirements (5)
  - g. Facility documentation of efforts to provide SAFE/SANE (p1)
  - h. Diane Pepler Resource Center (Newberry, Kinross, Chippewa) (pp1-4)
  - i. Facility trained advocates pursuant to memo provided above (pp 1-2)
2. Interviews:
  - a. Medical staff
  - b. Investigators
  - c. Random staff
  - d. Informal staff
  - e. Staff Diane Pepler Resource Center
  - f. RN, Helen Newberry Joy Hospital
3. Site Review Observations:
  - a. Review of investigations (pre site audit).
  - b. Facility staff have available to them a PREA Pocket Guide

115. 21 (a). According to the agency's Crime Scene Management and Preservation training manual (all) and the PREA Manual (pp28-29),  
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the agency's crime scene preservation is predicated upon the United States Army Criminal Investigation Command.

During interviews with facility medical staff and investigators, the facility is not responsible for collecting forensic evidence from those involved in criminal sexual abuse investigations. The agency's protocol, which is outlined in the PREA Manual and Crime Scene Management and Preservation training manual, demonstrates that the 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. Forensic examinations are conducted by SAFE/SANE examiners at Helen Newberry Joy Hospital.

During 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. Basic Investigator Training and Crime Scene Management and Preservation training materials cover the necessary technical detail to aid first responders in preserving available evidence to demonstrate compliance with this provision.

115.21 (b). Uniform evidence protocol is covered in Crime Scene Preservation and Basic Investigator's Training. The training manual was reviewed by this auditor in determining compliance. 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. All random staff interviews confirmed 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. Informal interviews conducted with housing unit staff during the audit tour produced a similar strong and consistent understanding of the means by which forensic evidence should be protected. According to the agency's Crime Scene Management and Preservation training manual, the agency's crime scene preservation is predicated upon the United States Army Criminal Investigation Command, which demonstrates compliance with this provision.

115.21 (c). Policy 03.04.100 (UU) and the PREA Manual (p 26), were reviewed by this auditor in determining compliance and specify that forensic examinations are provided without cost to victims of sexual abuse. The established protocol between the facility and the Hospital require that the facility notify the hospital that an inmate is being transported to the facility for an examination. Helen Newberry Joy Hospital will make arrangements for victim advocacy services while the inmate is in transport to the facility for accompaniment through the examination process if requested. The auditor notes that the facility had no forensic exams conducted during this audit cycle.

Through a review of agency policy and an interview with an RN at Helen Newberry Joy Hospital, this auditor determined that the facility is in compliance with provision.

115.21 (d). The PREA Manual (p 27) the Director's Letter of Agreement, the Victim Advocate Memo and Training Curriculum and those trained as well as the agreement with the Diane Pepler Resource Center were reviewed to determine compliance. Interviews were conducted with the Director of the Diane Pepler Resource Center and she reported and confirmed that they have provided services in the past for offenders from the Newberry Correctional Facility. The RN at the Helen Newberry Joy Hospital also confirmed that they would contact the Diane Pepler Resource Center for Victim Advocacy if they had an offender in their facility for services that was assaulted. It is noted that the interviewed inmates did not report abuse that required a forensic examinations and of the two interviewed one said they were not offered outside services. The PREA Coordinator reported that they have utilized the Diane Pepler Resource Center for victim advocacy on several occasions in the past however does not believe that it was utilized during this audit cycle.

The PREA Manual and Memo with Michigan State Police, confirms 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. This advocate can be from the Diane Pepler Resource Center or a trained staff member from the Newberry Correctional Facility. The auditor finds that the facility has demonstrated compliance for this subsection.

115.21 (e). The facility has identified mental health and medical staff to serve as qualified staff members to provide advocacy services during any investigatory interview in the absence of a rape crisis advocate. During the onsite portion of the audit, the agency PREA Analyst for the facility confirmed that the agency has trained and continues to train facility staff to serve as qualified staff members for the purpose of providing advocacy services. The MSP memorandum confirms that the investigative agency has agreed to allow this individual access during forensic medical examinations and interviews consistent with standard 115.21. Consistent with the formal agreement with the Diane Pepler Resource Center, the facility has appropriate measures in place to provide advocacy services during a forensic examination and investigatory interviews to demonstrate compliance with this provision of the standard; however, has not had to exercise these plans during this audit cycle however has in the past.

115.21 (f). 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.

115.21 (g). Provision (g) of the standard is not required to be audited by the auditor.

115.21 (h). The facility attempts to make a rape crisis advocate available through their formal agreement with the Diane Peppler Resource Center and by utilizing their trained staff when necessary. The auditor called Helen Newberry Joy Hospital and confirmed with the RN that the hospital can receive inmates from the Newberry facility for the purposes of conducting forensic examinations and the hospital would contact the Diane Peppler Resource Center to provide advocacy services during said examinations. In the event, ongoing follow up services are needed, the Diane Peppler Resource Center would follow up or the facility uses qualified mental health and medical staff. During the onsite portion of the audit, the agency PREA Coordinator for the facility confirmed that the agency has trained and continues to train facility staff to serve as qualified staff members for the purpose of providing advocacy services. Training rosters and materials were provided and reviewed to the auditor's satisfaction. Completion of the training provides an awareness of the specialized knowledge required to provide support to a victim of sexual abuse consistent with provision.

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

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (pp 28-30)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (All )
  - c. PD 01.01.140 Internal Affairs (All)
  - d. All 2017 Investigation reports
  - e. MSP Memo regarding PREA Compliance (1)
  - f. MDOC Web page showing links to policies (pp 1-2)
2. Interviews:
  - a. Warden
  - b. PREA Coordinator
  - c. Investigator
  - d. Incident Review Team Member

115.22 (a). The auditor reviewed agency policies 03.03.140 (pp8-10), 01.01.140 (C, D, M, O) and the PREA Manual (p 30) when assessing compliance. The PREA Manual (which supersedes all prior policies) confirms that all allegations are entered into the database for investigation. An interview with the Warden confirms that all allegations of sexual abuse and sexual harassment are investigated. A review of agency policy and interviews with the Warden, PREA Coordinator and Investigator confirms 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 all (9) investigation referrals pre-audit, to include referrals from other facilities, grievance referrals and verbally reported incidents. Following the onsite portion of the audit, investigations were reviewed with multiple methods of reporting evident in the predication of these investigations, including grievances, verbal reports to staff, and observations of staff during security rounds, and notifications of sexual abuse from other facilities. 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 this provision.

115.22 (b). Michigan State Police investigate criminal allegations involving staff as specified under the reviewed policy, 01.01.140(C) . The investigation is monitored and coordinated by the Internal Affairs Division. Policy 03.03.140 (AAA, BBB), which was reviewed by this auditor addresses referrals of prisoner on prisoner sexual abuse to MSP. The Agency publishes its policy on its public web page. This auditor finds the facility and department in compliance with this provision.

115.22 (c). This auditor reviewed and verified that policies 01.01.140 (p 1) and 03.03.140(pp1-3), which 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.

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

### Standard 115.31 Employee training

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p 9-10)
  - b. In-service Training Plan 2016, 2015 (p.10; pp 5, 9, 11-12, 1)
  - c. 2016 Menu Course Training Catalog (pp 7,9)
  - d. New Employee Training Plan, 2016, 2015
  - e. PREA Sexual Abuse and Sexual Harassment in Confinement Training Module (pp 1-99)
  - f. Program A, CFA Security Regulations Training Manual (pp 30-38)
  - g. 2016 PREA Training Module 1 (pp 1-84)
  - h. 2016 PREA Training Module 2 (pp 1-102)
  - i. Staff Training Records (pp 1-9)
  - j. CCM-W Training Module (pp 1-202)
  - k. Handout 1 Module 5 PREA (pp 1-4)
  - l. Handout 2 Module 8 Mothers Infants and Imprisonment 2009 (pp1-39)
  - m. Handout 3 CCM-W Implementation Kit 08-09 (pp 1-20)
  - n. Handout 4 Relational Approach Skill Steps (p 1)
  - o. Handout 5 CCMW Cog Skills (pp 1-3)
  - p. CCMW Module 3, What is Gender Responsive Training (WHV Only) (all)
  - q. PREA, CBT (pp 79-84 quiz)
  - r. Training signature sheet
2. Interviews:
  - a. PREA Coordinator
  - b. Random Staff
  - c. Informal Staff
3. Site Review Observations:
  - a. Staff familiarity with PREA

115.31 (a 1-10) The agency's PREA Manual (9-10), 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 standard. The training curriculum is provided as part of an employee's initial 320 Hour Corrections Training Program. Computer based training is provided for existing employees and contractors through two detailed training modules. Informal interviews with staff during the audit tour confirm that individuals are 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).

115.31 (b) Newberry Correctional Facility does not house female inmates. The agency training materials that were provided to and reviewed PREA Audit Report

by this auditor adequately cover the dynamics of sexual abuse for male and female inmates as required by the provision. Based on a review of PREA training materials and a sampling of training records; the facility demonstrated compliance.

115.31 (c). Newberry Correctional Facility 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. Training records and the agency training plans demonstrate compliance with the provision.

115.31 (d). Employees are required to complete a comprehension quiz 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 quiz comes with electronic verification by employee name and ID number to signify individual comprehension of the training, demonstrating compliance with the provision.

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

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p 10)
  - b. PD 03.02.105 Volunteer Services and Programs (E, Q, R-S)
  - c. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (all)
  - d. Program A Correctional Facilities Administration (CFA) August 2014 (pp 30-38)
  - e. Volunteer Training Records (pp 1-14)
  - f. Contractor training records (p 1)
  - g. Training Signature sheet sample (p 1)
2. Interviews:
  - a. Contracted staff (2)
  - b. PREA Coordinator
3. Site Review Observations:
  - a. Review of LEIN checks
  - b. Review of additional training records
  - c. Familiarity of contracted staff with PREA

115. 32 (a). Policy 03.02.105(E, R-S) addresses the need for service providers to be trained according to their level of contact with prisoners. According to policy 03.03.140 (all) and the PREA Manual (p 10), 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 the auditor's review of the training materials, the auditor interviewed two identified contractors across multiple disciplines to determine compliance with this provision.

115.32 (b) Policy 03.02.105(Q, R) addresses the need for service providers to be trained according to their level of contact with prisoners. According to policy 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. The formal interviews with facility contractors demonstrated knowledge of facility reporting and first

responder procedures. This auditor also was informed that not only do they receive the training from the facility but one of the contractors received additional training from their Agency as well. During the audit tour, several informal interviews with contracted food service providers demonstrated that they were aware of their responsibilities to both report incidences of sexual abuse and sexual harassment, as well as how to respond if an inmate were to report an incident of sexual abuse or sexual harassment. The review of policy, training materials, training records and both formal and informal interviews demonstrate compliance with this provision.

115.32 (c). The agency PREA Manual requires that the Department maintain documentation confirming that volunteers and contractors receive and understand the agency's PREA training. In addition to the ample pre-audit samples, the facility provided additional contractor training documentation during the onsite portion of the audit, to confirm training of randomly selected volunteers from the background check logs to demonstrate compliance with provision (c) of the standard.

### **Standard 115.33 Inmate education**

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p 11)
  - b. PD 04.01.140 Prisoner Orientation (A, E,)
  - c. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (EEE)
  - d. PD 04.01.105 Reception Facility Services (M)
  - e. RGC OP 04.01.140 Prisoner Orientation (pp 1-2, info section)
  - f. WHV OP 04.01.140 Orientation of New Prisoners (p 2, info section)
  - g. PREA Prisoner Education Verification (CAJ-1036) and Education Materials (pp 1-48)
  - h. "Taking Action" DVD
  - i. NCF OP 04.01.140 Prisoner Orientation (p 1)
  - j. NCF Orientation Packet 2017 (English/Spanish) (pp 1-3)
  - k. NCF Guidebook 2017 (English/Spanish) (pp 1-5, 40, 41)
  - l. NCF OP 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (p 9)
  - m. Deputy Director Language Services Memo (p 1)
  - n. PREA Poster in Spanish (p 1)
  - o. PREA Tri-fold in Spanish (pp 1-2)
  - p. Privacy notice in Spanish (p 1)
  - q. Tri-fold in Braille (p 1)
  - r. Prisoner Guide Book in Spanish (p 2)
  - s. Closed Caption DVD "Taking Action"
  - t. Documentation of Interpreter Services Purchase order (pp1-3)
  - u. CAJ-1036 Prisoner Education Verification
2. Interviews:
  - a. Random inmate interviews
  - b. Informal inmate interviews
  - c. Prison Counselor interviews (PC)
  - d. PREA Coordinator
  - e. Intake Staff
  - f. Staff who assess for Risk

3. Site Review Observations:
  - a. Review of 24 random inmate files
  - b. PREA signage

115.33 (a) Policies 03.03.140(EEE), 04.01.105 (M), 04.01.140(A, E) and the PREA Manual (p11), 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. The training program consists of a PREA specific brochure and a PREA video presentation that is facilitated by a live person to allow for questions and answers. A review of these materials by the auditor, satisfies compliance with this element of provision (a).

Through interviews with the PREA Coordinator, and the Intake staff, it was reported that the agency provides comprehensive inmate education at the RGC (Reception and Guidance Center) and then again during orientation at Newberry Correctional Facility. The education process is completed through a video based presentation that 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. Inmates received at NFC will receive information about the zero-tolerance policy at the facilities orientation that is within 7 days of reception and they will go over the PREA pamphlet with the inmate. During the onsite portion of the audit, Intake Staff explained that upon reception at NFC, an inmate will receive a packet of information relative to orienting the individual to the facility. This packet of information contains the Department's PREA brochure. During facility orientation, intake staff will read over the brochure, play the PREA video and discuss reporting procedures. Intake staff reported that facility training is completed within a week of reception to the facility.

During the audit tour, the auditor observed that PREA posters were adequately displayed in those areas where inmates would go for other pertinent facility operational information and in other high traffic areas to also demonstrate compliance with provision (a) of the standard.

115.33 (b). Policies 03.03.140, 04.01.105, 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 that 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. Additionally, information is available in the Prisoner Guidebook. Through the interview with the PREA Coordinator, it was reported that the MDOC has an intake facility, Charles Egeler Reception & Guidance Center (RGC), where intake is completed for prisoners who are assigned to the Newberry Correctional Facility, where this education also occurs in addition to their reception at Newberry Correctional Facility.

Random inmate interviews confirm that education materials and the PREA video (Taking Action) were received and viewed. These inmates also report that information is continuously displayed throughout the housing units on posters and is available in handbooks. During the audit tour, random inmates were informally interviewed to determine if they received PREA education at any time and the majority of inmates recalled receiving the information. Inmate training receipts provided by the facility and reviewed by the auditor demonstrates sufficient compliance with this standard.

During the audit tour, the auditors randomly selected at least two random inmate files on all housing units for a total of 24 files. While reviewing inmate education training records, the auditor was able to verify that comprehensive education was provided within 30 days of reception to the facility to 22 of the 24 inmates to demonstrate reasonable compliance with this provision. The two inmates that were not within the 30 days were long term offenders and did receive the education once PREA was established.

115.33 (c). Through interviews with the PREA coordinator and a review of agency materials, it is clear that PREA policies and reporting mechanisms are universal throughout the agency, not only do the inmates now receive comprehensive education at RGC they also receive it upon transfer to the facility. The Inmates receive the PREA pamphlet at the facility orientation and education about the facility's zero-tolerance policy within 7 days of arrival. A sampling of inmate education records, both pre-audit and onsite, confirms that inmates within the facility have been educated and satisfies the auditor's concerns that the facility has procedures in place to ensure that all inmates at the Newberry Correctional Facility have been provided education at the facility, consistent with provision (c) of the standard.

115.33 (d). 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 Newberry Correctional Facility also made arrangements for the Guidebook to be placed on the inmate Kiosks on the housing units. The auditor reviewed these training materials, and verified that the Facility has contracted with Real Time Translation services which provides written or over the phone services, to determine compliance with provision (d) of the standard.

115.33 (e). The agency and facility maintain documentation of inmate education via form CAJ-1036. Sample records were provided and random inmate files were reviewed during the audit tour to confirm that inmate education records existed to the satisfaction of the auditor and consistent with the provision.

115.33 (f). 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 Newberry Correctional Facility, these posters were visible throughout the housing units and common areas of the facility. 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 and the Kiosks make the Prisoner Guide Book, the Orientation Packet, the PREA Standards, the agency PREA Manual, and educational materials available for the inmate population review. 18 of the 21 random inmates interviewed and the majority of the inmates spontaneously interviewed during the audit tour, reported receiving written materials for their retention and education upon their reception to Newberry Correctional Facility to allow this auditor to determine compliance with this provision.

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

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p 10)
  - b. PD 03.03.14 PREA and Prohibited Sexual Conduct Involving Prisoners (RR)
  - c. NIC Online Training Program (pp 1-8)
  - d. Basic Investigator Training Manual (pp1-152)
  - e. Investigator Training Logs (pp 1-4)
  - f. Michigan State Police memorandum regarding criminal investigations (1)
2. Interviews:
  - a. Investigator
  - b. PREA Coordinator
3. Site Review Observations:
  - a. Review of investigations (9) Pre-onsite

115.34 (a). The agency has a Basic Investigator Training manual that was reviewed by the 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 4 active staff at the Newberry Correctional Facility completed the agency's investigations, satisfying this provision.

115.34 (b). 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. A review of training materials and training records for facility investigators demonstrates compliance with this provision.



115.34 (c). The agency maintains documentation of investigator training in the employee's training file. The facility provided documentation that was reviewed by the auditor to verify that four active employees have completed the Basic Investigator Training and the NIC Investigator Training, showing satisfaction of provision (c) of the standard.

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

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

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

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

The following evidence was analyzed in making the compliance determination:

1. Documentation:
  - a. MDOC PREA Manual; April 2017 (pp 10-11)
  - b. PD 02.05.101 In Service Training (A, C)
  - c. PREA CBT Health Care Training Module 2 (pp 1-25)
  - d. PREA CBT Mental Health Training Module 2 (pp 1-25)
  - e. NCF OP 02.05.101 In Service Training (p 1, 3)
  - f. Facility documentation of medical and mental health care training (pp 1-2)
2. Interviews:
  - a. Mental Health staff
  - b. Medical Staff
  - c. PREA Coordinator
3. Site Review Observation
  - a. Staff familiarity with PREA

115.35 (a). Agency policy 02.05.101 establishes 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 the auditor. These materials expand upon the basic training in 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 harassment and facility reporting responsibilities for allegations of sexual abuse and harassment.

The facility provided documentation of medical and mental health practitioners having completed the training modules related to their specific disciplines that were reviewed by the 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).

115.35 (b) Neither the facility nor its staff conduct forensic examinations, therefore, training records consistent with provision (b) of the standard are not required.

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

115.35 (d)/ The agency has developed a training curricula specific to medical and mental health staff that includes and expands upon the PREA Audit Report

basic training in 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. The auditor's review of these training materials and corresponding completion records demonstrates compliance with provision (d) of the standard.

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

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p 13)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (Q,R, W)
  - c. PD 05.01.140 Prisoner Placement and Transfer (Q, R, CC, DD)
  - d. PREA Risk Assessment Manual (all)
  - e. NCF OP 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (p 3)
  - f. PREA Risk Assessment 2017 Spreadsheet
  - g. CAJ-1023 PREA Risk Assessments Worksheet (OMNI Risk Assessment Tool)(pp1-2)
  - h. Reassessment Documentation (p 3)
  - i. Follow up documentation-email July 30, 2018
2. Interviews:
  - a. Prison Counselors
  - b. Intake staff
  - c. Random Inmates
  - d. PREA Coordinator
3. Site Review Observations:
  - a. OMNI (assistance of staff with access)
  - b. Inmate files

115.41(a). Policy 03.03.140, 05.01.140, the PREA Manual and the PREA Risk Assessment Manual, which were reviewed by the auditor, state that an intake screening shall be conducted at intake screening and upon transfer to another facility within 72 hours and within 30 calendar days of the prisoner's arrival at a correctional facility, including intake. The auditor is satisfied that this documentation demonstrates compliance for provision (a) of the standard.

115.41 (b). Pre-audit documentation in support of the standard demonstrates that 72-hour intake assessments were completed initially at the Charles Edgar Reception and Guidance Center (RGC) and then within 72-hours of reception at Newberry Correctional Facility. There were a number of instances where this did not occur shortly after the policy effective date of April 24, 2017 however within the last 6 months of the audit cycle the facility staff have consistently completed the screenings upon intake. During the course of the onsite portion of the audit, through formal and informal interviews with the PREA Coordinator, facility intake and facility case management staff, it was determined that the Newberry Correctional Facility has been completing the 72-hour intake assessments for inmates transferred into the facility. They have a spreadsheet that they document any "ride-ins" on and when the 72-hour assessment must be completed by. This spreadsheet was reviewed and verifies and is consistent with their on line system, "OMNI" that the screenings are being completed and allows this auditor to find them in compliance.

Out of the 20 Random interviews conducted with inmates 9 of them arrived in the last 12 months and six of them recalled being asked the screening questions when arriving at Newberry Correctional Facility while two could not recall and one said he was not. Through informal interviews during the onsite tour the audit team spoke to inmates with the majority reporting that they do recall being asked questions upon

their arrival, verifying and satisfying the auditor that the facility is in compliance with and meeting the requirement of this provision.

115.41 (c). The PREA Risk Assessment Worksheet that was reviewed by the auditor meets objective criteria as required by this provision. The assessment is an objective set of questions 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.

115.41 (d 1-10). Based on a review of the PREA Manual and the PREA Risk Assessment Manual, the 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 Newberry Correctional Facility 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.

115.41 (e). Based on a review of the PREA Manual and the PREA Risk Assessment Manual, the 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.

115.41 (f). The PREA Manual and the PREA Risk Assessment Manual, which were reviewed by the auditor, clearly specify applicable time frames for assessment 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. These reassessment procedures may cause those inmates being reassessed not to recall the assessment process during the random interviews.

During the tour, a minimum of 2 inmate files were randomly sampled on the housing units. These inmate numbers were then provided to the facility to provide the reassessment dates and all 24 files were provided with 21 complying with having the reassessment within the 30 day time frame. The three files that were not compliant were explained and addressed. The auditor also reviewed the Assessment Spreadsheet which demonstrated that the facility overall consistently was completing the reassessments in the timeframe allotted by this provision and the auditor felt confident that although some cases were falling through the cracks, due to unforeseen reasons (transfers, illnesses...) more than the majority were being completed and the facility had a sound procedure and practice in place to assure the reassessments were being completed and were in compliance with this provision.

115.41 (g). Policy 03.03.140, the PREA Manual and the PREA Risk Assessment Manual specify that assessments shall be conducted when warranted due to the factors enumerated by the standard. A staff member responsible for risk screening reported there are several reasons for reassessment such as misconducts, yearly assessments, additional charges and referrals from mental health. The staff member was able to provide a specific example where a reassessment was completed after receiving a referral from mental health staff to demonstrate compliance with provision (g) of the standard. This was able to be confirmed as the inmate file was provided along with the correspondence between staff members.

115.41 (h). 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." The PREA Coordinator and staff responsible for conduct assessments confirm during interviews that the assessment is voluntary and that there are no disciplinary consequences for failing to participate, consistent with provision (h) of the standard. The intake staff interviewed did mention that they have never had anyone refuse to answer any questions, but assured that they would not be punished and that it would be inappropriate to punish them for not answering the questions.

115.41 (i). The PREA Manual, which was reviewed by this auditor, confirms that information obtained during the risk assessment process shall be treated as confidential information and only shared with designated staff in accordance with Department policy. Risk assessment information shall not be shared with prisoners. During the audit tour and through interviews with the PREA Coordinator, only those staff with a supervisory role or those who perform the risk screening within the facility have access to the electronic screening system, OMNI. Access to this system is governed by the individual user's log-on information to demonstrate compliance with this provision.

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

- Exceeds Standard (substantially exceeds requirement of standard)

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (pp 12,14)
  - b. PD 05.01.140 Prisoner Placement and Transfer (CC, II)
  - c. PD 04.06.184 Gender Dysphoria (G, J, L, N)
  - d. NCF OP 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (p3, Q)
  - e. Documentation of risk based housing decisions (p1-28)
  - f. Individual Management Plan (pp1-4)
2. Interviews:
  - a. Identified Transgender Inmates
  - b. Random Staff

115.42 (a). The auditor reviewed the PREA Manual and policy 05.01.140 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 the auditor believed was a great tool to demonstrate use of the screening information for housing decisions.

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, as well as to inform programming and employment opportunities. The auditor is satisfied with the high level of supervision and minimal number of blind spots within the facility to ensure that any risk identified by the screening tool is outweighed by the staff to inmate ratio and direct observation. The facility also provided documentation demonstrating housing decisions made at the facility based on risk which summed up the auditor's confidence in the compliance with this provision.

115.42 (b). 05.01.140 Prisoner Placement and Transfer and the PREA Manual, which were reviewed by the 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. Through informal interviews during the audit tour, staff charged with making housing decisions were well aware of the proper use of screening information for bed assignments. The agency demonstrates that it meets the requirements of provision (b) within its practices and the inmates appeared to feel safe in their environment.

115.42 (c). The PREA Manual, policy 04.06.184 Gender Dysphoria and the Individual Management Plan reviewed by this auditor, contains 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 PREA Coordinator at the facility states that transgender inmates are reviewed twice per year; however, any decision to place a transgender inmate at a facility that is consistent with gender identification is not made locally at Newberry and would have to be approved at the agency level, with ongoing assessment of the individual's needs consistent with provision (c).

115.42 (d). Policy 04.06.184 and the PREA Manual were reviewed by the auditor. While policy indicates that placement and programming assignments for transgender, intersex and GID (gender identity disorder) inmates will be reassessed twice yearly by facility medical or mental health staff. An interview with a transgender inmate who has been at the facility reports that staff often ask if they feel safe and that an Individual Plan was created and he is seen regularly. This auditor feels this meets the requirements of this provision.

115.42 (e). The PREA Manual, reviewed by the auditor, provides for a transgender or intersex inmates own views to be considered in the placement process. The transgender inmate that was interviewed reporting receiving a formal review after being identified and being re-reviewed. She reported that her needs for safety were considered, specifically stating that the facility offered her a separate shower time.

Based upon the formal interview with the transgender inmate and policy, it appears that the transgender inmate's views are considered when

making determinations for housing and other programming determinations consistent with provision (e) of the standard.

115.42 (f). Policy 04.06.184, the PREA Manual and the Individual Management Plan (IMP), reviewed by the auditor, specify that transgender inmates are given the opportunity to shower separately. The IMP also demonstrated that the transgender inmate would be permitted to shower at a separate time from other inmates and in a more private shower. This auditor will note that when the site tour was being conducted the inmate in question was showering with the other inmates and using a shower not requested by her in her IMP. The Unit staff continued to allow her to shower where she wanted but were aware of her location to assure for her safety. During the onsite tour, the inmates were afforded a separate time to shower demonstrating the facility's compliance with provision (f).

115.42 (g). Policy 05.01.140 and the PREA Manual, reviewed by the auditor, address provision (g) of the standard. An interview with the PREA Coordinator at the Newberry Correctional Facility confirmed, that, the facility takes no steps to house LGBTI inmates in dedicated units or facilities. An interview with a transgender inmate revealed that she has never been placed in a dedicated unit but did state that she is housed in a unit that affords her more privacy to shower.

### **Standard 115.43 Protective custody**

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p 16-17)
  - b. PD 04.05.120 Segregation Standards (D, J, K, V, W, X, BB, EE)
  - c. NCF OP 04.05.120 Temporary Segregation (pp 1, 3)
  - d. Documentation of housing unit assignments of inmates at high risk of sexual victimization (pp 1-30)
  - e. Variance to PD 04.05.120 p 1 (point 2.4)
2. Interviews:
  - a. Temporary segregation staff
  - b. PREA Coordinator
3. Site Review Observation:
  - a. Observed the temporary segregation unit (only one inmate, housed for protective custody due to fighting)

115.43 (a). The agency PREA Manual, policy 04.05.120, NCF OP 04.05.120 Temporary Segregation and the Documentation of housing assignments were reviewed by the auditor in determining compliance with provision (a) of the standard. The PREA Manual contains language that mirrors provision (a) of the standard. The auditor observed onsite and through pre-audit 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. The auditor is satisfied that the facility refrains from placing inmates at high risk of victimization in involuntary segregated housing consistent with provision (a) of the standard as they only have a temporary segregation unit consisting of 4 cells.

115.43 (b). Agency policy 04.05.120 NCF OP 04.05.120 and the PREA Manual, which were reviewed by the auditor, specify that inmates shall maintain access to programs, privileges, and education and work opportunities. In the event such things are restricted, the facility is required to document the nature of the restrictions according to standard language. The Warden reports that an inmate needing placement due to risk of victimization, alternative housing unit placements would be made immediately. This could include movement within the facility or movement to another MDOC facility, he also reported they could place them in the temporary segregation unit however they do not keep inmates there longer than 4 days as verified through the interview with the staff member assigned to that unit. Newberry

Correctional Facility only has a temporary segregation unit and would transfer inmates if necessary for PREA purposes, the facility will be considered compliant with provision (b) of standard.

115.43 (c). The facility reports to the auditor through interviews with the PREA Coordinator that no inmates have been placed into involuntary segregation due to risk of victimization as they only have a temporary segregation unit. In an interview with the Warden, he stated that if an inmate needed placement due to risk of victimization, alternative housing unit placements would be made immediately. This could include movement within the facility or movement to another MDOC facility. The facility will be considered compliant with provision (c) of the standard.

115.43 (d) The facility reports through interviews with the PREA Coordinator that no inmates have been placed into involuntary segregation due to risk of victimization, as there has not been the need, therefore, they are in compliance with provision (d) of the standard.

115.43 (e). The facility reports that no inmates have been placed into involuntary segregation due to risk of victimization, therefore, there are no records to review to demonstrate compliance or non-compliance with provision (e) of the standard. Due to the absence of specific non-compliance with provision (e) of the standard, the auditor determines compliance.

### **Standard 115.51 Inmate reporting**

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (pp 17-18, 22-25)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (pp5-7, X,Y)
  - c. PD 05.03.118 Prisoner Mail (pp 1-4)
  - d. MDOC Sexual Abuse on-line training (Module 2) (pp 31-32)
  - e. MDOC PREA Web Page, on line reporting
  - f. Prisoner PREA Brochure
  - g. MDOC Prisoner Guide Book (p.16)
  - h. MDOC PREA Poster
  - i. Legislative Corrections Ombudsman MOU (p1)
  - j. NCF OP 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (pp3-5)
  - k. All 2017 investigations (9)
2. Interviews:
  - a. Inmate Interviews
  - b. Staff interviews
  - c. Hotline
  - d. PREA Analyst
  - e. PREA Coordinator
3. Site Review Observations:
  - a. PREA signage through the facility

115.51 (a). Policy 03.03.140, the PREA Manual, Prisoner Guidebook, PREA Poster (advertising the hot-line) and the PREA brochure were reviewed by the 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 hot-line, in writing via grievance, in writing to the Correctional Legislative Ombudsman, in writing via the kite system and directly to the Michigan State Police.

During formal and informal interviews during the audit tour, staff were able to identify the hot-line, the kite and grievance systems and third party reporting options 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. During informal interviews with inmates during the audit tour, inmates were able to identify the hot-line, the Legislative Ombudsman, as well as the ability for third parties to make a report on their behalf; however, required prompting to identify the Legislative Ombudsman.

During the tour, adequate reporting hot-line posters were prominently displayed on the bulletin boards within the facility where inmates would go for other pertinent facility information. During audit tour, informal interviews demonstrated staff were aware of their obligations to accept reports from inmates and immediately act on those reports. 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 hot-line. This adequately demonstrates compliance with provision (a) of the standard.

115.51 (b). Policy 03.03.140, the PREA manual and the Prisoner Guidebook, which were reviewed by the 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.

During an interview with the facility PREA Coordinator, he identified that the facility uses the Legislative Ombudsman to take and forward reports of sexual abuse and sexual harassment at the facility. Randomly sampled inmates demonstrated difficulty identifying the Legislative Ombudsman as a reporting mechanism. Random inmates interviewed were affirmatively able to identify this option of reporting through the mail without prompting when asked; however, it is noted within the prisoner guidebook that this resource is available. Inmates were aware of their ability to make anonymous reports and reports through third parties, such as their family members. During the tour, inmates who were informally interviewed were well aware of the reporting hot-line and their ability to make anonymous written reports. Again, the Legislative Ombudsman was not regularly identified during informal interviews; however, it is published within the prisoner guidebook to sufficiently demonstrate compliance with provision (b) of the standard.

115.51 (c). Policy 03.03.140 and the PREA Manual, which were reviewed by the 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. The facility provided ample documentation to demonstrate that 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, and anonymous and third-party reports consistent with provision (c) of the standard.

During formal interviews with randomly selected staff, all staff 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 demonstrated general confidence 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.

115.51 (d). Policy 03.03.140, the PREA Manual and Module 2 of the PREA training educates staff on their reporting options. These materials were reviewed by the auditor. Staff may make a private report to a supervisor, via the hot-line and via the agency's website reporting form. The agency provides multiple methods for staff to make private reports of sexual abuse and harassment of inmates. While policy and training materials provide multiple options for private reports, randomly sampled staff reported during formal and informal interviews that they were comfortable making reports directly through the chain of command, to the Inspector/PREA Coordinator or other facility Administrators.

The facility provided 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 hot-line, direct reports to the Inspector/PREA Coordinator at the facility or a private meeting with facility Administrators as their methods to privately report sexual abuse and harassment of inmates consistent with provision (d) of the standard.

## **Standard 115.52 Exhaustion of administrative remedies**

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

- Does Not Meet Standard (requires corrective action)

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (pp 24-25)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoner (p 6, EE, KK, LL, MM, NN, OO, PP QQ)
  - c. Step 1 & Step 2 Grievance Forms (pp1-2)
  - d. NCF OP 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoner (pp5-6)
  - e. Audit Cycle investigations (9)
  - f. Attachment B of PD 03.03.105 Class II Misconducts for Prisoners (pp 1-2)
  - g. MDOC Prisoner Guide Book (pp 12-13)
2. Interviews:
  - a. Inmates
  - b. Staff
  - c. PREA Coordinator
  - d. Warden
3. Site Review Observations:
  - a. No inmates in disciplinary action as a result of filing PREA Grievances

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

115.53 (b). The PREA Manual and Policy 03.03.140 along with the grievance forms were reviewed by the auditor in determining compliance with provision (b). This allows for an inmate's grievance to be submitted at any time to the facility PREA Coordinator or Inspector. 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 policy 03.02.130 Prisoner/Parolee Grievances.

115.53 (c). The PREA Manual, Policy 03.03.140, and a sample investigation from the audit cycle, were reviewed by the auditor in determining compliance with provision (c). These documents allow for an inmate's grievance to be submitted the appropriate custody supervisor. The policy specifies that the grievances will not be referred to the staff member subject to the complaint within. All grievances were investigated promptly.

115.53 (d) The PREA Manual, Policy 03.03.140, and a sample investigation from the audit cycle, were reviewed by the auditor in determining compliance with provision (d). The PREA coordinator or inspector shall ensure a written response is provided to the prisoner 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 prisoner shall be informed in writing of any extension and provided a date by which a decision will be made. If no response was received, the prisoner shall submit the appeal within 10 calendar days after 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 Administrator within 90 calendar days from the original filing of the grievance. Computation of the 90 days does not include the 10 days allowed for the prisoner to file an administrative appeal. A review of the agency policy and facility investigation demonstrates the facility practice is in compliance with provision (d) of the standard

115.53 (e). The PREA Manual and Policy 03.03.140(MM, NN), which were reviewed by the auditor in determining compliance with provision (e) of the standard, permits that third parties, including fellow prisoners, staff members, family members, attorneys, and outside advocates, may file a PREA grievance on behalf of a prisoner. A third party may also assist a prisoner in filing the prisoner's PREA grievance in accordance with policy. If a third party files a PREA grievance on behalf of a prisoner, the prisoner must sign the PREA grievance in the area provided indicating the prisoner authorizes the grievance to be filed on his/her behalf for the grievance to be processed. If the prisoner 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 prisoner 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. Through review of the policy and agency documentation, the auditor is satisfied that the agency and facility have adequate procedures in place to ensure compliance with provision (e) of the standard.

115.53 (f). Policy 03.03.140 (OO, PP), which was reviewed by the auditor in determining compliance with provision (f), establishes procedure for the processing of any emergency grievance in accordance with the standards requirements. The policy states a prisoner or a third party may file an emergency PREA grievance if s/he believes that the prisoner is 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 prisoner from any identified real or potential harm and ensure an initial response is provided to the prisoner within 48 hours. A final agency decision from the PREA Administrator regarding whether the prisoner is in substantial risk of imminent sexual abuse shall be provided to the prisoner within five calendar days. The initial response and final agency decision shall document the agency's determination of whether the prisoner was in substantial risk of imminent sexual abuse and the action taken in response to the emergency PREA grievance. Through review of the DOM and agency documentation, the auditor is satisfied that the agency and facility have adequate procedures in place to ensure compliance with provision (f) of the standard.

115.53 (g). Policy 03.03.140 (QQ), which was reviewed by this auditor in determining compliance with provision (g), directs that staff shall not retaliate against a prisoner for using the PREA grievance process. If a prisoner intentionally files a PREA grievance which is investigated and determined to be unfounded and which, if proven true, may have caused an employee or a prisoner to be disciplined or an employee to receive corrective action, the prisoner may be issued a misconduct report if approved by the warden. Through review of the policy and attachment B of PD 03.03.105 Class II Misconducts for Prisoners and agency documentation, the auditor is satisfied that the agency and facility have adequate procedures in place to ensure compliance with provision (g) of the standard.

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

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p27)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (pp9-10)
  - c. PD 05.03.118 Prisoner Mail (R, S)
  - d. PD 05.03.130 Prisoner Telephone Use (B, E4, M, X3, attachment B)
  - e. Prisoner Guide Book
  - f. NCF OP 05.03.115 Mail Handling Procedure (p 3)
  - g. NCF OP 05.03.130A Prisoner Telephones (p 1)
  - h. An End to Silence Notice to Prisoners
  - i. PRC "An End To Silence, Inmate Handbook"
  - j. RAINN
  - k. Diane Pepler Resource Center (pp 1-3)
  - l. Audit Cycle Investigations (9)
  - m. NCF Facility Victim Advocate List (pp 1-2)
2. Interviews:
  - a. Random inmates
  - b. Random Staff

- c. Staff at Diane Pepler Resource Center
  - d. RN at Helen Newberry Joy Hospital
  - e. PREA Coordinator
  - f. Warden
3. Site Review Observations:
- a. PREA signage through the facility

115.53 (a) Through informal interviews with PREA Analyst and the facility PREA Coordinator, it was determined by the auditor that the agency and facility worked collaboratively to establish a relationship with the Diane Pepler Resource Center to provide outside support services in determining compliance with provision (a). Additionally, the auditor interviewed an RN at the Helen Newberry Joy Hospital that describes advocacy services that are available through the facility also through the Diane Pepler Resource Center, during the forensic examination process. The facility and agency maintain a copy of the “An End to Silence” handbook published by American University Washington College of Law’s Project on Addressing Prison Rape and can also be found on the PREA Resource Center Website. This book is maintained in the facility library and is accessible to inmates. The facility also provides each inmate information on RAINN (Rape, Abuse & Incest National Network) and the National Sexual Abuse Hotline. The facility does not 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.

Randomly sampled inmates struggled to affirmatively identify the “An End to Silence” resource guide within the facility library. Out of the 20 randomly selected inmates only 4 were able to identify the resource, however the inmates who reported sexual abuse and the inmate who disclosed sexual victimization during risk screening both were able to identify the resource. The intake staff interviewed reports going over with the receptions that the resource is available and the auditor did observe memos on every housing unit advising the inmates that the resource is available as well as the Prisoner Guidebook including the information which is available to each inmate as well as on the inmate kiosks.

115.53 (b). Through policies 05.03.118 Prisoner Mail, 05.03.130 Prisoner Telephone Use, the PREA Manual and the Prisoner Guidebook which were reviewed by the auditor in determining compliance with provision (b) of the standard, inmates are adequately made aware through these documents how communications are monitored and which lines of communication are unmonitored for confidentiality purposes. The random inmates interviewed indicated a generalized knowledge of reporting methods, monitoring practices and agency response to receiving reports of sexual abuse or sexual harassment.

115.53 (c). Through interviews with the PREA Coordinator and the Diane Pepler Resource Center and reviewing the RAINN documentation provided to inmates in the Prisoner Guidebook, it was determined by the auditor that the agency and facility have worked collaboratively to establish relationships with outside support services, to determine compliance with provision (c) of the standard. The facility also has trained staff locally to be advocates and provides the RAINN (Rape, Abuse and Incest National Network) information for inmates.

### **Standard 115.54 Third-party reporting**

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

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

The following evidence was analyzed in making the compliance determination:

- 1. Documents:
  - a. MDOC PREA Manual; April 2017 (pp22-23, 28)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (p6)
  - c. Legislative Corrections Ombudsman MOU (all)
  - d. PREA Poster

- e. MDOC Website Reporting (pp 1-3)
  - f. Example investigation predicated on a third party report.
  - g. Hotline posters
2. Interviews:
    - a. Random inmates
    - b. Random staff
  3. Site Review Observations:
    - a. Hotline signage through the facility
    - b. Attempted phone call to the hotline

115.54 Through a review of the Ombudsman MOU, the PREA poster, and the online reporting the 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 hot-line, 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, the auditor found compliance with this standard.

### Standard 115.61 Staff and agency reporting duties

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (pp 22-23)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (BB,CC,DD,W,X)
  - c. State of Michigan Department of Corrections Employee Handbook (WR, 38, 47, 50-52)
  - d. NCF OP 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (pp 4, 10)
  - e. Audit cycle investigations (9)
2. Interviews:
  - a. Random Staff
  - b. Health care staff
  - c. Mental health staff
  - d. Warden
3. Site Review Observations:
  - a. Compliance with reporting of PREA allegations

115.61 (a). Policy 03.03.140 (X), the PREA Manual and work rules published within the Employee Handbook, which were reviewed by the auditor, confirm that staff are required to report all elements denoted within provision (a) of the standard. A review of investigations support that facility staff promptly take action based on any PREA related reports made to them. 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. Two cases reviewed, both 2017, involved staff reporting to their superiors, which resulted in thorough and complete PREA investigations

115.61 (b). Policy 03.03.140 (W), local procedures 03.03.140 and the PREA Manual, which were reviewed by the auditor, contain distinct PREA Audit Report

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.

115.61 (c). Policy 03.03.140 (BB), local policy 03.03.140 and the PREA Manual, which were reviewed by the 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.

115.61 (d). Agency policy 03.03.140 (DD) and the PREA Manual, which were reviewed by the auditor, require the facility staff to report any allegation involving a victim under the age of 18 to the agency PREA Administrator 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.

115.61 (e). Policy 03.03.140(CC) and the PREA Manual, which were reviewed by the 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 review of investigation files by this auditor confirms that this practice is carried out within the facility. Investigative reviews provided adequate examples of written and verbal 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, the auditor determined compliance with provision (e).

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

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p16)
  - b. PD 05.01.140 Prisoner Placement and Transfer (EE)
2. Interviews:
  - a. Random Staff
  - b. Warden
3. Site Review Observations:
  - a. Immediate action

115.62 Policy 05.01.140 (EE) and the PREA Manual, which were reviewed by the auditor in determining compliance with this standard state whenever a prisoner 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 prisoner by preventing contact between the alleged abuser and alleged victim. Action to protect the prisoner may include, but is not limited to, changes in housing units and/or assignments, transfers, and stop orders.

The agency confirms 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. All

random staff interviewed recognized their need to take immediate action to protect inmates from victimization.

The auditor determines compliance this standard based on the facility's immediate action in response to perceived threats of sexual abuse.

### **Standard 115.63 Reporting to other confinement facilities**

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p 23)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (DD,X)
  - c. NCF OP 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (p4)
2. Interviews:
  - a. Warden
  - b. PREA Coordinator

115.63 (a). Policy 03.03.140(X) and the PREA Manual, which were reviewed by the auditor, establish procedures for notifying other facilities of allegations of sexual abuse that did not occur in the receiving institution and demonstrates compliance with provision (a) of the standard.

115.63 (b). Policy 03.03.140(X) and the PREA Manual, which were reviewed by the auditor, establish procedures for notifying other facilities of allegations of sexual abuse that did not occur in the receiving institution within 72 hours, demonstrating compliance with the provision (b) of the standard.

115.63 (c). The PREA Manual and agency policy 03.03.140(X), which were reviewed by the auditor, require that such notifications are made within 72 hours. Both the Warden and PREA Coordinator confirmed that notifications are made immediately. The MDOC policy provides direction to all facilities in handling reports of sexual abuse, whether they had allegedly occurred within the facility and the inmate has since departed, or whether the inmate reports to his current facility that he was sexually abused at another facility, e.g. county jail, a general facility, another MDOC facility, etc. MDOC and the Newberry Correctional Facility have policy which requires notification to another facility within 72 hours of receiving a report of sexual abuse alleged to have occurred there. Both the Warden and PREA Coordinator confer, the MDOC Regional PREA Analyst and the PREA Administrator would be notified, and consideration would be given to utilizing external PREA investigators or Internal Affairs investigators if necessary, to demonstrate compliance with provision (c) of the standard.

115.63 (d)Policy 03.03.140 (DD) 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 Warden and the PREA Coordinator confirm that allegations received from other confinement facilities are properly investigated, demonstrating compliance with provision (d).

### **Standard 115.64 Staff first responder duties**

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p 25-26)
  - b. PD 03.04.125 Medical Emergencies (I)
  - c. NCF OP 01.05.120 Critical Incident Reporting (pp 3-4)
  - d. NCF OP 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (p11)
  - e. Audit Cycle investigations (5)
  - f. PREA Pocket Guide (pp13-16)
2. Interviews:
  - a. Security staff/Non-Security Staff who have acted as a first responder
  - b. Random Staff
3. Site Review Observations:
  - a. Staff familiarity with their responsibilities as first responders

115.64 (a 1-4). The PREA Manual, Policy 03.04.125, the PREA Pocket Guide and the five allegations of sexual abuse, which were reviewed by the 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.

An interview with a first responder indicated that as soon as an allegation is known, immediate action is taken to separate the alleged victim and abuser, as well as to inform them not to take any actions that could destroy evidence, such as washing or changing clothes. Any clothing that is collected should be placed into a paper bag. A medical examination follows, where it is determined if a forensic examination is necessary. If there is an allegation that is reported to have taken place in a cell, that area would be sealed off.

Based on a formal interview with a first responder, a review of policies, informal interviews with staff during the audit tour and review of investigations, this auditor was satisfied that Newberry Correctional staff are well aware of their first responder obligations under provision (a) of the standard and have executed these obligations when necessary.

115.64 (b). The PREA Manual and the PREA pocket guide, which were reviewed by the 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. 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**

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

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p25-26)
  - b. NFC OP 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (pp11-12)
2. Interviews:
  - a. Warden
  - b. PREA Coordinator
3. Site Review Observations:
  - a. PREA pocket Guide available to all personnel

115.65 The facility has developed its own operating procedures for agency policy 03.03.140. The document titled NFC OP 03.03.140 (pp11-12), and the MDOC PREA Manual which was reviewed by the auditor, describes the procedures employed by the facility when responding to allegations of sexual abuse among supervisory, investigative staff and facility leadership. The interviews with the Warden and the PREA Coordinator/Inspector demonstrated to the auditor that the facility personnel, overall, were very responsive when addressing allegations or reports of sexual abuse or sexual harassments. They outlined the facility's coordination among first responders, medical staff, investigators and the review team to process an allegation from start to finish, allowing the auditor to find compliance with the standard.

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

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p22)
  - b. MSEA Agreement (Labor and Trades and Safety and Regulatory Units) (Art 9)
  - c. AFSCME AFL-CIO Agreement (Institutional Unit)A (Art 9 Section A15)
  - d. Michigan Corrections Organization (MCO) Security Unit Agreement (pp8, 28)
  - e. SEIU Labor Agreement (Scientific and Engineering) (Art 7)
  - f. SEIU Labor Agreement (Technical Unit) (Art 10)
  - g. UAW Primary Agreement (administrative Support Unit and Human Services) (Art 5)
2. Interviews:
  - a. Warden
3. Site Review Observations:
  - a. Management-Line staff relations appeared amicable.

115.66 (a-b). The MDOC's PREA Manual's language, which was reviewed by the auditor, mirrors the language of provision (a) of the standard. A review of the six 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  
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Engineering bargaining unit, Service Employee's International Union (SEIU)-Technical bargaining unit, and United Auto Workers (UAW)-Administrative Support Unit and Human Services Unit. The 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, it was confirmed that language exists which protects managements rights to reprimand, suspend, discharge, or to take other appropriate disciplinary or corrective action against an employee for just cause.

An interview with the Warden 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 the standard.

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

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (pp 17-18)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (C,LL,V)
  - c. NCF OP 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoner (pp 2-3)
  - d. NCF Prison Counselor Memo
  - e. Audit Cycle investigations
  - f. Completed CAJ-1022 (90 monitoring form) (pp1-12)
2. Interviews:
  - a. Prison Counselor (PC)
  - b. PREA Coordinator
  - c. Warden
3. Site Review Observations:
  - a. PCs and their offices on the units

115.67 (a). Agency policy 03.03.140, the PREA Manual, and a memo which were reviewed by the 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 for disciplinary sanctions, housing/program changes and also conduct periodic status checks for prisoners who report or have reported alleged victimization. At Newberry Correctional Facility, housing unit staff, such as the PC (Prison Counselor) are responsible for monitoring. The aforementioned allow the auditor to determine compliance with provision (a) of the standard.

115.67 (b)Through interviews with the the PREA Coordinator and 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. The Warden reports that the facility can do a number of things to protect inmates and staff from retaliation. They remain the right to assign staff, they can make bed moves, and staff can monitor for misconducts or grievances. The use of cameras to monitor yards, phone calls and increasing the inmate's security level can also be considered. The MDOC has a matrix for staff and monitoring at the onset of any allegation for a minimum of 90 days, or more if needed. The PREA Coordinator will assign retaliation monitoring to the most appropriate person to monitor, e.g. unit counselor supervisor on the unit. They monitor work assignmetns, misconducts, and transfers. The form includes weekly visits with the



inmate. The PREA Coordinator noted that suspicions of retaliation result in an investigation and a transfer of either the inmate or staff member to another housing unit.

An interview with the Warden confirmed that retaliation is not tolerated and there are procedures to ensure that both staff and inmates are monitored at the facility. In an interview with the Warden, he expressed a commitment to employing housing unit changes and other protective measures such as transfers. Should retaliation be noticed, an investigation would ensue. The PREA Coordinator noted that suspicions of retaliation result in an investigation and a transfer of either the inmate or staff member to another housing unit.

The PC advised the auditor during interview that they would monitor the inmate, watching for anything out of the ordinary, in addition to conducting the required retaliation monitoring for 90 days. The auditor determines compliance with provision (b) of the standard based on the cited interviews and policy provisions.

115.67 (c). Through interviews and review of completed investigations and MDOC policy, the PREA manual, which requires a 90-day retaliation monitoring period, with monitoring continued beyond 90 calendar days if the initial monitoring period indicates a need. The PC attested to this extension provision during the auditor interview. The CAJ-1025 forms, Sexual Abuse Investigation Worksheet, contained a specific section for retaliation monitoring, assignment of designated staff person to conduct retaliation monitoring upon receipt of an allegation, date assigned, and whether subject is the reporting staff, reporting inmate, or alleged prisoner victim. The CAJ-1022 form, Sexual Abuse Retaliation Monitoring, includes weekly entries for Counselor-inmate face-to-face contact, and review of disciplinary reports, program changes, housing changes, performance evaluations and staff reassignments. This auditor reviewed samples of completed retaliation monitoring forms submitted by various PCs, as included in the PREA Sexual Abuse Report investigative packages. There have been no reports of retaliation during the last 12 months and the auditor has determined compliance with this provision.

115.67 (d). Staff responsible for retaliation monitoring stated in an interview that retaliation monitoring typically 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, consistent with provision (d) of the standard. This staff member stated that, status checks are typically completed on a weekly basis; however, can take place more frequently if he feels the need to do so. It was noted that the counselors and their offices are on the housing units making the PCs ideal personnel to carry-out the assigned retaliation monitoring.

115.67 (e). The PREA Manual, which was reviewed by the 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 Warden confirmed in interviews 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.

115.67 (f). Agency policy 03.03.140 and the PREA Manual, which were reviewed by the auditor in determining compliance with provision (f), Through staff interviews and review of investigations it is evident that there is 90 days of retaliation monitoring following an inmate's allegation of sexual abuse or sexual harassment unless the allegation is unfounded. Review of the CAJ-1022 forms verified that retaliation monitoring discontinued due to false allegations/no evidence.

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

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual, April 2017 (pp17-18)
  - b. PD 04.05.120 Segregation Standards (pp 2, 4-8)
  - c. NCF OP 04.05.120 Temporary Segregation (pp2-3, 5)

- d. Audit Cycle investigations
- 2. Interviews:
  - a. Warden
  - b. Officer in the Temporary Segregation Unit
- 3. Site Review Observations:
  - a. Temporary segregation cells (4)

115.68 The auditor reviewed the PREA Manual and policy 04.05.120 in determining compliance with the standard. The PREA Manual contains language consistent with conditions with standard 115.43. The facility indicates that no inmate victims of sexual abuse have been placed into their temporary segregated housing cells in the last 12 months. Through a review of investigations, onsite tour and interviews, the auditor verified that no inmates were placed in segregated housing and are in compliance with the standard

### **Standard 115.71 Criminal and administrative agency investigations**

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

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

The following evidence was analyzed in making the compliance determination:

- 1. Documentation:
  - a. MDOC PREA Manual, April 2017 (pp 28-30)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (RR,ZZ AAA, BBB, CCC)
  - c. MDOC PREA Pocket Guide (p20)
  - d. NCF OP 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (pp 6, 7,11)
  - e. Audit cycle investigations
  - f. Basic Investigator Training Manual (pp1-2, 142-152, hours 1 and 2, hour 2.20, )
  - g. NIC online PREA Investigations Training (summary)
  - h. Investigator training records
  - i. PREA Administrator memo
  - j. Referral to MSP documentation (pp1-20)
  - k. AIPAS-MDOC Computerized Investigative Database
- 2. Interviews:
  - a. PREA Coordinator/Inspector
  - b. Investigator

115.71 (a). Agency policy 03.03.140(RR) and the PREA Manual, which were reviewed by the auditor in determining compliance with provision (a), state that when receiving an allegation of sexual abuse or sexual harassment, as described in the definitions of this manual, whether reported verbally or in writing, shall be investigated. Staff shall ensure all allegations are referred to the appropriate law enforcement agency 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. 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 (Allegations Investigation Personnel Action System) 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 who coordinates all PREA investigations advised that investigations are started and processed immediately upon receiving an allegation of sexual abuse or sexual harassment. The investigator advised that third party and anonymous reports are processed for investigation the same as any other reports of sexual abuse or sexual harassment. All files reviewed evidenced a

prompt initiation of an investigation, and thorough and objective investigative reports conducted by the assigned investigator. stated that investigations are initiated immediately upon receipt of the report. 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. In all investigations, the facility conducted its first subject and perpetrator interviews within a day of receiving the allegations.

115.71 (b). Agency policy 03.03.140 and the PREA Manual, which were reviewed by the 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.

Newberry Correctional Facility provided records, reviewed by the auditor in determining compliance with provision (b) of the standard, to demonstrate that it has 4 current investigators on staff who completed the MDOC's Basic Investigator's Training course.

An interview with a facility investigator demonstrated a great degree of professionalism and knowledge of investigatory procedures consistent with the training provided by the agency and provision (b) of the standard. The interviewee demonstrated knowledge of the importance of interviews and interviewing techniques; which were evident in the completed investigative packets

115.71 (c). The MDOC's basic investigator's training, which was reviewed by the auditor in determining compliance with provision (c) provides sufficient background training to enable investigators to fulfill the elements set forth within the standards. Agency policy 03.03.140 and the PREA Manual outline the agency's goal to comply with the all elements noted in provision (c).

The facility demonstrates that it makes its best efforts to preserve other potential evidence, whether that be in the form of video, shift rosters, log books, etc. The investigator advised that when staff receive an allegation, they remove the inmate from the situation, collect evidence, initiate investigative process, use SANE services at hospital if necessary. Evidence to be collected my include hair, semen, clothing, linens, phone conversations, video, mail, and J Pay. Set up an investigative plan, to include interviews of victim, perpetrator, and witnesses, collect evidence, work with MSP, collect all evidence and information together and report to the Warden. In addition to the interview, the review of the Investigative packets demonstrated that all reports are initiated and proceed along the same format, in an organized and progressive manner, well documented at every step of the process. Direct and circumstantial evidence is considered and documented within the report. They have four trained investigators who conduct the process in a professional, unified, team approach.

115.71 (d). Basic Investigator's training and the PREA Manual, which were reviewed by the 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. The auditor finds compliance with provision (d).

115.71 (e). The PREA Manual, which was reviewed by the 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 confirmed that he would judge each person interviewed individually and their status would not affect credibility. He also confirmed that truth-telling devices are not used in the investigatory process. An inmate who reported sexual abuse confirmed that he was not subjected to any truth-telling device to allow this auditor to find compliance with provision (e).

115.71 (f). The auditor finds compliance with provision (f) based on the review of MDOC PREA Manual, the investigations the facility conducted in which all applicable parties participated, and the interview with the Investigator who state that he reviews all information present and makes the best decision he can, based upon the evidence. The investigator/coordinator reported that investigators document everything, all pertinent information, to include emails. The investigations demonstrated the consideration of physical and testimonial evidence, described investigative findings and facts and rationalized credibility in arriving at its conclusion.

115.71 (g). The auditor reviewed the PREA Manual which also requires that criminal 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. A review of facility investigations by the auditor confirms these reports are written in a format that is consistent with provision (g) of the standard allowing the auditor to find compliance with provision (g).

115.71 (h). The auditor reviewed agency policy 03.03.140(AAA, BBB) and the PREA Manual. A review of policy, coupled with an interview with the PREA Coordinator/investigator; the auditor is satisfied that Newberry Correctional Facility has sufficient procedures in place and has exercised those procedures to refer substantiated allegations of criminal conduct for prosecution consistent with provision (h) of the standard.

115.71 (i). The PREA Manual, which was reviewed by the 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 5 years in compliance with provision (i) of the standard. The MDOC has a computerized investigative database, AIPAS.

115.71 (j). Policy 03.03.140 (ZZ, CCC) and The PREA Manual, which were reviewed by the auditor in determining compliance with provision (j), specifies that investigations will continue despite the departure of any alleged victim or abuser. There were no examples of the facility terminating an investigation based on the departure of an alleged victim or abuser. During an interview with a facility investigator, the facility makes every effort to keep applicable parties at the facility until the investigation is complete; demonstrating compliance with provision (j)

115.71 (k). The auditor is not required to audit provision (k).

115.71 (l). Interviews with the Warden, PREA Coordinator/investigator, support the fact that facility staff are required to comply with outside investigators and the facility Inspector is the responsible party for ensuring coordination with the MSP, allowing this auditor to find compliance with provision (l). The Inspector advised that he is responsible for conferring with MSP and normally does so thru email and these communications are cited in investigative reports. The investigator assists MSP by providing them information required.

### **Standard 115.72 Evidentiary standard for administrative investigations**

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p22)
  - b. Basic Investigator Training (hour 2-3)
  - c. Audit cycle investigations (9)
2. Interviews:
  - a. PREA Coordinator/Investigator

115.72 The PREA Manual and the Basic Investigator Training Manual, which were reviewed by the auditor in determining compliance with this standard, specify that the agency's standard of proof is to be the preponderance of the evidence. Through a review of investigations, the facility appears to appropriately employ this standard consistent with the standard. The PREA Coordinator/Investigator reports he and the other investigators use a preponderance of evidence, as the standard of evidence required in order to substantiate sexual abuse or sexual harassment.

### **Standard 115.73 Reporting to inmates**

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

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion**

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (pp 30-31)
  - b. PSD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners(7, AA, QQ, UU, VV)
  - c. CAJ-1021 Prisoner Notification of Sexual Abuse and Sexual Harassmetn Investigative Findings and Action
  - d. NCF OP 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (p7)
  - e. Prisoner Notifications (pp1-18)
  - f. Audit cycle investigations (9)
  
2. Interviews:
  - a. Warden
  - b. PREA Coordinator/investigator

115.73 (a). Agency Policy 03.03.140 (AA, QQ, VV) and the PREA Manual, which were reviewed by the auditor, dictate that both the complainant and victim in alleged incidents of sexual abuse will be notified of the investigatory outcome. Both the Warden and facility investigator confirm that inmate victims are notified of the investigatory results. Review of investigations demonstrate documentation of inmate notifications to demonstrate compliance with provision (a) of the standard.

115.73 (b). Agency Policy 03.03.140 (UU) and the PREA Manual, which were reviewed by the auditor, dictate that both the complainant and victim in alleged incidents of sexual abuse will be notified of the investigatory outcome. The auditor interviewed the PREA Coordinator at the facility and reviewed facility investigations to determine notifications were made, consistent with provision (b) of the standard.

115.73 (c). The PREA Manual, which were reviewed by the auditor in determining compliance with provision (c), indicate that both the complainant and victim in alleged incidents of sexual abuse will be notified of the investigatory outcome. Agency policy was updated and is consistent with provision (c) of the standard in that the facility will notify the inmate if the staff member is no longer posted within the inmate's unit, no longer employed at the facility, if the agency learns that the staff member has been indicted on a charge related to sexual abuse in the facility or if the agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility, unless the allegations were unfounded.

115.73 (d). The PREA Manual, which was reviewed by the auditor in determining compliance with provision (d), indicates that both the victim in alleged incidents of sexual abuse will be notified of criminal indictments and convictions. Through a review of policy and examples of notification of investigatory outcomes, the auditor is satisfied that the facility is in compliance with provision (d).

115.73 (e). The facility provided 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 investigations, a completed CAJ-1021 notification form was located as proof of inmate notification to demonstrate compliance with provision (e) of the standard.

115.73 (f). 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.

#### **Standard 115.76 Disciplinary sanctions for staff**

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p31)
  - b. PD 02.03.100 Employee Discipline (E,N,O,P)
  - c. PD 02.03.100 Employee Discipline –Attachment A (pp1-3)
  - d. PD 03.03.140 PREA and Prohibited Sexual Conduct involving Prisoners (T,U)
  - e. Employee Handbook (rules 50-52)
  - f. NCF OP 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (p7)
2. Interviews:
  - a. HR staff
3. Site Review Observations:
  - a. HR files

115.76 (a). Agency policies 02.03.100, 02.03.100A, 03.03.140, the PREA Manual and the employee handbook work rules were reviewed by the 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.

115.76 (b). The staff sanctioning matrix provided to and reviewed by the auditor in policy 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 to confirm agency practice. Based on policy provisions, the facility demonstrates it is in compliance with provision (b) of the standard.

115.76 (c). The PREA Manual and staff sanctioning matrix provided to and reviewed by the auditor in policy 02.03.100A verifies 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 02.03.100A, the Chief Deputy Director 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, the auditor determines compliance with provision (c).

115.76 (d). Through the 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. There were no terminations or resignations in lieu of termination to demonstrate facility practice with respect to provision (d) standard. Based on policy provisions, the auditor determines compliance with provision (d).

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

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p31)

- b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (U)
- c. Memo-Investigations of Contractual Employees

- 2. Interviews:
  - a. Warden

115.77 (a). Under agency policy 03.03.140(U) and the PREA Manual, which were reviewed by the 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 barred from the 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, the auditor determines compliance with provision (a).

115.77 (b). 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 the facility or placed under direct observation if the violation were minor. There were no substantiated allegations of sexual abuse or sexual harassment involving contractors or volunteers upon which to gauge facility practice during this audit cycle. Based upon policy provisions and the Warden's interview, the auditor determines compliance with provision (b).

### **Standard 115.78 Disciplinary sanctions for inmates**

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

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

The following evidence was analyzed in making the compliance determination:

- 1. Documents:
  - a. MDOC PREA Manual; April 2017 (p32)
  - b. PD 03.03.105 Prisoner Discipline (A, B, DDD-III)
  - c. PD 03.03.105 Prisoner Discipline-Attachment A (pp1-3)
  - d. PD 03.03.105 Prisoner Discipline-Attachment B (pp1-2)
  - e. PD 03.03.105 Prisoner Discipline-Attachment D (p1)
  - f. PD 03.03.105 Disciplinary Sanctions-Attachment A (code 052)
  - g. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (S)
  - h. NCF OP 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (pp 3, 8)
  - i. Audit Cycle investigations (9)
  - j. Prisoner Guidebook (pp7-15)
- 2. Interviews:
  - a. Medical staff
  - b. Mental health staff
  - c. Warden
  - d. PREA Coordinator

115.78 (a). The auditor reviewed agency policy 03.03.105 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 PREA Audit Report

administrative or criminal finding that sexual abuse occurred. At the time of the audit, there were no substantiated allegations of sexual abuse upon which the auditor could gauge facility practice. Based upon policy requirements prior to the imposition of discipline, the auditor determines compliance with provision (a).

115.78 (b). The auditor reviewed agency policy 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 likely transfer the inmate to a more secure facility, raise their custody level and consider adding programming to address the underlying behavior. There were no substantiated allegations of sexual abuse upon which the 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, the auditor determines compliance with provision (b).

115.78 (c). The auditor reviewed agency policy 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 have a degree of flexibility in their decision-making process to consider the mental status of an inmate when determining sanctions. There were no substantiated allegations of sexual abuse upon which the 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, the auditor determines compliance with provision (c).

115.78 (d). The 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 described an evaluation procedure that would be employed 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. There were no substantiated allegations of sexual abuse upon which the auditor could gauge facility practice at the time of the audit. Based upon an interview with facility mental health staff and policy requirements, the auditor determines compliance with provision (d) of the standard.

115.78 (e). The auditor reviewed agency policies 03.03.140, 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 Newberry Correctional Facility of inmates being disciplined for consensual sexual contact with staff, allowing the auditor to determine compliance with provision (e) of the standard.

115.78 (f). The 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 cannot be proven, allowing the auditor to find compliance with provision (f).

115.78 (g). Through a review of the PREA Manual, the Prisoner Guidebook and interviews with the Warden and PREA Coordinator, the 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 policy 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, the auditor determines compliance with provision (g).

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

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

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



The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p14)
  - b. PD 03.04.100 Health Services (F, T(3))
  - c. PD 03.04.108 Prisoner Health Information (pp3-4)
  - d. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (BB,HHH, III)
  - e. PD 04.01.105 Reception Facility Services (KK)\*
  - f. RGC OP 03.03.140 (p3)\*
  - g. PD 03.03.105 Disciplinary Sanctions-Attachment A (code 052)
  - h. NCF OP 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (pp8-9)  
\*These documents are relevant in the Charles Egeler Reception Center (RGC), the initial intake/diagnostics facility.
2. Interviews:
  - a. Prison Counselor
  - b. Medical staff
  - c. Mental health staff
  - d. PREA Coordinator

115.81 (a). Agency policies 03.04.140, 04.01.105, 03.04.100 and the PREA Manual, which were reviewed by the auditor in determining compliance with provision (a), combine to form the agency's approach to providing the required medical and mental health services for victims of sexual abuse. Through a review of policy and an interview with the PREA Coordinator, the agency screening procedures relative to 115.41 indicate that a 72-hour, full intake screening instrument is completed at reception centers and when an inmate changes facilities. If sexual victimization is reported during that intake screening, medical and mental health services are offered at the reception facility and again at the receiving facility therefore are in compliance with provision (a) of the standard.

115.81 (b). Agency policies 03.04.140, 04.01.105, 03.04.100 and the PREA Manual, which were reviewed by the auditor to determine compliance with provision (b) of the standard, combine to form the agency's approach to providing the required medical and mental health services for perpetrators of sexual abuse. The agency screening procedures relative to 115.41 indicate that a 72-hour, full intake screening instrument is now completed at all facilities. If sexual perpetration is reported during the screening, medical and mental health services are offered at the the facility.

115.81 (c). Newberry Correctional Facility operates under the definition of a prison; therefore, compliance for provision (c) is measured under provision (a).

115.81 (d) Agency policy 03.03.140 and the PREA Manual, which were reviewed by the 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.

115.81 (e). The auditor reviewed agency policy 03.03.140(BB) and the PREA Manual(p 14) 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, however have not had any instances in this facility, allowing this auditor to determine compliance with provision (e) of the standard.

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

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

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

## corrective actions taken by the facility.

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p 26)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (Z)
  - c. PD 03.04.125 Medical Emergencies (F)
  - d. PD 04.06.180 Mental Health Services (F, H)
  - e. PD 03.04.100 Health Services (UU,VV)
  - f. PD 03.04.120 Control of Communicable Bloodborne Diseases (L,N)
  - g. OP 03.04.100H Health Care Management of Reported Sexual Assaults (pp1-4)
  - h. NCF OP 03.04.125 Medical Emergencies (pp 1,3,4, A, G)
  - i. Audit cycle investigations (9)
  - j. MDOC HIV Brochure
  - k. MDOC Hepatitis Brochure
2. Interviews:
  - a. Medical staff
  - b. Mental health staff
  - c. Inmate reporting sexual abuse
  - d. First responder
3. Site Review Observations:
  - a. Actions of staff when an inmate made allegations.

115.82 (a) The auditor reviewed agency policies 03.03.140, 03.04.100H, 03.04.125, 04.06.180 and the PREA Manual, which combine to form the agency'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 review of investigations, Newberry Correctional Facility demonstrates that it does consistently provide medical and mental health care to alleged victims of sexual abuse that is either consistent with the nature of their allegations for provision (a) of the standard.

115.82 (b). The PREA Manual and policy 03.04.125 which were reviewed by the auditor, contains language that mirrors the standard's language to demonstrate compliance with this provision (b) of the standard. Random staff interviews, interview with a first responder 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 the auditor to determine compliance with provision (b) of the standard.

115.82 (c). The PREA Manual, policies, 03.04.125, 100, and 120 as well as brochures for HIV and Hepatitis were reviewed by the 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 as well as information on the bloodborne diseases. The health care staff advised that victims of sexual abuse are offered timely information about access to emergency contraception and sexually transmitted prophylaxis.

115.82 (d). The auditor reviewed agency policies 03.03.140, 03.04.100H (UU,VV), 03.04.125, 04.06.180 and the PREA Manual, which combine to form the agency'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. Based on policy provisions, the auditor determines compliance with provision (d) of the standard.

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

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Audit Manual; April 2017 (pp27,32)
  - b. PD 03.04.100 Health Services (A,B, C,UU, VV,WW, HHH, JJJ)
  - c. PD 04.06.180 Mental Health Services (F,H,O,R)
  - d. PD 03.04.125 Medical Emergency Health Care (F)
  - e. NCF OP 03.04.125 Medical Emergencies (pp3-4, A,C,D-G)
  - f. NCF OP 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (p4)
  - g. Audit cycle investigations (9)
2. Interviews:
  - a. Medical staff
  - b. Mental health staff

115.83(a). The auditor reviewed agency and facility policies OP 03.03.140, 03.04.125, 04.06.180, 03.04.100 and the PREA Manual, which combine to form the agency's approach to providing required medical and mental health services for victims of sexual abuse.

As cited under standard 115.81 and as per agency policy, the facility does conduct routine intake assessment procedures, consistent with 115.41. Therefore, the facility does have adequate procedures in place to be aware of all inmates qualifying for services under provision (a) of the standard and provides them ongoing medical and mental health care services as needed.

The auditor reviewed agency policies 03.04.100, 04.06.180 and the PREA Manual, which combine to adequately outline the agency'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, infections, STIs, etc. This medical provider also reiterated that should an alleged victim be transported to an outside hospital, a follow-up meeting with a physician would be scheduled upon return to further plan any applicable treatment. An interview with facility mental health staff confirmed that an assessment would be made and applicable referrals for psychiatric medication, crisis stabilization units, involuntary treatment, outpatient therapy with goals and objectives, as well as safety plans with unit staff would be developed.

115.83 (b). The auditor reviewed agency policies 03.03.140, 03.04.100H, 03.04.125, 04.06.180 and the PREA Manual, which combine to form the agency's policy to ensure victims of sexual abuse are provided timely and unimpeded access to medical, mental health care. The standard of care is required to be consistent with community standards and is determined by the judgment of the practitioner. It is noted that the 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.

115.83 (c). Interviews with mental health staff confirm 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, with no rationing of necessary medical care. Mental health staff stated that they believe mental healthcare is provided at a level that exceeds community levels of care due to the immediate availability of such services and the broad range of available services that are typically wait-listed in the community, allowing the auditor to determine compliance with provision (c) of the standard.

115.83 (d). The 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. Newberry does not house female inmates. Based on policy provisions and the absence of evidence of non-compliance, the auditor determines compliance with provision (d) of the standard.

115.83 (e). The 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. Based on policy provisions and the absence of evidence of non-compliance, the auditor determines compliance with provision (e) of the standard.

115.83 (f). The auditor reviewed agency policy 03.04.100(UU,VV) 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. Based on the absence of facility specific evidence of non-compliance, the auditor determines the facility is compliant with provision (f) of the standard.

115.83 (g). The auditor reviewed agency policy 03.04.100(UU,VV) 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, the auditor determines compliance with provision (g) of the standard.

115.83 (h). The PREA Manual, which was reviewed by the auditor, states that within 60 days of learning of prisoner on prisoner abuse, 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. The auditor reviewed investigations where it was documented that when necessary, these evaluations occurred, demonstrating compliance with provision (h) of the standard.

### **Standard 115.86 Sexual abuse incident reviews**

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p32)
  - b. Incident Reviews (pp1-12)
2. Interviews:
  - a. PREA Coordinator/Inspector
  - b. Deputy Warden

115.86 (a) The 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 Newberry Correctional Facility determined to be unsubstantiated, a sexual abuse incident review was completed in all investigative files to demonstrate substantial compliance with provision (a) of the standard.

115.86(b). Through the auditor's review of relevant investigations, , the auditor finds the facility in compliance with provision (b) of the standard as reviews were conducted with in the 30 day timeframe.

115.86 (c). In reviewing the incident reviews, the auditor notes that the facility did involve upper-level managers, investigators and line supervisors. A mental health manager and a health services manager were part of the review team. Interviews with the Deputy Warden and facility PREA Coordinator confirm that upper level managers are part of the review team and input is considered from multiple angles, to include medical and mental health practitioners. Based on interviews and incident review documentation, the auditor finds compliance with provision (c) of the standard.

115.86 (d). Agency form CAJ-1025, which was reviewed by the auditor, mirrors 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 Deputy Warden and facility PREA Coordinator confirms that Newberry Correctional Facility's review team considers the six factors enumerated under provision (d) of the standard in its review process. While the auditor was unable to find evidence of action taken as a result of the incident reviews during this audit cycle, it was evident that action was taken from past incident reviews where cameras were placed in coolers and freezers in the kitchen areas. The Deputy Warden stated that any recommendation would be considered for implementation should an identified training need or security need be raised by applicable disciplines within the review process. Based on interviews and policy, the auditor determines compliance with provision (d) of the standard.

115.86 (e). As noted under provision (d) of the standard, the facility's review committee has not made any documented recommendations for improvement, during this audit cycle The auditor reviewed the agency PREA Manual and language exists that mirrors the standard.

Based on policy provision and an interview with the Warden, the auditor determines compliance with provision (e) of the standard.

### **Standard 115.87 Data collection**

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual, April 2017 (p33)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (p7)
  - c. SSV-2 (Survey of Sexual Violence)2014 (pp1-5)
  - d. SSV-2 2015 (pp1-5)
  - e. SSV-2 2016 (pp1-5)
  - f. NCF OP 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners (p 7)
  - g. 2016 Annual Statistics Report (p1)
  - h. 2015 Annual Statistics Report (pp1-2)

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

115.87 (a) The PREA Manual states that the Department PREA Administrator gathers data on each reported incident to aggregate an annual incident report. All allegations are entered into the Department's investigative data base 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.

115.87 (b). 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, 2015 and 2016 at the time of this audit.

115.87 (c). As noted within the agency audit, the agency's annual PREA statistical report for 2016 and its surveys of sexual violence for 2013 through 2016 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.

115.87 (d). 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.

115.87 (e). As noted in the agency audit and within this audit, the agency only contracts with The Lake County Re-entry Program under the contract with the Michigan Department of Corrections. This facility is a collaborative effort between the MDOC and the Lake County Sheriff Department. The incident based data is compiled, aggregated, and maintained in the MDOC's investigation database; therefore, are in compliance under provision (e) of the standard.

115.87 (f). 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).

### **Standard 115.88 Data review for corrective action**

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

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

The following evidence was analyzed in making the compliance determination:

1. Documents:
  - a. MDOC PREA Manual; April 2017 (p33)
  - b. MDOC PREA Web Link (pp1-2)
  - c. MDOC-PREA Webpage-Annual Reports (pp1-2)
  - d. PREA Administrator’s Annual Reports for 2014 (pp1-2)
  - e. PREA Administrator’s Annual Reports for 2015 (pp1-2)

115.88 (a). 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 2015 report identified its efforts to continue training Department investigators, the inmate population and expanded reporting options for 3rd parties. The agency also 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.

115.88 (b). As noted within the agency audit, the agency’s 2015 annual PREA report compares data from 2014. The auditor notes that the agency committed to PREA compliance in 2014; therefore, limited comparative data exists at the time of this audit. The 2015 annual report does summarize the agency’s progress with achieving PREA compliance at its facilities, citing its training efforts and audit progress as steps to enhance compliance consistent with provision (b).

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

115.88 (d). 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**

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

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

The following evidence was analyzed in making the compliance determination:

1. Documentation:
  - a. MDOC PREA Manual; April 2017 (p33)
  - b. MDOC PREA Web Page and Link to SSV Documentation (pp1-3)

115.89 (a). 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.

115.89 (b). As noted within the agency audit, the agency's annual PREA statistical report for 2016 and its surveys of sexual violence for 2013 through 2016 are posted on the agency's website to demonstrate compliance with provision (b) of the standard.

115.89 (c). 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.

115.89 (d). 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).

### **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.

Traci Jacobson

August 7, 2018

Auditor Signature

Date