

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

☐ Interim ☒ Final

Date of Report October 23, 2019

## Auditor Information

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Company Name: Pennsylvania Department of Corrections	
Mailing Address: 1920 Technology Parkway	City, State, Zip: Mechanicsburg, PA 17050
Telephone: 717-728-4726	Date of Facility Visit: July 23-25, 2019

## Agency Information

Name of Agency:		Governing Authority or Parent Agency (If Applicable):	
Michigan Department of Corrections		State of Michigan	
Physical Address: 206 E. Michigan Avenue		City, State, Zip: Lansing, Michigan 48933	
Mailing Address: Grandview Plaza, 206 E. Michigan Ave.		City, State, Zip: Lansing, Michigan 48933	
The Agency Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
Agency Website with PREA Information: <a href="https://www.michigan.gov/corrections/0,4551,7-119-68854_70096---,00.html">https://www.michigan.gov/corrections/0,4551,7-119-68854_70096---,00.html</a>			

## Agency Chief Executive Officer

Name: Heidi E. Washington	
Email: WashingtonM6@michigan.gov	Telephone: (517) 780-5811

## Agency-Wide PREA Coordinator

Name: Charles J. Carlson	
Email: CarlsonC2@michigan.gov	Telephone: (517) 230-1464
PREA Coordinator Reports to:  Julie Hamp	Number of Compliance Managers who report to the PREA Coordinator  0

## Facility Information

**Name of Facility:** Thumb Correctional Facility

**Physical Address:** 3225 John Conley Drive

**City, State, Zip:** Lapeer, MI 48446

**Mailing Address (if different from above):**  
3225 John Conley Drive

**City, State, Zip:** Lapeer, MI 48446

**The Facility Is:**

☐ Military

☐ Private for Profit

☐ Private not for Profit

☐ Municipal

☐ County

☒ State

☐ Federal

**Facility Type:**

☒ Prison

☐ Jail

**Facility Website with PREA Information:** [https://www.michigan.gov/corrections/0,4551,7-119-68854\\_70096---,00.html](https://www.michigan.gov/corrections/0,4551,7-119-68854_70096---,00.html)

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

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

☐ ACA

☐ NCCHC

☐ CALEA

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

☒ N/A

**If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:**  
Internal audits

### Warden

**Name:** Willis Chapman

**Email:** chapmanw@michigan.gov

**Telephone:** 810-667-2045

### Facility PREA Compliance Manager

**Name:** Adam Douglas

**Email:** douglasa1@michigan.gov

**Telephone:** 810-667-2045

### Facility Health Service Administrator ☐ N/A

**Name:** Janet Nixon

**Email:** nixonj3@michigan.gov

**Telephone:** 810-667-2045

Facility Characteristics	
Designated Facility Capacity:	1216
Current Population of Facility:	1018
Average daily population for the past 12 months :	1127
Has the facility been over capacity at any point in the past 12 months?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Which population(s) does the facility hold?	<input type="checkbox"/> Females <input checked="" type="checkbox"/> Males <input type="checkbox"/> Both Females and Males
Age range of population:	16-86
Average length of stay or time under supervision:	364 days
Facility security levels/inmate custody levels:	Level II-Medium Security
Number of inmates admitted to facility during the past 12 months :	329
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:	328
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:	304
Does the facility hold youthful inmates?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Number of youthful inmates held in the facility during the past 12 months: (N/A if the facility never holds youthful inmates)	77 <input type="checkbox"/> N/A
Does the audited facility hold inmates for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Select all other agencies for which the audited facility holds inmates: Select all that apply (N/A if the audited facility does not hold inmates for any other agency or agencies):	<input type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> U.S. Marshals Service <input type="checkbox"/> U.S. Immigration and Customs Enforcement <input type="checkbox"/> Bureau of Indian Affairs <input type="checkbox"/> U.S. Military branch <input type="checkbox"/> State or Territorial correctional agency <input type="checkbox"/> County correctional or detention agency <input type="checkbox"/> Judicial district correctional or detention facility <input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail) <input type="checkbox"/> Private corrections or detention provider <input type="checkbox"/> Other - please name or describe: Click or tap here to enter text. <input checked="" type="checkbox"/> N/A
Number of staff currently employed by the facility who may have contact with inmates:	308

Number of staff hired by the facility during the past 12 months who may have contact with inmates:	25
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	12
Number of individual contractors who have contact with inmates, currently authorized to enter the facility:	214
Number of volunteers who have contact with inmates, currently authorized to enter the facility:	283
<b>Physical Plant</b>	
<b>Number of buildings:</b>  Auditors should count all buildings that are part of the facility, whether inmates are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house inmates, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.	10
<b>Number of inmate housing units:</b>  Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house inmates of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows inmates to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.	12
Number of single cell housing units:	1
Number of multiple occupancy cell housing units:	12
Number of open bay/dorm housing units:	0
Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):	22
In housing units, does the facility maintain sight and sound separation between youthful inmates and adult inmates? (N/A if the facility never holds youthful inmates)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Medical and Mental Health Services and Forensic Medical Exams</b>		
Are medical services provided on-site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Are mental health services provided on-site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Where are sexual assault forensic medical exams provided? Select all that apply.	<input type="checkbox"/> On-site <input type="checkbox"/> Local hospital/clinic <input type="checkbox"/> Rape Crisis Center <input checked="" type="checkbox"/> Other (please name or describe: Hurley Hospital Flint, MI)	
<b>Investigations</b>		
<b>Criminal Investigations</b>		
Number of investigators employed by the agency and/or facility who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment:	22	
When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.	<input type="checkbox"/> Facility investigators <input type="checkbox"/> Agency investigators <input checked="" type="checkbox"/> An external investigative entity	
Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input checked="" type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: Click or tap here to enter text.) <input type="checkbox"/> N/A	
<b>Administrative Investigations</b>		
Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?	22	
When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply	<input checked="" type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity	
Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: Click or tap here to enter text.) <input checked="" type="checkbox"/> N/A	

# Audit Findings

## Audit Narrative

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

### Pre-Onsite Audit Phase

The audit team consisted of DOJ PREA Auditor Krista Callear assisted by Joanne Gabonay, a non-DOJ PREA Auditor. Both are employees of the Pennsylvania Board of Probation and Parole and conducted the PREA audit on behalf of the Pennsylvania Department of Corrections.

The pre-audit process began on 6/04/2019 with auditor contact information being provided to MDOC's Regional PREA Analyst and PREA Coordinator. After email exchanges with staff at the Thumb Correctional Facility (TCF) of the Michigan Department of Corrections, the first telephone conference occurred with this auditor and facility staff including the PREA Compliance Manager, the Assistant Deputy Warden, the MDOC Regional PREA Analyst, and the co-auditor on 6/27/2019. The facility is located at 3225 John Conley Dr., Lapeer, MI 48446. This is the first PREA audit for this facility. This auditor was selected for this audit due to a multi-state reciprocal auditing agreement involving Pennsylvania, Michigan, Maryland, and Wisconsin; no contract is involved with this auditor and this auditor does not have any conflicts of interest. Staff discussed logistics and confirmed the date of the onsite audit as 7/23-25/2019 with auditors traveling by car on 7/22/2019 and 7/26/2019. It was discussed that the audit team would need unimpeded access to observe all areas of the facility as well as to interview staff and inmates. A preliminary timeline was discussed that involved specialized staff interviews and audit tour on day 1; additional tour, random staff and inmate interviews, and document reviews on day 2; and final document reviews and any remaining interviews occurring on day 3. The timeline for the audit report was discussed and it was conveyed to facility staff that this auditor is in a probationary status for certification which would involve additional time for report reviews by staff at the National PREA Resource Center (NPRC).

Six weeks prior to the on-site visit, on 6/12/2019, the facility was electronically provided with Audit Notices for posting during the same week. Posters were provided in English and Spanish, and included auditor contact information, for posting throughout the facility for inmates to contact the audit team. The audit notices conveyed to the readers that communications could be mailed to this auditor at a designated P.O. box in advance of the onsite audit. No letters were received prior to or after the visit to the Thumb Correctional Facility (TCF). Upon receipt of the posters, facility staff received emailed direction from their Regional PREA Analyst on 6/13/2019, to display the posters on bright colored paper in designated areas that included highly visible locations for staff, inmates, and facility visitors to see them. These locations included: Entrance Lobby, Gates, Visiting Room, Staff Breakroom, Maintenance Building, Warehouse, Health Care, Food Service, Programs Building / School, Library, Gym, EVERY Housing Unit (all sides), and Segregation / Temporary Holding Cells.

The facility did so and provided date stamped photos of the posters displayed throughout the facility. This verification was received on 6/13/2019 and the notices were posted on the same day. Time stamped photos

were received of notices posted in: Food Service Area, Health Care, Gym, Education Building, Library, and the Visiting Room. Pink paper was used and the notices were posted at eye level for readers.

On 7/02/2019, a flash drive was received by mail from the facility and it contained a .pdf version of the Pre-Audit Questionnaire, as well as electronic files for each standard consisting of policies, directives, memos, electronic form samples, etc. Due to overlapping facility PREA audits, this auditor was not able to review the flash drive contents until the week of 7/15/2019. The flash drive was found to be password protected and after obtaining the password from facility staff, the drive was found to be very thoroughly compiled with pre-audit documentation as well as onsite audit documentation according to the PREA checklist of documentation.

Due to the limited amount of time to review the flash drive, additional documents for items were requested onsite and post-audit.

On 07/19/2019, the lead auditor requested that facility staff be prepared to make available for interview inmates within the categories of the specialized interviews, as well as staff within the categories of the specialized interviews. The lead auditor also requested a copy of any type of tracking mechanism used by the facility to identify inmates within the specialized categories. The listings requested included:

Inmates:

1. Inmate roster on first day of the audit;
2. Inmates with disabilities (physical disabilities, blind, deaf, hard of hearing, cognitive disabilities);
3. Inmates who are limited English proficient;
4. Inmates who identify as lesbian, gay, bisexual, transgender and intersex;
5. Inmates who reported sexual abuse;
6. Inmates who reported sexual victimization during risk screening;
7. Above Specialized Inmates (at least 20 total); and
8. Random Inmates (at least 20)

Staff:

1. Agency head or designee;
2. Warden or designee;
3. PREA Coordinator;
4. PREA Compliance Manager;
5. Human Resources staff;
6. Contract administrator;
7. Intermediate or higher-level staff;
8. Medical and mental health staff;
9. SANE Nurse;
10. Investigative staff;
11. Sexual abuse incident review team members;
12. Risk screening staff;
13. Supervising staff in segregated housing;
14. First Responders;
15. Intake staff;
16. Non-medical staff involved in cross-gender strip searches;
17. Contractors and volunteers with inmate contact;
18. Mailroom staff;

19. IT staff;
20. Inmate records staff;
21. Classification staff;
22. Staff who supervise youthful inmates;
23. Education and program staff who work with youthful inmates; and
24. Designated staff member charged with monitoring retaliation.
25. Food Service Staff;
26. Maintenance Staff;
27. Grievance Coordinator;
28. Training Coordinator;
29. Chaplain;
30. Random Security Staff (at least 10); and
31. Staff rosters.

The auditor is not able to locate evidence that she requested a listing of all grievances for the previous 12 months, all allegations of sexual abuse and sexual harassment for the previous 12 months and all hotline calls for the previous 12 months, although this may have been discussed telephonically, pre-audit.

Pre-audit, this auditor performed an internet search for any articles involving TCF. This auditor Googled “sexual abuse of inmates at the Thumb Correctional Facility.” Three (3) responses were returned mentioning TCF and juvenile sexual abuse from early 2015:

[https://www.mlive.com/news/2015/04/video\\_depositions\\_7\\_inmates\\_sh.html](https://www.mlive.com/news/2015/04/video_depositions_7_inmates_sh.html)

<https://www.detroitnews.com/story/news/politics/2015/04/01/juvenile-prisoners-michigan-allege-rape-abuse/70813032/>

<https://www.theatlantic.com/politics/archive/2015/02/rape-in-the-american-prison/385550/>

The articles discussed the MDOC’s implementation of PREA and that all youthful offenders (under 18-years of age) would be housed at TCF for the MDOC to become compliant with the PREA standards. There was no information found regarding any current litigation, consent decrees, or local oversight.

On 07/19/2019, this auditor emailed Just Detention International (JDI) to request any information received from inmates, staff, or others regarding TCF. They had no record of any contacts in their database. That same date an internet search was conducted for local advocacy groups. One location, Lapeer Area Citizens Against Domestic Assault (LACADA) was identified at (810) 667-4175. They provide services for sexual assault and domestic violence for a 7-county area.

Pre-audit, this auditor called the MDOC’s PREA hotline and left a message for a return call on 7/21/2019. On 7/23/2019, an email response was received from the Regional PREA Analyst that my message had been received. Staff monitoring the PREA hotline forwarded an email to MDOC staff containing: Name and call-back number; Facility: TCF; details: PREA Auditor who is coming to visit TCF. She would like someone to call her back please. This is a test of our PREA Hotline; and Date/Time: July 21, 2019. 4:09PM.

## Facility Characteristics

*The auditor’s description of the audited facility should include details about the facility type, demographics and size of the inmate, resident or detainee population, numbers and type of staff positions, configuration*



*and layout of the facility, numbers of housing units, description of housing units including any special housing units, a description of programs and services, including food service and recreation. The auditor should describe how these details are relevant to PREA implementation and compliance.*

## **Onsite Audit Phase**

The onsite facility audit at TCF began with an entrance interview with key facility staff on Tuesday, 7/22/2019. The audit team was comprised of DOJ PREA Auditor Krista Callear, and Auditor Joanne Gabonay, a non-DOJ PREA Auditor. We were greeted by the Warden, Deputy Warden, Assistant Deputy Wardens, state PREA Coordinator, Regional PREA Analyst, facility PREA Compliance Manager, along with several other facility staff. The PREA audit team was introduced, along with an audit overview, explaining the purpose and framework of the audit process, as well as the expectations and requirements necessary for a thorough audit. The facility population on the first day of the audit was 1017; rated capacity is 1216. The facility provided the audit team with welcome binders containing facility diagrams, aerial photos, security staff schedules, RDO rosters, other staff rosters, approved volunteer listings, approved contractor listings, housing unit count boards, TCF PREA Investigators, TCF advocates, TCF SAFE/SANES, TCF PREA Tracker, TCF PREA Abuse and Harassment Logs (Investigation Tracker), TCF Round Reader Button Placements; and a TCF Security Site Plan.

The audit plan for the onsite phase of the audit was explained prior to the conclusion of the Entrance Interview. After the entrance interview, the Warden's interview was conducted in his office. Several additional specialized staff interviews were conducted prior to the beginning of the facility tour, which continued into day 2 of the audit.

The facility has six (6) housing units within the secure perimeter: Auburn, Burns, Cord, Durant, Essex, and Franklin. Also, within the secure perimeter is the secure side of the Administration Building (#100); the Food Service, Healthcare, and Segregation complex (#200), the Education building (#300), Correctional Industries (laundry), storage buildings, outdoor recreational areas, and a horticulture area. Due to time limitations, the storage buildings, outdoor recreational areas, and the horticulture area were not toured.

The auditors began with a tour of the administration building (#100) mailroom and lobby. The auditors viewed several PREA posters and the audit announcements in both English and Spanish. Auditors visited exterior buildings adjacent to the sally port gate at the front of the facility. Maintenance shops were visited and PREA posters, JDI posters, and audit announcements were visibly posted.

Observed at the front exterior of the facility were county inmates performing exterior maintenance. It was discussed that they only perform exterior maintenance and do not enter the facility or have contact with TCF inmates.

The audit team spent the remainder of the afternoon conducting document review and additional specialized interviews until departure at approximately 4:30 PM. On day 2 of the audit, the audit team arrived at TCF at 4:45 AM and after a brief meeting with facility staff, began conducting random security staff interviews from the night shift and then day shift. The Warden's Conference Room and an additional office were used to conduct the interviews privately.

After interviews, additional facility tours occurred and included the remainder of the Administration Building (#100) which included the secure side of the building which contains the Control Center, Visiting Room, Multi-Purpose Room, Hearings Officer's Office, PREA Compliance Manager's Office, YO/Writ Return intake area with Livescan, photograph, strip search rooms, administrative offices including the Deputy Warden and Assistant Deputy Wardens, and the Shift Commander's Office. PREA audit notices were visible throughout the area.

Inside the Control Center, a security staff member demonstrated the housing assignment application. The application automatically prevents housing assignments of inmates with conflicting PREA Risk Screening results; an error window appears if a potential victim and potential aggressor are being celled together. Housing assignments are made by the Control Center staff and other considerations for accommodations are taken into consideration such as a cane, wheelchair, etc. Staff maintains a binder with PREA Risk designations and the binder is updated daily.

The electronic camera system was reviewed. A security staff member in the Control Center demonstrated it. The same officer also manages Electronic Monitoring, perimeter fence alerts, PPD units (personal alarms), and the sally port gate.

In total, there are 242-cameras throughout the facility and they are continuously live monitored by an assigned security staff member in the Control Center. A large screen monitor was observed that usually depicts 16-camera views simultaneously. There are 9-locations for camera viewing and includes: Inspector's office (2), control center (2) with 4 screens, Deputy Warden's office, Hearing Investigator's office, Warden's office and Warden's conference room with 2 screens. There is also one (1) in the server room upstairs of the administration building typically used for IT system issues, and has full viewing and review capabilities if needed. The officer in the Segregation Unit has a monitor that depicts camera views from within the Segregation Unit only. Video is stored for 30-days from all cameras throughout the facility except for the Franklin B housing unit where video storage is for 3-years.

The welcome book contained diagrams of the housing units including placement of the cameras. On Essex housing unit A, on the upper level there are 3-360-degree cameras located in each corner of the housing unit. On the lower level, 3-360-degree cameras are similarly situated with an additional 360-degree camera overlooking the common area and the officer's desk. There are a couple cameras located in the hallway adjoining units A and B. Essex housing unit B mirrors housing unit A with identical camera placement. All of the other modular housing units including Auburn, Burns, Cord, and Durant have the same camera placements with a total of 16-cameras per modular housing unit. The cameras were observed during the tour.

Franklin housing unit A has 7-360-degree cameras being located on the lower level overlooking: multi-purpose room, staff offices, officer's desk, observation cell, and lower tier cells (3). The upper level has a total of 3-360-degree cameras situated along the upper tier cells. Franklin housing unit B camera placement is very similar to unit A. 2-additional 360-degree cameras cover the entry and lobby. Between Franklin A and B units, there is a total of 18-cameras. The cameras were observed during the tour.

Storage of evidence collection kits were also observed in the Control Center.

Building #200 was visited; it contains food service, healthcare, and segregation. The food service area was visited first. It holds a large inmate dining room and PREA posters with audit notices and JDI posters were visible in several areas of the dining facility. The PREA Compliance Manager demonstrated the use of the round reader in this area. One inmate in the food preparation area was informally interviewed. He described how food is obtained from the large coolers with staff standing at the open door of the cooler while the inmate retrieves the needed items. He elaborated that he feels safe within the facility and would feel comfortable reporting any PREA concerns if needed. He was able to identify several reporting methods including verbally to staff, with a grievance, through JPay email, the PREA hotline, or through a family member on their behalf. Separately, a Dietary Staff Cook was interviewed and was asked about food retrieval from the large coolers. Their response was congruent with the inmate's response. A director was interviewed in this area and was asked about food retrieval from the large coolers and indicated that staff and inmates enter the coolers together and that this is to

ensure food items are not being pilfered. He further elaborated about the presence of security staff within the food service area and that they perform roving security.

One area of concern within the food service area is the inmate bathroom, "Food Service Prisoner Bathroom" which indicated a maximum capacity of 3-inmates. From outside the bathroom, this auditor could observe into the bathroom through a window in the door. A urinal was clearly visible and presents an opportunity for cross-gender viewing. This matter was discussed with facility staff and will need a corrective action. Additional details related to this are included under standard 115.15.

Adjacent to the healthcare area is the intake/reception area for adult male inmates being received as transfers. This area was observed by the audit team. A security staff member oriented the audit team to the process; no adult inmates were being received at the time of the observation. The audit team observed that this process involves 4-rooms including an entry area, the intake room, a strip search room, and a holding room. Adult inmates are processed through each room individually until they arrive in the holding room. It was noted that privacy screens are used during the strip search portion of intake to afford inmates privacy. Inmates are signed in and also receive their bedroll during intake, and receive an initial health care screening by medical staff. Normally, 2-security staff and 1-security lobby officer are present during this process, along with medical staff. Risk screening is performed on the housing unit privately with staff after intake. Due to the low number of intakes annually at TCF, a risk screening was not occurring to be viewed during the audit.

The Healthcare area contains offices and exam rooms for dental, mental health, Psychologists, ER, Physicians Assistants offices, medical administrative offices, eye doctor, tele-med, storage, medical records office, nurse supervisor's office, Exam room #1 and #2, Health Unit Manager's office, Pharmacy, and staff bathrooms. 1-inmate porter is assigned to the healthcare area and is always under staff supervision. A health service administrator was interviewed during the tour; discussion input is contained under the related standards.

Maintenance work was being performed in Building #200 and this auditor informally interviewed the Maintenance Mechanic; he supervises a crew of 2-inmates that are always under his supervision when working. The Maintenance Mechanic reported being knowledgeable regarding first responder duties. He also reported that PREA risk designations impact inmate work assignments and that inmates are already screened for PREA prior to work assignments made by inmate employment classification staff.

The Segregation Unit within Building #200 was visited and it consists of an upper level and a lower level. The maximum capacity downstairs is 10-inmates and the maximum capacity upstairs is 12-inmates. The unit had a current population of 20-inmates at the time of the tour. Posters were observed telling inmates about their rights to be free from sexual abuse/harassment; about how to report PREA allegations, PREA audit notices, JDI posters; and several cameras were visible on the unit. 1-observation cell has a camera in it however the toilet area is blocked out on the monitor; windows to the exterior are tinted so that inmates outside the building cannot see inside the cells. Mirrors are also used for monitoring in the unit. There were no blind spots observed.

1-segregation security staff was informally interviewed on the first floor and reported seeing upper level staff making rounds and this included the Warden, Deputy Warden, Assistant Deputy Wardens, Inspector, etc. He elaborated that the rounds occurred during unexpected times and that female staff always announce their presence. He added that inmates can be placed in segregation for both disciplinary purposes for the safety of the facility and for voluntary or involuntary protective custody such as due to threats, being suicidal, and

conflicts with others. These informal staff interviews do not contribute towards the formal, random staff interview results. The Segregation Supervisor was interviewed and their responses are contained within the related standards. The second floor of segregation was visited. A log book was randomly checked here and from 6/23/19 to 7/23/2019, there were 178-rounds performed by Sergeants, Lieutenants, RN's, Chaplains, etc. Upper level administration staff use round readers while performing rounds.

The Michigan State Industry (MSI) Laundry was visited. It is situated within the secure perimeter near the sally port gate. The building is a large warehouse containing industrial laundry machines, folding tables, storage areas with expanding metal cages which are off-limits to inmates. Staff offices have large windows. Near the entrance is an x-ray machine that scans incoming laundry for contraband.

The laundry operates 2-shifts with a total of 64-inmates employed. Shifts include 4:00-11:00 AM and 11:00 to 5:00 PM. There are some staggered start times for the morning shift. Posters were observed telling inmates about their rights to be free from sexual abuse/harassment; about how to report PREA allegations, PREA audit notices, JDI posters; and several cameras were visible. 2-custody staff were observed along with 5-non-custody staff. There is 1-inmate bathroom consisting of sinks, 2-urinals, and 3-toilet stalls with half-walls to provide privacy. No blind spots were observed. A supervisor was informally interviewed. It was discussed that the laundry was closing in September and that a new industry is being sought to replace it. It was also discussed that inmates with PREA risk designations of no score or potential aggressor are employed in the laundry to ensure sexual safety. No potential victims or victims are employed there.

1-inmate laundry worker was informally interviewed. This informal inmate interview does not contribute towards the formal, random inmate interview results. He reported knowing how to report sexual abuse by telling a staff member or emailing through JPay; upper level staff are observed frequently performing rounds at unpredictable times; at his housing unit female staff always announce themselves prior to entering the unit; and at his housing unit inmates can change clothes, toilet, and shower without being observed by female staff.

The housing unit for youthful offenders (YO, age 17 and under), Franklin B Unit was visited. It has a maximum population of 120-inmates and had a current population of 28-inmates at the time of the audit. Posters were observed telling inmates about their rights to be free from sexual abuse/harassment; about how to report PREA allegations, PREA audit notices, JDI posters; and several cameras were visible on the unit; mirrors were also used for monitoring activity. There is a bank of windows in the day room between the units that have been blocked with opaque material that provides a sight barrier. The exterior of the building has black tarp over the fencing to provide a sight barrier between the outside areas of the units. Adjacent to this unit is Franklin A Unit which contains HYTA inmates (age 18 and above). The Holmes Youthful Trainee Act, commonly known as HYTA, gives a youthful offender the opportunity to keep a criminal offense off of their record.

The building is "Y" shaped. Both Franklin A and Franklin B units mirror each other and consist of a lower tier and upper tier of inmate cells, each containing their own toilet. It was observed that the placement of the toilets within the cells is not immediately visible from outside the cells. The shower areas consist of 4-individual showers with doors and privacy curtains. The shower area can be secured with an exterior door. Each unit also has counselor offices, a day room, and other offices. Franklin B (YO) has its own segregation cells at the back end of the lower tier; 6-10 cells are used for the YO for temporary segregation, prior to a misconduct hearing, and for detention segregation, after a misconduct hearing. Detention segregation can last for 3-10 days and the YO are only allowed out for showers and medical.

Franklin B was staffed with 2-security staff plus an escort officer. 1-security staff was informally interviewed and noted that upper level staff frequently perform unannounced rounds at unpredictable times; female staff always announce themselves using a “knock and announce method” and that there are presently no transgender/intersex inmates assigned to the unit.

The unit also contained 1-JPay terminal, and 1-commissary terminal located near the officer’s desk. This auditor tested the PREA hotline number using the inmate phone (517-335-5355). Inmates can call this anonymously using an 11-digit universal pin. This auditor dialed the number, selected 1-for English, 1-for debit, and entered the 11-digit pin to hear a recording about the MDOC’s voice messaging service to report PREA allegations.

1-inmate was informally interviewed on Franklin B. These informal inmate interviews do not contribute towards the formal, random inmate interview results. He reported knowing how to report an incident of sexual abuse by calling the hotline or by telling a staff member; he reported seeing upper level staff including the Warden, Deputy Warden, ADW, etc. make rounds at different times weekly; he reported seeing the Captain making rounds daily at different times; female staff always announce themselves upon entering the unit; and inmates are able to change clothes, toilet, and shower without being seen by female staff.

Franklin A unit was visited and the layout mirrors Franklin B unit. It houses HYTA inmates (age 18-22). The unit holds a maximum of 120-inmates and had a current population of 109-inmates. It is anticipated that as of 10/5/2019, the unit would be converted to a Medical “Frail” unit. Posters were observed telling inmates about their rights to be free from sexual abuse/harassment; about how to report PREA allegations, PREA audit notices, JDI posters; and several cameras were visible on the unit; mirrors were also used for monitoring activity. The unit has 1-observation cell which mental health staff determine occupancy of. Yellow lines on the floor restrict inmates from visiting staff areas without permission. There is 1-inmate unit clerk desk adjacent to the offices. There were several binders observed on the desk. Observations related to this are contained within 115.41.

1-security staff was informally interviewed and responded that upper level staff perform unannounced rounds; female staff entering the unit always announce themselves; and there are currently no transgender/intersex inmates currently assigned. He further elaborated that overtime is available about 1-time per week and can be voluntary or mandated. These informal staff interviews do not contribute towards the formal, random staff interview results.

1-inmate was informally interviewed and responded that they know how to report sexual abuse by calling the hotline or telling a staff member; upper level staff perform rounds during unpredictable times and they are unannounced; female staff always announce themselves when entering the unit; and inmates can change, toilet and shower without being observed by female staff. He added that “it’s a big ticket for not being properly clothed.” He also added that he feels safe here.

The Essex housing units A and B were visited; A unit has a maximum capacity of 96-inmates with 19-inmates at the time of the visit. B unit has a maximum capacity of 93-inmates (including 3-single handicap cells) with 83-inmates at the time of the visit. A and B units mirror each other with upper level cells and 2- corner community bathrooms each containing 2-sinks, 1-urinal, 2-toilets with half-walls, and 1-individual shower with privacy curtain; and lower level cells and 2-corner community bathrooms each containing 2-sinks, 1-urinal, 2-toilets with half-walls, and 1-individual shower with privacy curtain. The center, lower level has a large, open, common area

with tables and chairs. The upper level has a common/TV room. The officer's desk, or podium, is located near the entrance of the unit. Grievance forms are available at the officer's desk. A storage closet and a caustic closet (cleaning supplies) were observed near the officer's desk. Posters were observed telling inmates about their rights to be free from sexual abuse/harassment; about how to report PREA allegations, PREA audit notices, JDI posters; and several cameras were visible on the unit. Inmate phones and 2-hearing impaired phones were observed. 2-security staff are normally assigned to the unit.

Units A and B are connected with a hallway. The hallway consists of a triage/officer's office; staff bathroom, and 2-prison counselor's offices. An inmate unit clerk also has a desk in this area and documentation was observed for tablet sign-outs with a tablet charging station nearby. Observations related to this are contained within 115.41. Staff refer to this design as a "bowtie" since it consists of 2-large, square units connected with a hallway.

1-security staff was informally interviewed and responded that upper level staff including the Warden, Deputy Warden, Assistant Deputy Wardens, and Inspector perform rounds 3-4 times per week during unexpected times; CPTs and LTs perform daily rounds at unexpected times; female staff always announce themselves upon entering the unit; and there are no transgender/intersex inmates assigned. When asked if there are any blind spots, the security staff member indicated no, that the layout of the unit is the best possible layout. These informal staff interviews do not contribute towards the formal, random staff interview results.

1-inmate was interviewed and reported knowing how to report sexual abuse by calling the hotline or telling a staff member; upper level staff are observed frequently performing rounds; female staff always announce themselves prior to entering the unit; and inmates can change clothes, toilet, and shower without being observed by female staff. He added that he feels safe on the unit. These informal inmate interviews do not contribute towards the formal, random inmate interview results.

The remaining housing units were visited and all resemble the Essex housing units in layout design. This includes:

Auburn A unit (max population: 96/current population: 94);  
Auburn B unit (max population: 96/current population: 93 (3-single handicap cells));  
Burns A unit (max population: 96/current population: 94);  
Burns B unit (max population: 96/current population: 95);  
Cord A unit (max population: 96/current population: 94);  
Cord B unit (max population: 93/current population: 89(3-single handicap cells));  
Durant A unit (max population: 96/current population: 93); and  
Durant B unit (max population: 96/current population: 93).

A and B units mirror each other with upper level cells and 2-corner community bathrooms each containing 2-sinks, 1-urinal, 2-toilets with half-walls, and 1-individual shower with privacy curtain; and lower level cells and 2-corner community bathrooms each containing 2-sinks, 1-urinal, 2-toilets with half-walls, and 1-individual shower with privacy curtain. The center, lower level has a large, open, common area with tables and chairs. The upper level has a common/TV room. The officer's desk, or podium, is located near the entrance of the unit. Grievance forms are available at the officer's desk. A storage closet and a caustic closet (cleaning supplies) were observed near the officer's desk. Posters were observed telling inmates about their rights to be free from sexual

abuse/harassment; about how to report PREA allegations, PREA audit notices; JDI posters; and several cameras were visible on the unit. Inmate phones and hearing-impaired phones were observed.

Units A and B are connected with a hallway. The hallway consists of a triage/officer's office; staff bathroom, and 2-prison counselor's offices. Some of the hallways have some design variations with some units anticipating the addition of laundry rooms.

1-security staff was informally interviewed on each unit for a total of 13-security staff, including the segregation security staff, being informally interviewed. These informal staff interviews do not contribute towards the formal, random staff interview results. All 13-security staff reported that upper level staff including the Warden, Deputy Warden, Assistant Deputy Wardens, and Inspector perform rounds at least 3-4 times per week during unexpected times; CPTs and LTs perform daily rounds at unexpected times; female staff always announce themselves upon entering the unit; and there are no transgender/intersex inmates assigned.

1-inmate was informally interviewed on each unit, including a laundry worker, for a total of 13-inmates being informally interviewed. These informal inmate interviews do not contribute towards the formal, random inmate interview results. All 13-inmates reported knowing how to report sexual abuse by calling the hotline or telling a staff member or filing a grievance or emailing through JPay; upper level staff are observed frequently performing rounds at unpredictable times; female staff always announce themselves prior to entering the unit; and inmates can change clothes, toilet, and shower without being observed by female staff. 7- of the 12-inmates further added that they felt safe in their housing units.

The Education Building (#300) was visited. It is a large 2-story building containing: music rooms, classrooms, Food Tech classroom, Rec Director's office, indoor gym with 2-basketball courts and adjacent game room (tabletop games, x-box (3), weights, etc.), barber shop, employment workshop classroom, building trades classroom, Inmate Property Room, Quartermaster Room, staff bathrooms, and 1-inmate restroom with half-wall barrier to afford privacy on the first floor. The second floor consists of a library with short shelving and a mini-PREA resource center; offices for the principal, secretary, teachers aid, and inmate clerk; offices for the Special Activities Director, Employment Classification Director, Chaplain and others; Hobby Craft; and other classrooms. The classrooms are used for programming and education classes. An additional inmate bathroom is also located on the second floor, similar to the ground floor inmate bathroom. Normally 2- to 4-security staff are present in the building and 12-20 non-custody staff are present in the building, depending on the time of day. Throughout the building, posters were observed telling inmates about their rights to be free from sexual abuse/harassment; about how to report PREA allegations, PREA audit notices; JDI posters; and several cameras were visible. An Employment Classification Director, a Special Activities Director, and a Chaplain were interviewed and their responses are contained in the related standards.

Regarding classification, adult inmates are already classified upon transfer to TCF. They are classified while at the Charles Egeler and Reception and Guidance Center (RGC). Inmates receive psychological, medical, educational and security classification evaluations while at RGC. They are medically screened during the intake process. They are reviewed for medical, program and security needs. Male inmates classified as security level II are eligible for assignment at TCF. Youthful Offenders (YO) receive a similar process upon intake at TCF.

Regarding intake of inmates at TCF, the adult intake and reception areas were observed in Building #200. A security staff member oriented the audit team to the location in Building #200 where adults being received as

transfers are processed; no adult inmates were being received at the time of the observation. The audit team observed that this process involves 4-rooms including an entry area, the intake room, a strip search room, and a holding room. Adult inmates are processed through each room individually until they arrive in the holding room. It was noted that privacy screens are used during the strip search portion of intake to afford inmates privacy. Inmates are signed in and also receive their bedroll during intake, and receive an initial health care screening by medical staff. Normally, 2-security staff and 1-security lobby officer are present during this process, along with medical staff. Staff responsible for risk screening noted that screening is performed on the housing unit privately with staff after intake. Due to the low number of intakes annually at TCF, a risk screening was not occurring to be viewed during the audit.

YO are processed separately through Building #100 for intake. YO are always received directly from sentencing and are not received as transfers from other MDOC facilities. Adults are not processed at the same time as the YO. The audit team observed the areas used for intake in Building #100 that included an intake area with Livescan, photo system, and strip search area. Inmates initially have their identification verified, then receive a photo for inmate ID and are entered into the OMNI system and an OTIS system, which is an Offender Tracking Information Site. Inmates receive medical screening and are then quarantined on a housing unit for 3-days to verify their PPD testing results. Individuals returning from WRIT are also processed through Building #100. An audit team member observed the intake process of a YO at Building #100 however due to being a female observer, could not observe the entire process; this occurred on the last day of the onsite audit. The audit team member observed the identification portion of the process involving photographs. It was conveyed to her by facility staff that the YO would also be searched while in building #100 and then escorted to meet with medical staff in building #200 for a physical screening, before being delivered to the Franklin housing unit. It was conveyed by a risk screener separately that YO and HYTA intakes receive a psychological screening during their screenings at building #200 as well.

Regarding PREA risk screening at TCF, this is performed initially within the first 72-hours of arrival and again within 30-days of arrival. Risk Screeners at TCF were interviewed and reported that pre-sentence reports are used to input criminal history information along with incarceration history information from the inmates' files. Risk screeners only rely on pre-sentence reports and other agency/facility generated records to confirm responses provided by inmates. Very limited self-reported information is relied upon for the completion of the risk assessment. Thus, there is more opportunity for consistency of risk assessment results. The results are entered in the OMNI system. TCF uses an objective risk screening tool that results in PREA Risk designations of "no score," "potential aggressor," and "potential victim." Individuals with a verified status may be designated as "aggressor" or "victim." These screenings occur in the privacy of a prison counselor's office.

Regarding inmate PREA education, 1-adult prison counselor, also referred to as an Adult PREA Educator, was informally interviewed and related that adult inmates receiving PREA education after transfer to TCF. Their files are screened to ensure that it was completed previously. If it needs to be completed, the inmates receive it at the housing unit and watch the DVD "Taking Action" which is viewed uninterrupted. Staff asks about the inmates' understanding of it afterwards and they are given a brochure "How to Avoid Sexual Violence in Prison" by MDOC (2007). The inmate signs the PREA Education Verification Form; staff signs for the delivery of it; and it is retained in the inmate's counselor file. A prison counselor for the youthful offenders (YO) described a similar education process for YO, which they receive on the housing unit after intake.

Regarding grievances, during the tour it was discussed with the Grievance Coordinator that very few PREA allegations are received by this reporting method. A total of 582-regular grievances was received in the 12-



months preceding the audit; 5-PREA grievances were received in the 12-months preceding the audit however only 1-grievance alleged sexual abuse. The facility does not accept PREA Grievances for sexual harassment reasons. Any PREA Grievances that are mistakenly received by the Grievance Coordinator are provided to the PREA Compliance Manager immediately. The PCM receives the PREA Grievances which can be submitted in a few ways such as given to staff. PREA Grievances for sexual abuse are responded to within 60-days. The difference between the handling of regular grievances and PREA Grievances is that for regular grievances, the Grievance Coordinator responds directly to the grievance without any contact with the grievant. For PREA Grievances, the PCM contacts the grievant, and sends a request to the Warden to conduct a full investigation. Upon approval by the Warden, the PREA Grievance is entered into AIM and given a tracking number. It is then referred to internal affairs for investigation. If a PREA Grievance involves an allegation of sexual harassment, it is rejected through the PREA Grievance process and is referred for investigation through the normal process for such allegations.

### Inmate Interviews

The audit team performed informal inmate interviews during the audit tour and performed formal inmate interviews on the third day of the audit. Based on the inmate population of 1017 on the first day of the onsite portion of the audit, the PREA Auditor Handbook specifies that a minimum of 40-total inmate interviews is required. The audit team conducted the inmate interviews in private settings in the Administration building near the Control Center. The audit team conducted the following number of inmate interviews during the onsite phase of the audit:

Categories of Inmates	Interviews Conducted
Random Inmates (Total)	22
Targeted Inmates (Total)	21
Total Inmates Interviewed	43
Breakdown of Targeted Inmate Interviews:	
• Youthful Inmates	3
• Inmates with physical disability	2
• Inmates who are blind, deaf, or hard of hearing	0
• Inmates who are LEP	2
• Inmates with a cognitive disability	5
• Inmates who identify as lesbian, gay, or bisexual	0
• Inmates who identify as transgender or intersex	0
• Inmates in segregated housing for high risk of sexual victimization/suffered prior abuse	0
• Inmates who reported sexual abuse	5
• Inmates who reported sexual victimization during screening	4
Total Number of Targeted Interview Interviews	21

The facility provided the auditors with a complete list of inmates by housing unit and color coded for each inmate who may meet a targeted category for interview. Staff marked a total of 111-inmates that could be identified as a targeted inmate: Youthful inmates (28), Inmates with physical disabilities (13), Inmates who are blind, deaf, or hard of hearing (12), Inmates who are LEP (2), Inmates with cognitive disability (23), Inmates who identify as lesbian, gay or bisexual (1), Inmates who reported sexual abuse (6), and Inmates who reported sexual

victimization during screening (21). A total of 7-inmates was identified as meeting 2-targeted categories. The lead auditor selected from each housing unit every 5<sup>th</sup> inmate meeting a targeted category from the top of each housing unit roster. Alternates were selected similarly starting from the bottom of each housing unit roster, until a required number of inmates were identified and a substantial number of alternates were identified.

#### Staff Interviews

The audit team conducted interviews with the following agency leadership and are not counted in the totals below:

CJ Carlson, Agency Head Designee/PREA Coordinator  
 Willis Chapman, Warden  
 Adam Douglas, PREA Compliance Manager

The audit team conducted the following interviews with facility staff during the onsite phase of the audit:

Category of Staff	Interviews Conducted
Random Staff (Total)	11
Specialized Staff (Total)	36
Total Staff Interviewed	47
Breakdown of Specialized Staff Interviews	
• Intermediate or higher-level facility staff	2
• Medical/Mental Health Staff	2
• Non-medical staff involved in cross-gender strip searches	0
• Human Resources Staff	1
• SANE Staff	1
• Volunteers and Contractors who have contact with inmates	3
• Investigative Staff	1
• Staff who perform risk screening	2
• Staff who supervise inmates in segregated housing	2
• Incident review team	2
• Designated staff member charged with monitoring retaliation	1
• First responders	1
• Intake staff	2
• Mailroom	1
• Information Technology	1
• Food Service	2
• Maintenance	1
• Grievance Coordinator	1
• Training Coordinator	1
• Chaplain	1

• Hearings Investigator	1
• Line staff who supervise youthful inmates	1
• Education and program staff who work with youthful inmates	2
• CPC Program Coordinator (employment, reentry, specialized activities)	3
• Inmate Records Officer	1
• Total Specialized Interviews	36

Shift rosters were provided for each shift and random staff were identified by selecting every fifth security staff present for duty to receive a representative number from each shift and a total of 11-security staff. Alternates were identified in the same manner starting at the bottom of the shift rosters. Facility staff aided the audit team with identifying specialized staff. Interviews were conducted in private in the administration building or privately in staff offices. With 213-security staff and an inmate population of 1017, TCF has a security staff to inmate ratio of one (1) to 4.77, or almost 1:5.

#### Document Sampling and Review

The facility provided the auditors with requested documents, files, and records. Many items were received pre-audit on a flash-drive. From this information, the auditors selected and reviewed items from the table below:

Name of Record	Number of Record	Number Reviewed
Employee Files	321	16
Volunteer Files	350	3
Inmate Files	1017	20
Investigation Files	31	7
Total Files	1719	46

Employee Files: These were selected from a listing of employees and employees hired within 12-months of the audit were targeted. Every fifth employee on the list was selected. In some instances, files preceding the last 12-months were selected to achieve an adequate quantity.

Inmate Files: These were reviewed electronically with prison counselors and PREA tracking rosters were used to identify arrival dates of inmates within the last 12-months. Every fifth inmate meeting the criteria was selected. In some instances, files preceding the last 12-months were selected to achieve an adequate quantity.

Investigative Files: A total of 31 investigations were reviewed; with 7-files being selected; some files exceeding the 12-months were also included in the total to achieve an adequate quantity. The audit team attempted to identify a variety of allegations and outcomes. A breakdown of the 7-files selected is depicted below.

Welcome book information received upon arrival indicated updated rosters with the following depicted: 213-custody staff; 108-non-custody staff; 347-cleared volunteers (3-not approved); and 194-cleared vendors (17-not approved) for a total of 862-individuals cleared for access to the facility.

	Sexual Abuse		Sexual Harassment	
	Inmate on Inmate	Staff on Inmate	Inmate on Inmate	Staff on Inmate
Hotline		1		
Grievances				
Reports to staff	2		3	
Anonymous				
Reports by staff	1			
Total Allegations	3	1	3	

The investigative files were reviewed using the PREA Audit – Adult Prisons & Jails Documentation Review – Investigations for the 7-selected files. The PREA Audit Request for Information – Investigations was also used. It is noted that these review documents do not categorize the information according to the categories of these tables. The investigation dispositions are shown below:

	Substantiated	Unsubstantiated	Unfounded	Ongoing
Inmate on inmate abusive sexual contact		2		1
Inmate on inmate nonconsensual sexual act				
Inmate on inmate sexual Harassment		3		
Staff on inmate sexual misconduct				1
Staff on inmate sexual harassment				
Total Allegations		5		2

On the last day of the onsite phase of the audit, the audit team held a short exit briefing with the TCF administrative team. The audit team pointed out positive areas that the auditors found during the onsite phase of the audit and included aspects of 115.15 in that female staff consistently announce their presence in housing units upon entering; 115.18 in that the facility considers sexual safety with upgrades to the facility and technology; and 115.51 with inmate reporting in that all interviewed inmates were knowledgeable of reporting methods. A couple areas were also pointed out that need some work: 115.14 with sight and sound barrier issues at the youthful offender housing unit (Franklin B); and 115.41 with inmates having access to PREA Risk designations. The audit team thanked facility staff for accommodating the audit team and departed the facility on 7/25/2019 at approximately 6:30 PM.

### Post-Onsite Audit Phase

During the post-onsite audit phase, the lead auditor is remaining in contact with facility staff and is continuing to request additional documentation as needed. This has mostly pertained to investigations of allegations, reassessment screenings, and various clarifications.

Issues with 115.12 contract monitoring were discovered upon return to Pennsylvania that impact any currently outstanding MDOC PREA audit reports, including TCF's PREA audit report. This matter was referred to the DOJ and resolution with Michigan is pending.

LACADA was contacted about local rape crisis assistance ((810) 667-4175) at TCF post-audit. A representative of LACADA conveyed that they were part of a local, small community and provide domestic violence emergency shelter along with rape crisis counseling and human traffic counseling. She was not aware if the facility had reached out to them in the past-12 months seeking help with rape crisis counseling needs for inmates. An inquiry was also sent to the Rape, Abuse & Incest National Network (RAINN) post audit to see if they had any information in their databases for TCF in the past 12-months. A response has not been received. JDI was contacted pre-audit (see above).

The interim report was due to TCF on 9/23/2019. Due to the audit not being accessible in the Online Audit System, it was converted to the paper report format, which caused a delay.

## Summary of Audit Findings

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

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

### Standards Exceeded

**Number of Standards Exceeded:** 0  
**List of Standards Exceeded:** 0

### Standards Met

**Number of Standards Met:** 45

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

### Standards Not Met

**Number of Standards Not Met:** 0  
**List of Standards Not Met:**

### Previously non-compliant standards:

115.12: For provision (b), the agency will need to develop and implement contract monitoring to ensure that the IDRP and any other similarly contracted agencies comply with the PREA standards. This includes the agency sending the contracted facilities a detailed corrective action plan, to which the contracted facilities must demonstrate agreement for compliance. This corrective action plan will need to include milestones expected of the contracted facilities, expected policy development and implementation, and intentions of the agency to hold the contracted facilities accountable for compliance. Additional details are listed under the individual standard.

115.14: For provision (b), the facility is required to provide more permanent sight/sound separation between youthful inmates, and adults inmates, particularly in their outdoor recreational area where black tarp or netting is currently used. The facility will need to provide documentation when Essex A is occupied by YO as well as photos of the exterior recreational area used by YO upon occupation, that it is more separated from the adult recreational area. Additional details are listed under the individual standard.

115.87: For provision (e), the agency will need to demonstrate that relevant annual data is included in annual reporting for contracted facilities housing MDOC prisoners including parole violators, specifically, the agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates. This is related to the corrective action required for 115.12 (b). Additional details are listed under the individual standard.

115.89: For provision (b), the agency will need to demonstrate that relevant annual data is included in annual reporting for contracted facilities housing MDOC prisoners including parole violators, Specifically, the agency shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website. This is related to the corrective action required for 115.12 (b). Additional details are listed under the individual standard.

Details regarding the findings are located within each individual standard.

#### **Corrective Action Timeline:**

Within 2-weeks of issuing the interim report, a telephone conference will be scheduled and held not later than 10/17/2019 between the audit team and facility staff. A mutually agreeable corrective action timeline going forward will be discussed and documented.

#### **POST INTERIM REPORT CORRECTIVE ACTION:**

During the corrective action period, information was received which cleared the deficiencies for standards 115.12, 115.87, and 115.89. This occurred on October 8, 2019. The corrective action discussions can be found in each standard specific discussion within the report.

Due to staff unavailability, the first post-audit telephone call with the facility occurred on October 21, 2019, starting at 10:00 AM. It included Warden Chapman, the Deputy Warden, 2-Assistant Deputy Wardens, the facility PREA Compliance Manager, the Regional PREA Analyst, the state PREA Coordinator, and this auditor.

It was discussed that information had been received that cleared the deficiencies for standards 115.12, 115.87, and 115.89, which were agency level standards. It was also discussed that the findings for 115.14 stemmed from facility and agency information contained within the Welcome Book and discussed the Youthful Offenders (YO) relocating to the Essex housing unit to gain compliance for sight and sound separation with adults.

Clearance of this standard was pending the most recent meeting minutes that indicated that the renovations at Essex will be completed and for occupancy to occur in November 2019. The minutes were recorded on October 18, 2019, and contained discussions regarding the Essex Project and indicated that project completion was expected to occur on November 8, 2019; facility staff anticipated occupancy of Essex by the YO to occur on November 13, 2019. These meeting minutes were provided to this auditor on October 21, 2019, and were found to be sufficient to satisfy the required corrective action and determine the facility compliant with the standard. Additional corrective action discussion can be found in the standard specific discussion within the report. The final report is anticipated to be disseminated to the facility on October 23, 2019.

## PREVENTION PLANNING

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

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

#### 115.11 (a)

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

#### 115.11 (b)

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

#### 115.11 (c)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. MDOC PREA Manual, April 2017
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - c. OP 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - d. DOM 2016-2017 Director's Office Memo
  - e. Position Description PREA
  - f. Budget and Operations Administration Organization Chart
  - g. TCF PREA Email
  - h. TCF Organizational Chart
  - i. PREA Coordinator List 2018-12-18
2. Interviews:
  - a. PREA Coordinator
  - b. PREA Compliance Manager
3. Sight Review Observations:
  - a. PREA signage throughout facility
  - b. Mailroom

115.11 (a) This auditor reviewed the above policies and directives including MDOC PREA Manual (April 2017); PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners; and TCF memos. The PREA Manual which was effective August 20, 2013, establishes the agency's zero-tolerance policy for sexual abuse between or among prisoners as well as staff sexual misconduct, staff sexual harassment, and staff over-familiarity with prisoners. All PREA related definitions are clearly defined. All types of prohibited contact involving prisoners are also defined in PD 03.03.140. Their contents are consistent with the requirements of the standard and address the requirements of each provision of the standard.

Pre-audit, the facility responded positively in the questionnaire that it possesses a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment in facilities it operates or under contract. Policies and procedures also outline how it implements the agency's approach to preventing, detecting and responding to sexual abuse and sexual harassment. Both agency and local policies define the prohibited behaviors regarding sexual abuse and sexual harassment. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners discusses sanctions for those found to have participated in prohibited behaviors. Policy is consistent with the requirement of the provision.

Also reviewed was DOM 2016-2017 Director's Office Memo which provides direction in the event of any conflict between the PREA Manual and other agency policies. The auditor notes that the MDOC PREA Manual (April 2017) is the agency's superseding policy for PREA.

The auditor finds that based on pre-audit materials reviewed, and policy and documentation reviewed, the facility meets all requirements of provision (a).



115.11 (b) This auditor reviewed the above policies and documentation including the PREA Coordinator Position Description and the agency's organization chart.

Pre-audit, the facility responded positively in the questionnaire that the agency employs or designates an upper-level PREA Coordinator and that s/he has sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities.

The agency's organization chart was reviewed and the PREA Coordinator falls within the Bureau of Budget and Operations within the Division of Procurement, Monitoring, and Compliance Division and oversees the PREA Section and reports to an Administrator who reports to the Senior Deputy Director. The PREA Coordinator supervises 3-PREA Analysts. The organizational chart is dated March 2017.

The PREA Coordinator Position Description was reviewed (CS-214 form, undated) and was found to be very thorough, detailed, and quantified. General functions include: "assists Department Administrators and staff by developing and overseeing the Department's written policies which establish a zero tolerance of all forms of sexual abuse and sexual harassment of all prisoners and outlining the Department's approach to preventing, detecting and responding to such conduct. This position independently manages and oversees the federal Prisoner Rape Elimination Act (PREA) on a statewide level. This position is responsible for monitoring all aspects of Policy Directive 03.03.140, Prison Rape Elimination Act (PREA) and Prohibited Sexual Conduct Involving Prisoners. This position also budgets for federal PREA grant funding and training opportunities, while conducting and coordinating the PREA audits of all MDOC prisons/correctional facilities and other state partners." All of the listed PREA related duties consume 100% of the PREA Coordinator's time.

During the on-site phase of the audit, the PREA Coordinator was interviewed and responded positively that he performs full-time as the PREA Coordinator and has enough time to manage all of the PREA-related responsibilities. He further elaborated that he has no other department responsibilities. He also discussed that there are 30-PREA Coordinators (PREA Compliance Manager equivalent) statewide with one at each facility and 1-backup PCM at each facility for a total of 60-PREA Coordinators statewide; there are 3-Regional PREA Analysts. This auditor noted the supervisory responsibilities of the statewide PREA Coordinator towards the 3-Regional PREA Analysts.

The auditor finds that based on pre-audit materials reviewed, and policy and documentation reviewed, and staff interviews, the facility meets all requirements of provision (b).

115.11 (c) The above policies were reviewed including the agency PREA Manual which indicates that each facility has an assigned PREA Coordinator with sufficient time and authority to coordinate the facility's efforts in order to comply with the standards along with a description of their functions.

Pre-audit, the facility responded positively in the questionnaire that they have a designated PREA Compliance Manager and that they have the time and authority to perform their PREA duties. An informal interview with staff pre-audit indicated that due to labor issues, the PREA Compliance Managers (PCM) are referred to as PREA Coordinators at the facility level, however perform the duties of PCM's.

The facility organization chart was reviewed and found that the PREA Coordinator (PCM) reports to the Deputy Warden who reports to the Warden. The facility PCM also performs inspector duties which are sometimes associated with the PREA related duties.

During the on-site phase of the audit, the facility PREA Coordinator, henceforth referred to as the PREA Compliance Manager (PCM) was interviewed and responded positively that he generally has enough time to manage all of his PREA related responsibilities, however it depends on the number of allegations that need to be processed. Preferably, he would like to have more focus on his duties.

TCF email was reviewed from July 10, 2018 which had been sent on behalf of the Warden and announced the designation of the facility PCM and the alternate. The auditor noted during the on-site phase of the audit, that the PCM was exclusively dedicated to his PREA-related duties. The auditor also met the facility PCM's alternate, who performs as an Assistant Deputy Warden.

The auditor finds that based on pre-audit materials reviewed, and policy and documentation reviewed, and staff interviews, the facility meets all requirements of provision (c) and is overall compliance for the standard.

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

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

#### 115.12 (a)

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

#### 115.12 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. NPRC Staff email dated August 23, 2019
  - b. MDOC post interim report corrective action emails
2. Interviews:
  - a. PREA Coordinator
3. Sight Review Observations: None

115.12 (a) (b) Pre-audit, the facility responded to the questionnaire that the agency has not entered into or renewed a contract for the confinement of inmates on or after August 20, 2012, or since the last PREA audit, whichever is later. No contracts were uploaded and the other questionnaire entries were left blank or reflected "N/A." The facility responded "N/A" to contracts requiring the agency to monitor the contractor's compliance with PREA standards.

It was learned prior to departing for the onsite phase of the audit that concerns had been raised by the Division of PREA Compliance within the PADOE regarding this standard and audits currently occurring in Michigan, including TCF's. Both agencies participate in reciprocal auditing for PREA. The concerns stemmed from placement of MDOC parole violators into the IDRPs detention facility used by the MDOC to hold inmates who have been adjudicated as parole violators until they are released or transferred to a DOC facility. The IDRPs is staffed with county jail staff only.

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

The audit team researched the agency's description of the program, which states that the individuals are housed pursuant to the program are likely to be returned to the community and are placed for technical violations of parole and arrests for new misdemeanor and felony charges. Thus, the audit teams contend that the individuals housed pursuant to the contract are detained in a jail, have no "non-residential time," and may be pending disposition for new criminal offenses to differentiate them from an individual who would otherwise be in a pre-trial detention status pursuant to an arrest in the community and unable to post bail in a similar jail

scenario. Therefore, the audit team contends the individuals housed pursuant to the contract would be considered “inmates” who are subject to both the provisions of 115.12 and 115.87(e). In furtherance, Pennsylvania’s PREA Coordinator submitted an auditor help request through the auditor portal for standards interpretation guidance. After email exchanges and conference calls between the PADO and the MDOC, the matter was referred to the DOJ for resolution.

Email dated August 23, 2019, from the National PREA Resource Center staff indicated the DOJ’s response: “Based on the information provided and in light of current guidance, it appears that the FAQ that MDOC relies on for its argument does not apply to this situation. The FAQ envisions temporary transfer/housing situations that arise with facilities that are **not already contracted** and based on reasons outside the control of the agency. The circumstances described seem to indicate that the IDR is a detention facility used by the MDOC to hold inmates who have been adjudicated as parole violators until they are released or transferred to a DOC facility. In other words, it appears that this involves a standard contract to hold MDOC inmates and therefore MDOC needs to ensure that the IDR complies with the standards. It doesn’t matter that they are there temporarily—the vast majority of inmates are only held temporarily, but they are still entitled to the protections offered by the Standards, and so the requirements of 115.12 apply.”

During the on-site phase of the audit, there was no agency level contract administrator identified for interview.

Based on the lack of pre-audit materials, policy and documentation, and staff interviews, the facility does not meet the requirements of provision (a) and (b) and is overall non-compliant for the standard until this matter is resolved.

Post audit, a telephone conference was conducted with MDOC staff including the PREA Coordinator, PREA Analysts, and the Contract Monitoring Unit and the PADO PREA Coordinator, PREA Auditors, and this auditor on 9/23/2019. Discussions involved currently existing contract language, not previously available to this auditor, that includes PREA language for contract monitoring required by provision (a). Based on discussions with staff, provision (a) is now found to be compliant.

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

The audit team learned that the contracted entities have no infrastructure to comply with PREA at this time, and have yet to develop so much as policy provisions to govern how they will implement the standards. Given the starting point of the contracted entities, the audit team and the MDOC mutually agreed upon a monitoring tactic that would begin with the issuance of a formal contractual corrective action plan issued to the contracted entities, citing their failure to adhere to their contractual obligation to comply with the PREA standards. The corrective action plan must outline achievable and measurable milestones for the contracted entity to meet during various intervals throughout the one-year period of the October 1, 2019 contract. The audit team suggested that the corrective action plan include that the contracted entities be held accountable to implement the most critical components of developing compliance within that initial year, such as development of a policy within three months, completion of staff, contractor, volunteer, and inmate training and education requirements within six months, and implementation of risk screening procedures prior to the end of the

contractual year so that the contracted entities would be on target to achieve full compliance and be prepared for audit by the August 20, 2022 date established within the FAQ. To fulfill their portion of contract monitoring required by the standards, the MDOC would be responsible to gather tangible evidence of compliance through documentation exchanges, hold the contracted facility accountable to the deadlines imposed within the corrective action plan, and to enforce compliance with the plan through its available contractual remedies. The MDOC's PREA staff would be consulted by the agency's contract monitors to assess whether the contracted entity's evidence of compliance was consistent with the PREA standards.

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

On September 24, 2019, the MDOC provided the audit team with the contractual corrective action plans developed for each of the contracted entities and provided email correspondence verifying that each had been formally sent to each of the contracted facilities for provision (b).

#### Corrective Action Required:

1. No later than 12/26/2019, your organization must have PREA policies in place, and provide to Contract Monitor, that will bring your organization into compliance with the following sections of the Prison Rape Elimination Act, Prisons and Jail Standards:
  - a. 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator.
  - b. 115.13 Supervision and monitoring.
  - c. 115.15 Limits to cross-gender viewing and searches.
  - d. 115.22 Policies to ensure referrals of allegations for investigations.
  - e. 115.61 Staff and agency reporting duties.
  - f. 115.67 Agency protection against retaliation.
2. No later than 3/24/2020, your organization must develop, and provide to Contract Monitor, PREA training for employees, volunteers, contractors, and offenders, that will bring your organization into compliance with the following sections of the Prison Rape Elimination Act, Prisons and Jail Standards:
  - a. 115.31 Employee training.
  - b. 115.32 Volunteer and contractor training.
  - c. 115.33 Inmate education.
  - d. 115.34 Specialized training: Investigations.
  - e. 115.35 Specialized training: Medical and mental health care.
3. No later than 6/24/2020, your organization must develop, and provide to Contract Monitor, a risk screening process that will bring your organization into compliance with the following sections of the Prison Rape Elimination Act, Prisons and Jail Standards:
  - a. 115.41 Screening for risk of victimization and abusiveness.
  - b. 115.42 Use of risk of victimization and abusiveness

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

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

**Post Interim Report Corrective Action:**

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

The auditor now finds the facility/agency compliant for provision (b) and overall compliant with the standard.

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

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

#### **115.13 (a)**

- Does the facility have a documented staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse?
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Generally accepted detention and correctional practices?  
☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any judicial findings of inadequacy? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from Federal investigative agencies? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from internal or external oversight bodies? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated)? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The composition of the inmate population? ☒ Yes ☐ No

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The number and placement of supervisory staff? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The institution programs occurring on a particular shift? ☒ Yes ☐ No ☐ NA
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any applicable State or local laws, regulations, or standards? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The prevalence of substantiated and unsubstantiated incidents of sexual abuse? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any other relevant factors? ☒ Yes ☐ No

#### 115.13 (b)

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

#### 115.13 (c)

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

#### 115.13 (d)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. MDOC PREA Manual (April 2017)
  - b. TCF inmate daily averages from 8-20-2018
  - c. TCF Staffing Plan
  - d. TCF Daily Personnel Reconciliation form
  - e. TCF Memo for Staffing Plan Deviation
  - f. Annual Staffing Plan Review CAJ-1027
  - g. Annual Staffing Plan Review for TCF, 4/29/19
  - h. PD 04.04.100 Custody, Security, and Safety Systems
  - i. TCF Intermediate and Higher-Level Rounding Reports, 5/24/2019 for 3/1-31/2019
2. Interviews:
  - a. Warden
  - b. PREA Compliance Manager
  - c. PREA Coordinator
  - d. Intermediate or higher-level facility staff
  - e. Informal security staff interviews
3. Sight Review Observations:
  - a. MSI Laundry
  - b. Segregation (Bldg. #200) log book
  - c. Video Monitoring System

115.13 (a) The above policies were reviewed including the agency PREA Manual which indicates that when calculating adequate staffing levels and determining the need to video monitoring for MDOC prisons, the agency takes into consideration the 11-enumerated items required by provision (a). Policy is consistent with the requirement of the provision.



Pre-audit, the facility responded positively in the questionnaire that it makes its best effort to comply with its staffing plan and where applicable, video monitoring, to protect inmates against abuse. TCF's average daily number of inmates on 8/20/2018 was 1127 and the average daily number of inmates on which the staffing plan was predicated, was 1216, the rated capacity of the facility.

This auditor reviewed the TCF 2019 Staffing Plan and found that it also included the TCF organizational chart, Custodial Staff Assignment Sheets, Shift Rosters, MDOC/TCF 4<sup>th</sup> Year Performance Audit results for August 15-16, 2018, TCF Facility Inspection Response Report, TCF Auditor General Audit Report 2015, and the TCF Annual Sanitation report 2018. The TCF 2019 Staffing Plan discusses the general layout of the facility, programming, security, Administrative facility staff, as well as the 11-enumerated items required by provision (a).

During the onsite phase of the audit, the Warden was interviewed and responded positively that TCF has a staffing plan that provides for adequate staffing levels, includes video monitoring as part of the plan, and that the staffing plan is documented in policy. He further elaborated that TCF has a maintenance agreement for its cameras. Additionally, he discussed that the staffing plan takes into consideration the 11-enumerated requirements of the provision and provided examples for each of the 11-enumerated items. The Warden explained that he checks for compliance with the staffing plan by making rounds and reviewing monthly reports.

The PCM was interviewed and responded in detail how the facility considers the 11-enumerated requirements of the provision when assessing adequate staffing levels and the need for video monitoring. As it pertains to video monitoring, he elaborated that after a 2014 camera project, that additional cameras are being requested more recently. He noted that there have been no findings of inadequacy that were judicial or from federal investigative agencies or internal/external oversight bodies. He also noted that with youthful offenders (YO), additional staff is needed to perform as escorts for them outside their housing unit.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and staff interviews, the facility meets all requirements of provision (a).

115.13 (b) The above policies were reviewed including the agency PREA Manual which indicates that in circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan.

Pre-audit, the facility responded positively in the questionnaire that when the staffing plan is not complied with, the facility documents and justifies all deviations from the plan. The facility provided overtime (OT) reports for February – May 2019 with each shift being represented. It is evident that OT is used to prevent non-compliance with the staffing plan.

A Daily Personnel Reconciliation form for the facility noted that the predominant reasons for unfilled positions on shift rosters stems from RDO, annual leave/comp time, sick leave, other leave, and training. It also depicted that less critical duty assignments are closed to fill more critical assignments. Occasionally, staff are called in to fill an assignment on overtime.

A TCF Memo dated May 31, 2019 from the Deputy Warden to the Regional PREA Analyst indicated reasons that may cause deviations from the staffing plan which may include: reduced prisoner population in a housing unit; sick leave; emergency inclement weather; family medical leave act; lack of staff available to be mandated; and emergency mobilization events. Additionally, it listed the less critical positions that can be closed for each shift: 6-2 shift (Unit 67-Franklin B Base and Unit 60-Lower Segregation); 2-10 shift (Unit 67-Franklin B Base; Unit 60-Lower Segregation; and Unit 23-300 Building Hall); and 10-6 shift (Unit 60-Lower Segregation).

During the onsite phase of the audit, this auditor visited each housing unit and informally interviewed 1-security staff on each housing unit. Two security staff noted that they work overtime approximately 1-time per week and 1-time per month, respectively.

The Warden was interviewed and responded positively that the facility documents all instances of non-compliance with the staffing plan. He elaborated that any non-compliance with the staffing plan would be documented, however, TCF has not had any instances of non-compliance.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and staff interviews, the facility meets all requirements of provision (b).

115.13 (c) The above policies were reviewed including the agency PREA Manual which indicates that at least annually, the Warden/Administrator and PREA Coordinator (PCM) shall assess, determine and document whether adjustment is needed to (1) the staffing plan established pursuant to this paragraph, (2) facility's deployment of video monitoring system and other monitoring technologies; and (3) the resources the facility has available to commit to ensure adherence to the staffing plan. The review shall be documented on the appropriate PRA Annual Staffing Plan Review form. The form is maintained by the facility with a copy forwarded to the PREA Manager (statewide PREA Coordinator).

Pre-audit, the facility responded positively in the questionnaire that it performs all of the aforementioned. The facility provided a blank copy of the MDOC PREA Annual Staffing Plan Review (CAJ-1027). It includes: Basic facility information, staffing plan requirements (as enumerated in the provision), information pertaining to video monitoring systems and technologies, and resources.

The facility also provided its most recent completed Annual Staffing Plan Review dated 4/29/19 and signed by the Warden, facility PCM, and statewide PREA Coordinator. The staffing plan indicated taking all of the required items into consideration (as enumerated in the provision). Regarding video monitoring systems and technology, it is noted that requests for additional cameras in 2-locations have been submitted. Otherwise, there were no reasons included that would result in the staffing plan being revised.

During the onsite phase of the audit, the PREA Coordinator was interviewed and responded positively that he is consulted regarding any assessments or adjustments to the TCF staffing plan. He added that he is consulted for all 30-facility staffing plans for the MDOC.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and staff interviews, the facility meets all requirements of provision (c).

115.13 (d) The above policies were reviewed including the PD 04.04.100 and OP TCF 04.04.100 as well as the PREA Manual regarding implementing and practicing higher and intermediate level supervisors conducting and documenting rounds; to deter sexual abuse and sexual harassment and to occur during night shift and day shifts. Staff are prohibited from alerting other staff that these supervisory rounds are occurring. The aforementioned policies are consistent with the requirements of the provision. In particular, PD 04.4.100 Custody, Security, and Safety Systems designate how many times per month staff of certain rank levels are required to perform rounds within their facility. For example, Wardens are required to perform rounds within his/her institution at least monthly on all three shifts.

The PREA Manual requires that Lieutenants and above shall conduct and document the aforementioned rounds and that staff are prohibited from alerting other staff members when supervisory rounds are occurring, unless such announcement is related to legitimate operational functions of the facility.

Pre-audit, the facility responded positively in the questionnaire that the rounds required by the provision are performed, that the facility documents unannounced rounds, that the unannounced rounds cover all shifts, and that facility staff are prohibited from alerting other staff of the conduct of such rounds.

The facility provided an Officer Location report dated May 24, 2019 that covers 3/1-31/2019. This is a report of the round readers (or "pipes") in use by upper level staff. This 258-page report indicates the date, time, officer, and location that every issued round reader was used. One housing unit was reviewed from the report for the period of the report and it was found that the following staff had visited the unit: Warden (4-times over 3-shifts); Deputy Warden (24-times over 3-shifts); ADWs (21-times over 3-shifts); CPT (27-times over 3-shifts); and LT (41-times over 3-shifts).

During the onsite phase of the audit, this auditor visually inspected a log book in the segregation unit and found that a variety of staff, including upper level non-security staff and mid-level security staff had annotated visits during all 3-shifts a total of 178-times from 6/23 to 7/23.

Intermediate- or higher-level facility staff were interviewed during the audit and responded positively that they do conduct unannounced rounds, and that they document these rounds using the round reader system and log book entries. 1-indicated that she prevents staff from alerting other staff regarding conducting these types of rounds by informing them about policy not to alert others. She indicated taking a radio with her and would hear if any alerts were being made about the rounds. A second staff member of this specialized category responded similarly to these inquiries and further elaborated that he varies his patterns when he conducts these rounds.

During the audit tour, while visiting the Michigan State Industries (MSI) Laundry, this auditor observed the Warden making rounds of the facility. Additionally, while reviewing the video monitoring system in the Control Center, the Warden was also observed through the system making rounds of the facility.

The auditor finds that based on pre-audit materials reviewed, policy, documentation and practices reviewed, and staff interviews, the facility meets all requirements of provision (d) and is overall compliant with the standard.

## **Standard 115.14: Youthful inmates**

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

#### **115.14 (a)**

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

#### **115.14 (b)**

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

#### 115.14 (c)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 05.01.140 Prisoner Placement and Transfer
  - c. TCF Memos and emails
  - d. OP-TCF-03.02.120D Youthful Offender Programming
  - e. Essex Project Meeting Minutes (10/18/19)

2. Interviews:

- a. Line staff who supervise youthful inmates
- b. Youthful inmates
- c. Education and program staff who work with youthful inmates
- d. CPC Program Coordinators
- e. Chaplain

3. Sight Review Observations:

- a. Franklin Housing Unit

115.14 (a) The above policies were reviewed including the agency PREA Manual which indicates that all male prisoners under the age of 18 who are sentenced as adults will be housed at the TCF and that they shall not be placed in a housing unit in which the youthful prisoner will have sight, sound, or physical contact with any adult prisoner (age 18 or older) through a shared dayroom or other common space, shower area or sleeping quarters. When outside the housing units, prisoners shall either (1) remain sight, sound, and physically separated from adult prisoners, or (2) remain under direct staff supervision as defined in this manual. Youthful prisoners shall be given the same opportunity as other prisoners to participate in academic, vocational, therapeutic and recreational programming.

Also reviewed was PD 05.01.140 Prisoner Placement and Transfer which similarly indicated that prisoners under 18 years of age shall be housed in specialized areas of TCF.

Pre-audit, the facility indicated positively that the facility prohibits placing youthful inmates in a housing unit in which a youthful inmate will have sight, sound, or physical contact with any adult inmate through use of a shared day room or other common space, shower area, or sleeping quarters. Also, the facility responded positively that the facility has housing units to which youthful offenders are assigned that provide sight and sound separation between youthful and adult offenders in dayrooms, common areas, showers and sleeping quarters. The facility responded negatively that the facility places youthful inmates in the same housing unit as adults; and "N/A" that youthful inmates were placed in the same housing unit as adults with sight, sound, or physical contact with any adult through use of the shower area, sleeping quarters, shared dayroom, or other common space.

In the pre-audit questionnaire, the facility responded that within the last 12-months, in 2018, there were approximately 510 youthful inmates housed at the facility or an average of 39.7 per month, and that 1-housing unit is used to house youthful inmates.

A TCF memo dated May 29, 2019, from the TCF PCM to the Assistant Deputy Warden indicated that Franklin B housing unit is the designated housing unit to house prisoners 17 and younger to provide sight and sound separation between them and adult offenders in dayrooms, common areas, showers, and sleeping quarters. It also indicated that no inmates over 17 were housed in the same housing unit during.

A TCF memo dated May 30, 2019 from the TCF Records Office Supervisor to the TCF PCM indicated that during 2018, an average of 39.7 youthful offenders (YO's) per month were housed at TCF. It also indicated that from January to April 2019, an average of 25-YO per month were housed at TCF.

During the onsite phase of the audit, the audit team interviewed Line Staff Who Supervise Youthful Inmates. 1-staff was interviewed and related that the facility maintains sight and sound separation between YO and adults with through the use of opaque, darkened windows, black tarp on the fences outside the housing unit, and the use of escort officers for the YO. They also added that YO going in/out of the building causes difficulty achieving

this provision however escort officers are used. They also added that there is difficulty with the sight sound barriers and keeping the tarp in place on the outdoor fence, especially after any storms or bad weather.

It was reported that in the education building, the escort officer reports to the school officer at his/her post the number of YOs being escorted to class. The school officer then takes control of the YO and escorts them to class. The YO then leave class 5-minutes early and are returned to the escort officer who is waiting for them at the bottom of the stairs to avoid an excess mingling with adult inmates. This staff reiterated that outside the housing unit, the YO are always under direct staff supervision and that regarding segregation, for behavior problems, the YO have their own segregation cells within their own housing unit, and are not housed in the segregation unit (in building #200).

Also interviewed were 3-youthful inmates during the onsite phase of the audit. Of the 3-youthful inmates, 1-inmate was not admitted to the facility within the last 12-months, of the other 2-inmates, they reported not having direct contact with adult inmates; and reported not being able to hear or see the adult inmates. Housing unit rosters provided to select eligible inmates for interview did not include the arrival date of the inmates.

Other documentation reviewed included current inmate housing rosters including the YO housing unit, Franklin B, and none of the listed inmates were over 17-years of age. The Franklin B housing roster indicated 28-YO on the housing unit.

The Franklin B housing unit was visited during the facility tour. It was observed that the housing unit had a maximum population of 120 and had a current population of 28-inmates. The housing unit for youthful offenders (YO, age 17 and under), Franklin B Unit was visited. It has a maximum population of 120-inmates and had a current population of 28-inmates at the time of the audit. Posters were observed telling inmates about their rights to be free from sexual abuse/harassment; about how to report PREA allegations, PREA audit notices, JDI posters; and several cameras were visible on the unit; mirrors were also used for monitoring activity. There is a bank of windows in the day room between the units that have been blocked with opaque material that provides a sight barrier. The exterior of the building has black tarp over the fencing to provide a sight barrier between the outside areas of the units. Adjacent to this unit is Franklin A Unit which contains HYTA inmates (age 18 and above).

The building is "Y" shaped. Both Franklin A and Franklin B units mirror each other and consist of a lower tier and upper tier of inmate cells, each containing their own toilet. It was observed that the placement of the toilets within the cells is not immediately visible from outside the cells. The shower areas consist of 4-individual showers with doors and privacy curtains. The shower area can be secured with an exterior door. Each unit also has counselor offices, a day room, and other offices. Franklin B (YO) has its own segregation cells at the back end of the lower tier; 6-10 cells are used for the YO for temporary segregation, prior to a misconduct hearing, and for detention segregation, after a misconduct hearing. Detention segregation can last for 3-10 days and the YO are only allowed out for showers and medical.

Insomuch as housing unit Franklin B is dedicated to the YO, the auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, staff interviews, and tour observations, the auditor finds that the facility meets the requirements of provision (a).

115.14 (b) The above policies were reviewed including the agency PREA Manual and PD 05.01.140 Prisoner Placement and Transfers. The latter of which indicated that "...the youthful prisoner shall be housed with as

much sight, sound, and physical contact separation from adult prisoners as possible in accordance with the PREA Manual.”

Pre-audit, the facility responded negatively in the questionnaire that the facility maintains sight, sound, and physical separation between youthful inmates and adult inmates in areas outside housing units. However, the facility responded positively that it always provides direct staff supervision in areas outside housing units where youthful inmates have sight, sound, or physical contact with adult inmates.

During the onsite phase of the audit, 1-line staff who supervises youthful inmates was interviewed and related that in areas outside the housing units, where youthful inmates may have sight, sound or physical contact with adult inmates, the facility always provides direct staff supervision. Also interviewed was 1-program staff who works with youthful inmates and 1-education staff who works with youthful inmates. Both reported that youthful inmates are not prevented from participating in regular programs and that direct staff supervision is always provided when youthful inmates and adult inmates have sight, sound, or physical contact. The teacher further elaborated that YO and adults are in the same classes together and are always under direct supervision. There are 4-1.5-hour blocks of instruction daily, Monday through Friday. The facility does not have the capacity to have separate classrooms for YO within the education building. The teacher described the practices used when emergency practice drills occur and when the classes conclude. The adult inmate students leave the classrooms first with the teacher(s) remaining in the room with the YO. The school officer arrives to collect the YO and hands them off to the Franklin B housing unit escort officer.

3-youthful inmates were interviewed onsite. 1-youthful inmate did not arrive within the last 12-months and was not able to respond to the related questions. Of the other 2-youthful inmates, 1-inmate reported not having contact with adult inmates outside the unit. The other youthful inmate responded positively to having contact with adult inmates outside the unit and that staff is always present when this occurs.

During the facility tour, the escort officer was directly observed escorting YO while outside the Franklin B housing unit. This was observed by the audit team on at least 1-occasion in the facility. The audit team was not able to review video demonstrating direct staff supervision of youthful inmates outside the housing unit.

While youthful inmates are isolated inside Franklin B and don't have physical contact with adult inmates while inside Franklin B, there is opportunity for contact upon entering the building and through the non-permanent tarps or netting in the outdoor recreational area. This was observed by the audit team. Information provided in the TCF welcome book as well as informal staff interviews upon arrival of the audit team related that the Essex housing unit is being repurposed for the housing of the youthful offenders and that they will be housed there instead of the Franklin housing unit.

Included with the welcome book information was a memo from upper facility staff to staff at the Correctional Facilities Administration dated July 27, 2018 indicating the “Repurposing of Essex Unit to House Youthful Offenders” and included that “PREA mandates that youthful offenders are not to have sight or sound of the adult offender population while the youths are in their housing unit. This includes segregation. The youthful offenders are currently housed in the Franklin B unit. It is extremely challenging to comply with the PREA standards due to the physical layout and location of Franklin unit. Franklin A and B sides are divided by a single wall with many windows where the youth are able to see and hear adult offenders both from inside of the unit and outside of the unit.” The memo continues to describe sight and sound barrier issues for the YO and that the exterior tarp or netting on the fence is not sufficient to create a sound barrier; YO having contact with adults in other areas of the facility and that their current placement creates a time and staff consuming task. Additional memos were included in the welcome book dated April 19, 2018 and April 24, 2018 that describe similar sight and sound barrier issues for the YO, including procedures used to provide oversight when YO are in their

outdoor recreational area which are described by TCF staff in the memo as insufficient to comply with the PREA standards.

Based predominantly upon documentation and tour observations, the auditor finds that the facility does not meet the requirements of provision (b). Corrective action is needed.

115.14 (c) The above policies were reviewed including the agency PREA Manual and PD 05.01.140 Prisoner Placement and Transfers. Also reviewed was OP-TCF 03.02.120D Youthful Offender Programming which indicated that YO have programs available which include: Violence Prevention, Sex Offender, Thinking for a Change, Substance Abuse, Substance Abuse Phase II (OPT), Employment Readiness, GED/Special Education, Outpatient Treatment (10-different programs), Food Service Technology, Building Trades, Business Education, and routine work assignments.

Pre-audit, the facility did not respond to the question that the facility documents the exigent circumstances for each instance in which youthful inmates' access to large muscle exercise, legally required education services, and other programs and work opportunities was denied. The facility indicated that in the past 12-months, there were zero (0) youthful inmates who were placed in isolation to separate them from adult inmates.

During the onsite phase of the audit, 1-line staff who supervises youthful inmates was interviewed and responded negatively that youthful inmates in the past 12-months were isolated in order to separate them from adult inmates. They further elaborated that YO segregation occurs for behavior related reasons only, not for protective reasons related to PREA, and that adult segregation occurs in a different building.

1-education and 1-program staff who work with youthful inmates were interviewed and both responded negatively that requirements for sight and sound separation between youthful inmates and adult inmates interfere with youthful inmates' regular participation in programs.

Also informally interviewed were CPC Program Coordinators including 1-coordinator for employment, 1-coordinator for special activities, and 1-coordinator for reentry services. Across the facility, 120-150 inmate job assignments are filled each month. 173-jobs were filled in June and included attendance at core programming and college; inmates receive a stipend while attending core programming and college classes. It was reported that while youthful inmates can be assigned employment on their dedicated housing unit, they are not restricted from participating in special activities which includes special speakers, music concerts, holiday-related events, etc. There are several programs that YO attend including AA/NA, SAP, Man-2-Man, etc. and includes all other programs that adults attend since the YO are always under staff supervision. Program schedules were observed for the gym, religious activities, library, and special activities – YO have dedicated and exclusive attendance times for some events. Regarding reentry services, the CPC program coordinator indicated that YO receive these services as well, which includes self-help groups, assistance for release which includes employment, college, clothing, housing in the community, etc.

The Chaplain was also interviewed and indicated that the YO are able to participate in religious services and that they have their own seating section during the services, and that he sits behind them. He added that at 7:30 AM on Sunday and during Monday night bible study, both the Franklin B YO and Franklin A HYTA inmates attend services. They have separate seating and when the services conclude, there is no inter-mingling permitted. YO are always under staff supervision and the escort officer arrives to escort the YO to their housing unit.

3-youthful inmates were interviewed and none of the 3-youthful inmates reported being held in segregated housing to keep them away from adult inmates. The remaining questions related to this provision were "N/A" for them.



Housing rosters were reviewed as well as direct observation by the audit team of the segregation cells in use on Franklin B housing unit. Approximately 6-occupied single cells were in use for YO segregation at the back of the lower level cells. Up to 10-single cells in this area are available for this purpose.

Evidence was not found that youthful inmates are placed in isolation to comply with this provision. TCF makes available to youthful inmates the requirements of the provision as well, to include programs and work opportunities, to the extent possible. The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, staff interviews, and tour observations that the facility meets the requirements of provision (c) but is not overall compliant for the standard.

**Corrective Action Required:**

For provision (b), the facility is required to provide more permanent sight/sound separation between youthful inmates, and adults inmates, particularly in their outdoor recreational area where black tarp or netting is currently used. The facility will need to provide documentation when Essex A is occupied by YO as well as photos of the exterior recreational area used by YO upon occupation, that it is more separated from the adult recreational area.

The facility has been planning improvements since 2018 with the repurposing of Essex A housing unit to be dedicated for youthful inmates that will mitigate many of the current sight/sound barrier issues. This is anticipated to produce a cost savings for the facility with more beds being available for adult inmate use and fewer staff being needed for YO escort duty. Many services will be provided directly on the new housing unit that are not provided in that manner currently.

Post audit, the TCF PCM has provided copies of emails, memos, meeting minutes and timeline projections indicating that Essex A will be available for youthful inmate occupancy on 10/18/2019.

**Post Interim Report Corrective Action:**

Due to staff unavailability, the first post-audit telephone call with the facility occurred on October 21, 2019, starting at 10:00 AM. It included Warden Chapman, the Deputy Warden, 2-Assistant Deputy Wardens, the facility PREA Compliance Manager, the Regional PREA Analyst, the state PREA Coordinator, and this auditor.

It was discussed that the findings for 115.14 stemmed from facility and agency information contained within the Welcome Book. It discussed the Youthful Offenders (YO) relocating to the Essex housing unit to gain compliance for sight and sound separation with adults.

Clearance of this standard was pending the most recent meeting minutes that indicated that the renovations at Essex will be completed and for occupancy to occur in November. The minutes were recorded on October 18, 2019, and were originated by the contractor. The meeting minutes indicated that project completion was expected to occur November 8, 2019; facility staff anticipated that the YO would occupy Essex on November 13, 2019. The meeting minutes were specific for PREA Compliance and included pertinent details regarding progress of work, a 2-week work schedule, and a meeting attendance record.

The meeting minutes were provided to this auditor on October 21, 2019, and were found to satisfy the required corrective action. This auditor also determined that given the new and more isolated recreational area of the YO due to relocation, that the prior concerns of black tarp or netting currently used in the recreational area would no longer be an issue after relocation. The auditor now finds the facility compliant for provision (b) and overall compliant with the standard.

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

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

### 115.15 (a)

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

### 115.15 (b)

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

### 115.15 (c)

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

### 115.15 (d)

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

### 115.15 (e)

- Does the facility always refrain from searching or physically examining transgender or intersex inmates for the sole purpose of determining the inmate's genital status? ☒ Yes ☐ No

- If an inmate's genital status is unknown, does the facility determine genital status during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner? ☒ Yes ☐ No

#### 115.15 (f)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. Code of Criminal Procedure, Act 175 of 1927
  - c. OP-TCF-04.04.110C, Search and Arrest of Prisoners, Employees, and Visitors
  - d. PD 04.04.110 Search and Arrest in Correctional Facilities
  - e. TCF Memos relating to Standard 115.15
  - f. Personal Searches Training Module, dated October 2015
  - g. Knock and Announce Signage Sample
  - h. OP-TCF-03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - i. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - j. Privacy Signage Sample
  - k. TCF Email Sample Dated March 14, 2019
  - l. MDOC CBT Sex Abuse and Sexual Harassment in Confinement Training

- m. PD 04.06.184 Gender Dysphoria
- n. "Custody and Security in Corrections – Searches" Training Part 2, dated 2015
- o. "Personal Searches – Application of Search Procedures for GID and Transgender Prisoners," dated September, 2013
- p. MDOC Course History Report, Dated 6/5/2019
- q. Photos of corrective action (9/19/2019)

2. Interviews:

- a. Random Staff
- b. Random Inmates

3. Sight Review Observations:

- a. Housing Units
- b. Dining Facility

115.15 (a) The above policies were reviewed including the PREA Manual, OP-TCF 04.04.110C and PD 04.04.110. The PREA Manual indicates that in accordance with PD 04.04.110, cross-gender strip searches are prohibited except in exigent circumstances or when performed by medical staff. When this does occur, it is only in the presence of employees of the same sex as the prisoner being searched, except in exigent circumstances, a supervisory employee of the opposite sex may be present when required by policy; searches will be documented as directed by policy.

Regarding body cavity searches, the PREA Manual indicates that in accordance with PD 04.04.110, and MCL 764.25b, visual body cavity searching shall be performed by medical practitioners/staff. The medical practitioner who performs the search need not be the same sex as the prisoner being searched. However, there shall always be at least one additional staff member present who is of the same sex as the prisoner, along with any additional staff present, must be of the same sex as the prisoner.

Policy indicates that the facility shall document in writing, all cross-gender strip searches, cross-gender body cavity searches, and all cross-gender pat-down searches of female prisoners.

Also reviewed was a TCF memo dated June 2, 2019 from the PCM regarding this standard. It indicated that the TCF has zero (0) cross gender strip searches or body cavity searches conducted in the last 12-months. MDOC policy requires that all body cavity searches be conducted by a medical professional.

With that, no logs were relied upon as evidence for this provision.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, that the facility meets the requirements of provision (a).

115.15 (b) The above policies were reviewed including the PREA Manual, and PD 04.04.110 regarding a facility with a rated capacity that does not exceed 50-inmates, as well as the requirements of this provision for female inmates.

Pre-audit, the facility did not respond in the questionnaire regarding the application of this provision to female inmates and "N/A" to the number of pat-down searches of female inmates that were conducted by male staff, as well as those that occurred that did not involve exigent circumstances.

A review of housing rosters found an absence of female inmates being housed in the facility. Random staff were not able to respond to questions regarding this provision due to the absence of female inmates at TCF.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and staff interviews, that provision (b) is not applicable for the facility.

115.15 (c) The above policies were reviewed including the PREA Manual, and PD 04.04.110 regarding the facility documenting all cross-gender strip searches and cross-gender visual body cavity searches, and documenting all cross-gender pat-down searches of female inmates.

Pre-audit, the facility responded positively in the questionnaire that that all cross-gender strip searches and cross-gender visual body cavity searches are documented. The facility responded "N/A" regarding the application of this provision to TCF as it does not house female inmates. A review of housing rosters found an absence of female inmates being housed in the facility.

A TCF memo dated June 2, 2019 from the PCM indicated that TCF has had zero (0) cross gender strip searches or body cavity searches conducted in the last 12-months. MCOC policy requires that all body cavity searches be conducted by a medical professional.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, that provision (c) is not applicable for the facility.

115.15 (d) The above policies were reviewed including the PREA Manual, and PD 04.04.110 regarding cross-gender viewing. The PREA Manual indicates that each Warden shall ensure that the facility's physical plant layout enables prisoners to shower and perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia except in exigent circumstances or when such viewing is incidental to routine cell checks. The Warden is not prohibited from reassigning staff of the opposite gender from positions or posts with visibility to the showers during shower times. Instances of cross-gender viewing in exigent circumstances shall be documented in a critical incident or memorandum to the Warden or Administrator. PD 04.04.110 has very similarly worded direction included. The OP-TCF 03.03.140 was reviewed and indicated that female staff must knock and announce their presence each time they enter a housing unit. The female staff member must knock on the most interior door and announce in a loud, clear voice "female(s) in the area" and wait 10-seconds before entering.

Pre-audit, the facility responded positively in the questionnaire that it has implemented policies that meet the requirements of this provision and that policies and procedures also require staff of the opposite gender to announce their presence when entering an inmate housing unit.

A TCF memo dated March 14, 2019 from the PCM to all TCF staff reminded staff that regarding "Knock and Announce – female staff must knock and announce their presence when entering a prisoner housing unit. Knock on the most interior door and announce in a loud clear voice, "female(s) in the area", wait a few seconds and then enter. Female staff responding to emergencies do not need to do this."

During the onsite phase of the audit, 11-random staff were interviewed and all 11-random staff responded positively that female officers announce their presence when entering the housing units of male inmates. This is known as the "Knock and Announce" practice. All 11-random staff also responded positively during interviews that inmates are able to dress, shower, and toilet without being viewed by staff of the opposite gender. "Female on unit" is the most common announcement. 1-random staff further elaborated that regarding camera viewing (which is performed in the Control Center), that this is a dedicated duty and that mostly male staff

perform this duty; no toileting, showering, or clothes changing is visible from the cameras. This was observed by the audit team during the facility tour and confirmed when reviewing the video monitoring system in the Control Center.

Also interviewed were 22-random inmates representing all of the housing units. All 22-inmates responded positively that female staff announce their presence when entering the housing units. All 22-inmates also responded that they are able to toilet, shower, and change clothes without being naked in full view of female staff. 1-inmate further elaborated about having a privacy curtain for the shower.

Samples of the privacy signs were provided and indicated in both English and Spanish that “A female staff person may be in the unit/area at any given time. Prisoners are responsible for their own privacy and maintaining proper clothing at all times. The willful and/or intention display of genital area, groin, or buttocks is strictly prohibited. Prisoners engaging in such conduct may be issued a Class I Misconduct for Sexual Misconduct.” These signs were observed during the onsite phase of the audit during the facility tour. They were clearly displayed for inmates to see in each of the housing units.

An issue of possible opposite gender viewing was identified in the dining facility during the facility tour. Within the food service area is the inmate bathroom, “Food Service Prisoner Bathroom” which indicated a maximum capacity of 3-inmates. From outside the bathroom, this auditor could observe into the bathroom through a window in the door. A urinal was clearly visible and presents an opportunity for cross-gender viewing. This matter was discussed with facility staff and will need a corrective action.

Post audit, the facility corrected the window with blocking material being applied on the bottom two-thirds of it. TCF provided multiple pictures of the correction; it eliminates any opportunity for cross gender viewing.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, staff interviews, facility tour observations, and post audit corrections, the facility is now compliant with provision (d). No further corrective action is needed.

115.15 (e) The above policies were reviewed including the PREA Manual which indicates that as outlined in PD 04.06.184 “Gender Identity Disorder in Prisoners” that staff shall not search or physically examine a prisoner for the sole purpose of determining the prisoner’s genital/sex status. If genital status is unknown, it may be determined during conversations with the prisoner, by reviewing medical records or if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner. Policy content is consistent with the requirements of the provision.

Pre-audit, the facility responded positively that it has policy prohibiting staff from searching or physically examining a transgender or intersex inmate for the sole purpose of determining the inmate’s genital status and that zero (0) such searches had occurred in the past 12-months.

During the onsite phase of the audit, 11-random staff were interviewed and all 11-staff responded that they were aware of the policy prohibiting staff from searching or physically examining a transgender or intersex inmate for the purpose of determining that inmate’s genital status.

As no transgender or intersex inmates were identified by the facility as available for interview for that targeted category, these interviews were not conducted. During the facility tour, at least 1-security staff member was informally interviewed at each housing unit. None indicated that any transgender/intersex inmates were presently assigned at TCF and that none had been assigned there for a period of time.

Also reviewed was the MDOC's computer-based training for "Sexual Abuse and Sexual Harassment in Confinement." It includes an excerpt as outlined in PD 04.06.184 Gender Identity Disorder in Prisoners and conveys that "staff shall not search or physically examine a prisoner for the sole purpose of determining the prisoner's genital/sex status." This was observed on slide 94 of the presentation.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and staff interviews, that the facility is compliant with provision (e).

115.15 (f) The above policies were reviewed along with training curriculum for "Custody and Security in Corrections, Part 2," and "Personal Searches: The Application of Search Procedures for GID and Transgender Prisoners." Both curricula teach search practices to be used by staff that are consistent with the requirements of the provision. The former curriculum teaches 8-types of searches.

Pre-audit the facility responded in the questionnaire that 100% of staff have received the training with curriculum that is required to be compliant with the provision. Also reviewed were training logs for training received on "GID Transgender Personal Searches." It depicts TCF security staff (196) having been trained on this curriculum prior to 06/05/2019.

During the onsite phase of the audit, 11-random staff were interviewed and 9-staff responded that they had received training on conducting cross-gender pat down searches of transgender and intersex inmates in a professional and respectful manner, consistent with security needs. Of the 9-staff, 1-staff received it by way of a policy update; 1-staff could not recall when it was received; 1-staff received it within 1-month of the audit; 3-staff received it within 1-2 years; 2-staff received it within 2-3 years; and 1-staff received it within 4-years. 2-staff responded that they have not had the training.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and staff interviews, that the facility is compliant with provision (f) and is overall compliant with the standard.

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

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

#### **115.16 (a)**

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

and respond to sexual abuse and sexual harassment, including: inmates who have intellectual disabilities? ☒ Yes ☐ No

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

#### 115.16 (b)

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

#### 115.16 (c)



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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - c. MDOC Identifying and Addressing Sexual Abuse and Sexual Harassment (Braille), 2015
  - d. TCF Memos
  - e. TCF Orientation Packet, 2014
  - f. TCF Emails
  - g. 2019 Interpreter Request Form
  - h. Poster samples
  - i. Prisoner Guidebook, June 2014
  - j. Sexual Violence brochure, 2015
2. Interviews:
  - a. Agency Head or Designee
  - b. Inmates (disabled or LEP)
  - c. Random Staff
3. Sight Review Observations:
  - a. Signage throughout facility
  - b. Telephone Interpretation Service

115.16 (a) The above policies were reviewed including the PREA Manual which indicates that the Department shall provide PREA prisoner education in formats that are understandable by the entire prisoner population. If

needed, the department seeks the assistance of interpreters. Prisoner education materials are distributed by the Department's PREA Manager (PREA Coordinator). Prisoner interpreters, prison readers, or other types of prisoner assistants may be relied on in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the prisoner's safety, the performance of first-response duties, or the investigation of the prisoner's allegations. PD 03.03.140 was reviewed and contained similar language as the PREA Manual. The content of policy is consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that the agency has established procedures to provide disabled inmates equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

The facility provided a copy of the inmate orientation packet which included PREA materials. Included with it is a PREA brochure in Spanish on "Identifying and Addressing Sexual Abuse and Sexual Harassment – A Guide for Prisoners." Separately, the same content was provided in Braille.

The facility provided a TCF Memo dated May 16, 2019 from the PCM to the Regional PREA Analyst regarding PREA Education/PREA Information/JDI Information. Upon intake at TCF, youthful inmates and HYTA inmates receive their PREA education by their respective unit Prison Counselor (PC) or ARUS in Franklin and Essex units, respectively. For transfers, their files will be reviewed by their PC or ARUS and if found not to have PREA education completed, it will be provided to them by their unit Prison Counselor (PC) or ARUS. The PREA education video entitled "*Taking Action*" is viewed during Unit Orientation and is played on TCF TV channel 70 on a 24-hour loop every Thursday.

Other information regarding PREA and the way to report violations and information about the Just Detention International (JDI) program offering confidential emotional support is provided to all prisoners arriving at TCF during their facility orientation session conducted by the TCF Classification Director. Written material providing this information is also available for prisoners in the TCF library and are sent via JPay electronic message each month to the TCF prison population by the TCF PREA Coordinator. Also, in the TCF library is the PREA guidebook "*An End to Silence*" available for prisoner use.

The facility provided an agency memo dated July 20, 2015, directing Wardens to obtain services of a vendor to provide language summarization and translation services for correspondence as well as foreign language services, and American Sign Language services. It was noted that these services are needed during prisoner orientation at both intake and receiving facilities, including any forms, multi-media or educational information provided regarding PREA.

TCF email dated April 18, 2019 discussed the facility's available use of Video Relay Interpreting (VRI) through Global Interpreting Services and that this is installed on the ARUS/PC units and mobile computer carts located in the education building. It is a web-based program used by staff who need to communicate with hard of hearing and/or non-English speaking prisoners. It provides live/video-based sign language interpretation and audio based foreign language interpretation. Instructions were provided for each of the different interpretation services available.

TCF provided a copy of its Interpreter Request Form for services needed from Global Interpreting Services. This was reviewed and found to include the facility's 12-digit purchase order number. The request form indicates that interpretation requests can be received and processed 24-hours/7-days per week and covers services for sign language, foreign language, VRI, and telephone interpretation.

TCF provided samples of several items translated into Spanish: bi-lingual informed consent poster explaining limits to confidentiality and informed consent to medical and mental health staff; Privacy Notice poster regarding prisoners' responsibility to be properly clothed at all times; JDI poster providing a 1-800 number with

an anonymous PIN to report sexual abuse or sexual harassment allegations; 2014 Prisoner Guidebook, PREA Sexual Abuse poster providing a PREA hotline number; a PREA brochure on Identifying and Addressing Sexual Abuse and Sexual Harassment, and the TCF Orientation Packet which as Spanish portions, including PREA information.

During the onsite phase of the audit, the Agency Head Designee was interviewed and responded positively that the agency has established procedures to provide inmates with disabilities and inmates who are limited English proficient equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. He added that this also depends on each facility and the security level needs of the facilities.

7-inmates were interviewed who met the targeted categories of physically disabled (2), cognitively disabled (5), and limited English proficient (LEP, 2). Of the 7-inmates, 6-reported positively that the facility provides information about sexual abuse and sexual harassment that they are able to understand. 1-LEP reported not seeing anything. Of the 2-LEP, 1-LEP was able to comprehend English and did not need assistance. 1-LEP needed assistance (see 115.16 (b)).

It was later learned that 1-disabled inmate disclosed prior sexual abuse during the interview regarding an incident that occurred during his childhood. He had not told anyone of this previously and did not want to discuss it further during the interview. This information was relayed immediately to the PCM and the PCM later provided documentation of follow up performed by the facility.

During the onsite audit tour of the facility, audit team members observed posters with information on PREA, ways to report PREA violations, and JDI posters located in every housing unit and various other locations throughout the facility. There were displayed in English and Spanish.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, staff and inmate interviews, and facility tour observations, the facility is compliant with provision (a).

115.16 (b) The above policies were reviewed including the PREA Manual which indicates that the Department shall provide PREA prisoner education in formats that are understandable by the entire prisoner population. If needed, the department seeks the assistance of interpreters. Prisoner education materials are distributed by the Department's PREA Manager (PREA Coordinator). Prisoner interpreters, prison readers, or other types of prisoner assistants may be relied on in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the prisoner's safety, the performance of first-response duties, or the investigation of the prisoner's allegations. PD 03.03.140 was reviewed and contained similar language as the PREA Manual. The content of policy is consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that the agency has established procedures to provide inmates with limited English proficiency (LEP) equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

TCF email dated April 18, 2019 discussed the facility's available use of Video Relay Interpreting through Global Interpreting Services and that this is installed on the ARUS/PC units and mobile computer carts located in the education building. It is a web-based program used by staff who need to communicate with hard of hearing and/or non-English speaking prisoners. It provides live/video-based sign language interpretation and audio based foreign language interpretation. Instructions were provided for each of the different interpretation services available.

TCF provided a copy of its Interpreter Request Form for services needed from Global Interpreting Services. This was reviewed and found to include the facility's 12-digit purchase order number. The request form indicates

that interpretation requests can be received and processed 24-hours/7-days per week and covers services for sign language, foreign language, VRI, and telephone interpretation.

TCF provided samples of several items translated into Spanish: bi-lingual informed consent poster explaining limits to confidentiality and informed consent to medical and mental health staff; Privacy Notice poster regarding prisoners' responsibility to be properly clothed at all times; JDI poster providing a 1-800 number with an anonymous PIN to report sexual abuse or sexual harassment allegations; 2014 Prisoner Guidebook, PREA Sexual Abuse poster providing a PREA hotline number; a PREA brochure on Identifying and Addressing Sexual Abuse and Sexual Harassment, and the TCF Orientation Packet which as Spanish portions, including PREA information.

7-inmates were interviewed who met the targeted categories of physically disabled (2), cognitively disabled (5), and limited English proficient (LEP, 2). Of the 7-inmates, 6-reported positively that the facility provides information about sexual abuse and sexual harassment that they are able to understand. 1-LEP reported not seeing anything. Of the 2-LEP, 1-LEP was able to comprehend English and did not need assistance. 1-LEP needed assistance.

Of the 1-LEP that needed assistance, a prison counselor (PC) assisted with the process of contacting Global Interpreting Services to acquire a Spanish interpreter. The PC entered the parameters into the system, which was specifically for a Spanish speaking interpreter. The system is programmed to initially search for a face to face interpreter and has to complete a full cycle of searching the requested parameters before any other options can be entered. This took approximately 5 to 10 minutes. Once the system determined no face to face interpreters were available, the parameters were modified for telephonic interpretation.

This option was successful. The Global Interpreting Services answered the call (through the computer) and the PC provided information regarding his job title, the name of the facility, the type of service needed (Interpreter to translate English to Spanish and then Spanish to English) and the reason for the service (interview with a non-English speaking inmate at TCF). Connection was made with a male interpreter. The audit team member explained the nature of the interview. The interpreter provided his interpreter number and then introduced himself to the inmate. He explained the interview process and inquired if the inmate was willing to participate in the interview. The inmate advised that he did not speak, write, or understand much English; he also said he did not "know a lot" (in terms of intelligence) as he did not have much of an education, but was willing to try to answer the questions. With that, the audit team member started to ask the first question, but was disconnected.

The PC again provided assistance with reconnecting to Global Interpreting Services. The process was started over again, because the system would not allow requests to be modified for delivery of the services. The system again began by looking for a face to face interpreter. This took approximately 5-7 minutes. After the search again yielded negative results, the PC modified the request for a telephonic interpreter. Within 2-minutes, connection was again made with Global Interpreting Services. The audit team member advised of being disconnected and gave the operator the original Interpreter Number. There was a technical issue on the interpreter's end and connection had to be made with a new interpreter. The same introduction/explanation of the process was repeated and after the inmate again agreed to try to answer the questions, the interview began, with a female interpreter.

The interview had to be discontinued after the first 4-questions because the inmate could not understand what was being asked. This appeared to be more of a cognitive issue rather than a problem with the interpretation service. The interpreter advised the inmate told her that he did not understand what was being asked. The audit team member attempted several times to rephrase the questions as simply as possible, but the inmate

said he could not comprehend what was being asked. The inmate was thanked for his participation and the interview was then terminated. The interpreter system available at TCF was used successfully although it was time consuming. Both interpreters were professional and easy to work with.

During the onsite audit tour of the facility, audit team members observed posters with information on PREA, ways to report PREA violations, and JDI posters located in every housing unit and various other locations throughout the facility. There were displayed in English and Spanish.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, inmate interviews, facility tour observations including use of the language interpretation service, that the facility is compliant with provision (b).

115.16 (c) The above policies were reviewed including the PREA Manual which indicates that the Department may rely on prisoner interpreters, prison readers, or other types of prisoner assistants only in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the prisoner's safety, the performance of first-response duties as outlined in the PREA Manual, or the investigation of the prisoner's allegations. PD 03.03.140 was reviewed and it indicated that the assistance of interpreters for prisoners with disabilities or limited English proficiency. This is included under additional measures to minimize prohibited conduct per the policy.

Pre-audit, the facility responded positively that it has established procedures that prohibit the use of inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the prisoner's safety, the performance of first-response duties as outlined in the manual, or the investigation of the prisoner's allegations. The facility also responded that in the past 12-months there were zero (0) instances when inmate interpreters, readers, or other types of inmate assistants were used and it was not the case that an extended delay in obtaining a nother interpreter could compromise the resident's safety, the performance of first-response duties under 115.64, or the investigation of the inmate's allegation.

During the onsite phase of the audit, 11-random staff were interviewed. Of the 11-random staff, 10-staff responded negatively that the agency ever allows the use of inmate interpreters, inmate readers, or other types of inmate assistants to assist inmates with disabilities or inmates who are limited English proficient when making an allegation of sexual abuse or sexual harassment. 1-staff responded positively that this could occur, possibly during the course of a criminal investigation. The 10-staff that responded negatively indicated that they were not aware of instances when this had occurred in relation to allegations of sexual abuse or sexual harassment.

7-inmates were interviewed who met the targeted categories of physically disabled (2), cognitively disabled (5), and limited English proficient (LEP, 2). Of the 7-inmates, 6-reported positively that the facility provides information about sexual abuse and sexual harassment that they are able to understand. 1-LEP reported not seeing anything. Of the 2-LEP, 1-LEP was able to comprehend English and did not need assistance. 1-LEP needed assistance (see 115.16 (b)).

Insomuch as the facility responded that in the past 12-months there were zero (0) instances when inmate interpreters, readers, or other types of inmate assistants were used and it was not the case that an extended delay in obtaining another interpreter could compromise the resident's safety, the performance of first-response duties under 115.64, or the investigation of the inmate's allegation, there was no documentation to review regarding this.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and staff and inmate interviews, the facility is compliant with provision (c) and overall compliant with the standard.

## Standard 115.17: Hiring and promotion decisions

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

### 115.17 (a)

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

### 115.17 (b)

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

### 115.17 (c)

- Before hiring new employees, who may have contact with inmates, does the agency perform a criminal background records check? ☒ Yes ☐ No
- Before hiring new employees who may have contact with inmates, does the agency, consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers

for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse? ☒ Yes ☐ No

#### 115.17 (d)

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

#### 115.17 (e)

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

#### 115.17 (f)

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

#### 115.17 (g)

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

#### 115.17 (h)

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

#### Auditor Overall Compliance Determination

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



**Does Not Meet Standard** (*Requires Corrective Action*)

## **Instructions for Overall Compliance Determination Narrative**

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 02.06.111 Employment Screening
  - c. Vendor Contractor LEIN Request form
  - d. Criminal History Check Verification
  - e. Professional LEIN Request
  - f. PD 02.06.111 Employment Screening
  - g. Sample Criminal History Checks
  - h. Copy of position report
  - i. CO Recruitment Sample
  - j. CO Supervisor Application Sample
  - k. TCF LEIN Log
  - l. TCF 2019 Employee LEIN List
  - m. TCF Staff LEIN Check Hits
  - n. AZ Response
  - o. GEO Response
  - p. PD 02.01.140 HR Files
2. Interviews:
  - a. HR Office Staff
  - b. Inmate Records Office Staff
  - c. PCM
3. Sight Review Observations:
  - a. HR Office
  - b. Inmate Records Office

115.17 (a) The above policies were reviewed including the PREA Manual which indicates that before hiring new employees who may have contact with prisoners, the Department shall 1-perform criminal background records checks regarding criminal convictions; and 2-consistent with federal, state, and local law, make its best efforts to conduct a background investigation regarding discipline and employer substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse. The Department shall not knowingly hire anyone who may have contact with prisoners and: 1-has engaged in sexual abuse in prison, jail, lockup, community confinement facility, juvenile facility or other institution (as defined in 42 U.S.C. 1997); 2-has been convicted of engaging in, attempting to engage in, or conspiracy to engage in sexual activity facilitated by



force, over or implied threats of force or coercion, or if the victim did no consent or was unable to consent or refuse; or 3-has been civilly or administratively adjudicated to have engaged in the activity described in (2). PD 02.06.111 Employment Screening was also reviewed and was found to have language consistent with the PREA Manual and the provision.

Pre-audit, the facility responded positively that the agency prohibits hiring or promoting anyone who may have contact with inmates and prohibits enlisting the services of any contractor who may have contact with inmates who has engaged in the activities enumerated in the provision.

TCF provided samples of form CAJ-1037 Vendor/Contractor LEIN Request; CAJ-329 Professional/Visitor LEIN Request; employment posting for Corrections Officer indicating the required PREA questions enumerated by the provision; and an employment application for Corrections Supervisor also indicating the required PREA questions enumerated by the provision.

TCF Memo dated June 2, 2019 to its Regional PREA Analyst that a LEIN (Law Enforcement Information Network) criminal history check had been completed for all persons prior to their entry into the secure perimeter of TCF.

TCF provided a Position Report for 04/20/2019 indicating all employees of the facility. TCF also provided a record of criminal history checks for 25-employees hired within the last 12-months. All 25-employees had received LEIN Checks.

During the onsite phase of the audit, the Human Resources office was visited. Copies of recruitment form samples were obtained including: Recruitment/NEOGOV Checklist which included completion of a LEIN check; a Personnel File Audit Form, a New Employee Orientation checklist, and an MDOC PREA and Criminal Background form for applicants that contains responses to the questions enumerated in the provision.

It was learned during an interview with HR staff and Inmate Records staff that LEIN checks are also run annually for custody staff and 60-days prior to weapons qualification. Non-custody staff including contractors receive LEIN checks every 3-years. LEIN Checks are performed by staff in the Inmate Records Office. This auditor observed the results of the most recent LEIN Checks for all TCF staff while visiting the Inmate Records Office. These were conducted in June and the listing included Employee ID number, name, date of birth, position, driver license number, SID number, alias, and LEIN clearance date. A total of 316-employees was queried. It was learned that any staff being identified as not cleared are investigated by facility investigators.

16-employee files were randomly selected for review. The PREA Audit – Adult Prisons and Jails Documentation Review form was used to record information. All 16-files were found to have proper criminal record background checks conducted and questions regarding past conduct were asked and answered. It was learned from the PCM that with more recent NEOGOV hires, the application system will not allow submission without all mandatory questions being answered. The PREA related questions are included among the mandatory questions.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and staff interviews, the facility is compliant with provision (a).

115.17 (b) The above policies were reviewed including the PREA Manual which indicates that incidents of sexual harassment shall be considered in determining whether to hire anyone to work for the MDOC. PD 02.06.111 Employment Screening was also reviewed and indicates that incidents of sexual harassment shall be considered in determining whether to hire anyone, enlist the services of any contractor, or promote anyone who may have

contact with a prisoner. The Department shall ask all applicants, including existing employees applying for positions within the Department, who may have direct contact with a prisoner in the position for which they are applying, about previous misconduct as described in this paragraph and in Paragraph D, either in written applications and/or during the interview process.

Pre-audit, the facility responded positively in the questionnaire that the agency has a policy that requires the consideration of any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates.

TCF provided the Corrections Officer Recruitment which specifically includes the question "Have you had any complaints/incidents of sexual harassment filed against you by inmates, prisoners, parolees, probationer or other type of offender?" Also provided was the application questions for the position of Corrections Supervisor and it contained the same questions.

During the onsite phase of the audit, HR staff were interviewed and responded positively that the facility considers prior incidents of sexual harassment when determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates. This staff further elaborated that these questions are processed in NEOGOV for new hires.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and staff interviews, the facility is compliant with provision (b).

115.17 (c) The above policies were reviewed including the PREA Manual which indicates that in accordance with PREA standards and PD 02.06.111 Employment Screening, criminal history checks shall be processed in LEIN for all employees, including contractors and contractor's employees, who have contact with prisoners or violators at CFA Correctional Facilities and Lake County Residential Reentry Facility no less frequent than once every five years. Criminal background checks shall also be conducted for all facility volunteers. Any information produced from a criminal background check that has not been previously reported or investigated, shall be referred to the appropriate staff for investigation.

PD 02.06.111 Employment Screening was reviewed which indicates that before hiring new employees who may have contact with prisoners, the Department shall make its best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigations of an allegation of sexual abuse.

Pre-audit, the facility responded positively in the questionnaire that the agency has a policy that requires before it hires any new employees who may have contact with inmates, that it conducts criminal background record checks and consistent with federal, state, and local law, makes its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation or an allegation of sexual abuse. The facility also responded that in the past 12-months, 25- persons were hired who may have contact with inmates who have had criminal background record checks. TCF provided a record of criminal history checks for 25-employees hired within the last 12-months. All 25-employees had received LEIN Checks which represents 100% of persons hired who may have contact with inmates who have had criminal background record checks.

TCF provided samples of form CAJ-1037 Vendor/Contractor LEIN Request; CAJ-329 Professional/Visitor LEIN Request. TCF Memo dated June 2, 2019 to its Regional PREA Analyst that a LEIN (Law Enforcement Information

Network) criminal history check had been completed for all persons prior to their entry into the secure perimeter of TCF.

TCF provided a 25-page report of LEIN checks completed as of June 13, 2019 for contractors, volunteers, vendors, visitors, etc. It depicted their statuses as CLEAR or NOT APPROVED. These records had been queried within the past 12-months.

During the onsite phase of the audit, the HR staff was interviewed and responded positively that the facility performs criminal record background checks or considers pertinent civil or administrative adjudications for all newly hired employees who may have contact with inmates and all employees, who may have contact with inmates, who are considered for promotions; and that this is done for any contractor who may have contact with inmates as well. She further elaborated that the checks are completed for all contractors as well.

16-employee files were randomly selected for review. The PREA Audit – Adult Prisons and Jails Documentation Review form was used to record information. All 16-files were found to have proper criminal record background checks completed.

Previously, this auditor received “Prison and Jail Standards Documentation Requirements” from the NPRC by The Moss Group, Inc. which identifies standards and provisions which explicitly require documentation of agency or facility activities through policy or other forms of documentation. Neither this provision, nor this standard, require policy or documentation to demonstrate compliance.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and staff interviews, the facility is compliant with provision (c).

115.17 (d) The above policies were reviewed including PD 02.06.111 Employment Screening which indicates that LEIN checks shall be performed on contractual employees who may have contact with a prisoner, parolee, or probationer as set forth in Paragraph D and E. This includes persons under contract with the Department and employees of a business or governmental agency under contract with the Department. (Paragraphs D and E refer to other requirements enumerated in the standard.)

Pre-audit, the facility responded positively in the questionnaire that it requires a criminal background record check to be completed before enlisting the services of any contractor who may have contact with inmates. In the past 12-months, the facility reported that there were 12-contracts for services where criminal background record checks were conducted on all staff covered in the contract who might have contact with inmates.

TCF provided a record of criminal history checks for 25-employees hired within the last 12-months, including 12-contractors. All 25-employees, including the 12-contractors, had received LEIN Checks which represents 100% of contractors hired who may have contact with inmates who have had criminal background record checks.

Additionally, TCF provided a 25-page report of LEIN checks completed as of June 13, 2019 for contractors, volunteers, vendors, visitors, etc. It depicted their statuses as CLEAR or NOT APPROVED. These records had been queried within the past 12-months.

During the onsite phase of the audit, the HR staff was interviewed and responded positively that the facility performs criminal record background checks or considers pertinent civil or administrative adjudications for all newly hired employees who may have contact with inmates and all employees, who may have contact with

inmates, who are considered for promotions; and that this is done for any contractor who may have contact with inmates as well. She further elaborated that the checks are completed for all contractors as well.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and staff interviews, the facility is compliant with provision (d).

115.17 (e) The above policies were reviewed including the PREA Manual which indicates that in accordance with PREA standards and PD 02.06.111 Employment Screening, criminal history checks shall be processed in LEIN for all employees, including contractors and contractor's employees, who have contact with prisoners or violators at CFA Correctional Facilities and Lake County Residential Reentry Facility no less frequent than once every five years.

PD 02.06.111 Employment Screening was reviewed and indicates that once every three years, criminal history checks shall be processed through LEIN for all MDOC employees. However, this does not preclude the MDOC from conducting a LEIN check at any time within the three-year period, if determined necessary. The three-year criminal history checks shall be completed during the month of June. Any information produced from the criminal history check, which has not been previously reported or investigated shall be referred by the reviewing staff for investigation.

Pre-audit, the facility responded positively in the questionnaire that agency policy requires that either criminal background record checks be conducted at least every five years for the current employees and contractors who may have contact within inmates, or that a system is in place for otherwise capturing such information for current employees.

TCF provided a record of criminal history checks for 25-employees hired within the last 12-months, including 12-contractors. All 25-employees, including the 12-contractors, had received LEIN Checks which represents 100% of contractors hired who may have contact with inmates who have had criminal background record checks.

Additionally, TCF provided a 25-page report of LEIN checks completed as of June 13, 2019 for contractors, volunteers, vendors, visitors, etc. It depicted their statuses as CLEAR or NOT APPROVED. These records had been queried within the past 12-months.

It was learned during an interview with HR staff and Inmate Records staff that LEIN checks are also run annually for custody staff and 60-days prior to weapons qualification. Non-custody staff including contractors receive LEIN checks every 3-years. LEIN Checks are performed by staff in the Inmate Records Office. This auditor observed the results of the most recent LEIN Checks for all TCF staff while visiting the Inmate Records Office. These were conducted in June and the listing included Employee ID number, name, date of birth, position, driver license number, SID number, alias, and LEIN clearance date. A total of 316-employees was queried. It was learned that any staff being identified as not cleared are investigated by facility investigators.

During the onsite phase of the audit, HR staff was interviewed and responded that at a minimum, all employees have a LEIN check done every 5-years, and that custody staff have LEIN checks performed annually.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and staff interviews, the facility is compliant with provision (e).

115.17 (f) The above policies were reviewed including the PREA Manual which indicates that the Department shall not knowingly hire anyone who may have contact with prisoners and: 1-has engaged in sexual abuse in prison, jail, lockup, community confinement facility, juvenile facility or other institution (as defined in 42 U.S.C.

1997); 2-has been convicted of engaging in, attempting to engage in, or conspiracy to engage in sexual activity facilitated by force, over or implied threats of force or coercion, or if the victim did no consent or was unable to consent or refuse; or 3-has been civilly or administratively adjudicated to have engaged in the activity described in (2). Additionally, the Department shall ask all applicants who may have contact with prisoners directly about previous misconduct as described above in written applications and/or interviews for hiring. Omissions regarding the reporting of such misconduct, or the provision of false information, are grounds for discharge in accordance with the Employee Handbook. Regarding promoting current employees, the Department shall not knowingly promote anyone who may have contact with prisoners and: 1-has engaged in sexual abuse in prison, jail, lockup, community confinement facility, juvenile facility or other institution (as defined in 42 U.S.C. 1997); 2-has been convicted of engaging in, attempting to engage in, or conspiracy to engage in sexual activity facilitated by force, over or implied threats of force or coercion, or if the victim did no consent or was unable to consent or refuse; or 3-has been civilly or administratively adjudicated to have engaged in the activity described in (2). Additionally, the Department shall ask all applicants who may have contact with prisoners directly about previous misconduct as described above in written applications and/or interviews for hiring. Omissions regarding the reporting of such misconduct, or the provision of false information, are grounds for discharge in accordance with the Employee Handbook. Regarding contractors, the Department shall not enlist the services of any contractor, who may have contact with prisoners, who 1-has engaged in sexual abuse in prison, jail, lockup, community confinement facility, juvenile facility or other institution (as defined in 42 U.S.C. 1997); 2-has been convicted of engaging in, attempting to engage in, or conspiracy to engage in sexual activity facilitated by force, over or implied threats of force or coercion, or if the victim did no consent or was unable to consent or refuse; or 3-has been civilly or administratively adjudicated to have engaged in the activity described in (2). PD 02.06.111 Employment Screening was reviewed and found to contain similar language as in the PREA Manual regarding this provision.

TCF provided a Corrections Officer Recruitment job posting and it was found to contain the required PREA questions regarding conduct enumerated within the standard. Also provided were the Corrections Supervisor Application questions which was also found to contain the required PREA questions regarding conduct enumerated within the standard.

During the onsite phase of the audit, HR Staff were interviewed and responded that new hires respond in NEOGOV to questions about misconduct in provision (a) and as well for reviews of current employees. She further elaborated that employees seeking promotion must also answer the same questions required in provision (a). Additionally, the facility imposes upon employees a continuing affirmative duty to disclose any previous such misconduct. She added that failure to disclose such would result in a discipline process.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and staff interviews, the facility is compliant with provision (f).

115.17 (g) The above policies were reviewed including the PREA Manual which indicates that omissions regarding reporting of such misconduct, or the provision of false information, are grounds for discharge in accordance with the employee handbook. PD 02.06.111 Employment Screening was reviewed which indicates that falsification or omissions of any information given by the applicant for employment during employment screening may result in removal from employment consideration and, if discovered, after hire, may result in termination of employment. Policy content is consistent with the requirement of the provision.

Pre-audit, the facility responded positively in the questionnaire that the agency has a policy that state that material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

Previously, this auditor received "Prison and Jail Standards Documentation Requirements" from the NPRC by The Moss Group, Inc. which identifies standards and provisions which explicitly require documentation of agency or facility activities through policy or other forms of documentation. Neither this provision, nor this standard, require policy or documentation to demonstrate compliance.

The auditor finds that based on pre-audit materials reviewed, and policy reviewed, the facility is compliant with provision (g).

115.17 (h) The above policies were reviewed including the PREA Manual which indicates that in accordance with the PREA standards and PD 02.06.111 Employment Screening, criminal history checks shall be processed through LEIN for all employees, including contractors and contractor's employees, who have contact with prisoners or parole violators at CFA Correctional Facilities and Lake County Residential Reentry Facility no less frequent than once every five-years.

PD 02.06.111 Employment Screening was reviewed which indicates that once every three years' criminal history checks shall be processed through LEIN for all MDOC employees. However, this does not preclude the MDOC from conducting a LEIN check at any time within the three-year period, if determined necessary. Any information produced from the criminal history check, which has not been previously reported or investigated, shall be referred by the reviewing staff for investigation.

PD 02.01.140 Human Resource Files was reviewed which indicates that documents and information contained in HR files shall be available to non-department employees only as follows and consistent with Paragraphs U and V: 1. Pursuant to a signed release, subpoena, or other court order; 2. To staff of the Department of Attorney General when needed for pending litigation; 3. To investigators for the Department of Civil Rights and the Unemployment Insurance Agency/Worker's Compensation Agency in the Department of Labor and Economic Growth when needed for a pending complaint; 4. To law enforcement agencies when need for a pending criminal investigation; 5. To auditors of the Office of Auditor General or the Office of Internal Audit Services in the State Budget Office when needed for a pending audit; and 6. To staff of other state or federal agencies who have demonstrated authority to have access to documents or information in the files, as determined by the HR Officer after consultation with the OSA Administrator or designee.

TCF provided a sample memo dated August 26, 2016, from the Arizona Department of Corrections regarding a prospective employee and former employee of the MDOC which included the PREA related questions required by the standard. A similar correspondence dated November 22, 2016, from the Arizona Department of Corrections was provided for a different prospective employee and former employee of the MDOC which included the PREA related questions required by the standard. A third sample was provided dated December 28, 2016, from the Arizona Department of Corrections regarding another prospective employee and former employee of the MDOC which included the PREA related questions required by the standard. Similar correspondence was reviewed from GEO dated 6/3/2015, regarding a prospective employee and former employee of the MDOC which included the PREA related questions required by the standard. Responses to the aforementioned inquiries were reviewed and were consistent with the requirements of the provision.

During the onsite phase of the audit, HR Staff were interviewed and responded positively that when a former employee applies for work at another institution, upon request from that institution, the facility provides information on substantiated allegations of sexual abuse or sexual harassment involving the former employee, unless prohibited by law. The HR Staff further elaborated that the other agency provides a form to be filled out and returned.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and staff interviews, the facility is compliant with provision (h) and is overall compliant with the standard.

## Standard 115.18: Upgrades to facilities and technologies

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

#### 115.18 (a)

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

#### 115.18 (b)

- If the agency installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology, did the agency consider how such technology may enhance the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012, or since the last PREA audit, whichever is later.)  
☒ Yes   ☐ No   ☐ NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

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

- b. CAH Project Review and Approval form sample
- c. TCF Memo dated May 30, 2019 Upgrades to Facilities and Technologies – 115.18 (a)
- d. TCF Memo dated May 30, 2019 Upgrades to Facilities and Technologies – 115.18 (b)
- e. TCF Memo dated June 25, 2014 Request for Additional Cameras
- f. TCF Memos dated April 19, 2018 and July 27, 2019 Repurposing of Essex Unit
- g. DMB-400 Project Request and Approval dated 2/6/2014 – Video management and perimeter surveillance enhancements

2. Interviews:

- a. Agency head/Designee
- b. Warden

3. Sight Review Observations:

- a. Essex and Franklin housing units
- b. Video monitoring system
- c. Camera placement throughout facility

115.18 (a) The above policies were reviewed including the PREA Manual and it addressed that when designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the effect of the design, acquisition, expansion or modification upon the Department's ability to protect prisoners from sexual abuse shall be considered. This is consistent with the requirements of the provision.

Pre-audit, the facility responded negatively in the questionnaire that it had acquired any new facilities or made any substantial expansions or modifications of existing facilities since August 20, 2012, or since the last PREA audit, whichever is later.

During the onsite phase of the audit, the Agency Head designee was interviewed. He responded upgrades to facilities and video monitoring technology needs to fit the PREA standards and takes into consideration populations such as female, male, youth, LGBTI, and operate base on consistency, and consistent with security needs. This supports the agency's zero tolerance policy. Risk screenings are used to determine housing along with health and mental health screenings, and investigation results.

The Warden was also interviewed and responded that regarding the provision, the physical plant, inmate movement schedule, and learning different practices enhances the facility's ability to protect inmates from sexual abuse. He added that the Essex A housing unit would be modified for youthful inmate occupation. He also added that other planned improvements projects include fiber optics, roofing, and masonry.

While onsite during the facility tour, the audit team observed earth moving occurring at the entrance of the Franklin housing unit; this was in preparation of the relocation of the youthful inmates (YO) to the Essex housing unit and the Franklin housing unit being converted to a medical/frail unit. The Essex housing unit was also toured. It was observed that the adult inmate population in Essex was being reduced in anticipation of their relocation and modifications to be made for the incoming YO.

This auditor reviewed the Essex housing unit diagrams for the impending modifications that addressed code compliance including room finishes, mechanical demolition, mechanical new work including fire protection, plumbing, HVAC, and construction, etc. Other documentation included in the welcome book included TCF memos dated April 19, 2018 and July 27, 2019 for the repurposing of Essex Unit. Some items planned for modification in Essex include items that will support the facility's compliance with the PREA standards including sound/sight barriers: segregation style doors, corridor modifications with openings, acid etchings on cell and



common area windows to block visibility, etc. It is also planned that several services and programs will be provided in the Essex unit for which YO currently require staff escorts to receive in other areas of the facility.

Post audit, the TCF PCM has provided copies of emails, memos, meeting minutes and timeline projections indicating that Essex A will be available for youthful inmate occupancy on 10/18/2019.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, staff interviews, and tour observations, that the facility meets the requirements of provision (a).

115.18 (b) The above policies were reviewed including the PREA Manual and it addressed that when installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the Department's ability to protect prisoners from sexual abuse shall be considered. This is consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that it has installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012, or since the last PAR audit, whichever is later.

During the onsite phase of the audit, the Agency Head designee was interviewed and responded positively that the agency uses monitoring technology to enhance its protection of inmates from incidents of sexual abuse. He further elaborated that there is a big push for expanding technology enhancements along with software upgrades, video storage, and TTY availability for hearing impaired inmates.

The Warden was interviewed and responded that more recently, 200-cameras were added for a current total of 242-cameras. Additional cameras are being sought and this auditor observed the request to add cameras for the dining facility back cooler area and the horticulture work area. The facility is ensuring that all blind spots are covered with video monitoring for constant observation.

During the facility tour, the audit team observed the video monitoring system in the Control Center. A security staff member demonstrated it. The same officer also manages Electronic Monitoring, perimeter fence alerts, PPD units (personal alarms), and the sally port gate.

The system is monitored 24/7. A large screen monitor was observed that usually depicts 16-camera views simultaneously. There are 7-locations for camera viewing and includes: Warden's office, Deputy Warden's office, Inspector (2), Control Center (3). The officer in the Segregation Unit has a monitor that depicts camera views from within the Segregation Unit only.

The auditor reviewed a June 25, 2014, TCF memo that included meeting minutes regarding the status of installing cameras on the perimeter. The highest priority cameras being requested were directly related to the TCFs youthful inmate population and several of the cameras were destined for the Franklin B YO housing unit.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, staff interviews, and tour observations, that the facility meets the requirements of provision (b) and is overall compliant with the standard.

## RESPONSIVE PLANNING

## Standard 115.21: Evidence protocol and forensic medical examinations

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

### 115.21 (a)

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

### 115.21 (b)

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

### 115.21 (c)

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

### 115.21 (d)

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

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

#### 115.21 (e)

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

#### 115.21 (f)

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

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. Crime Scene Preservation Trainers Manual
  - c. MSP Letter dated September 30, 2015
  - d. Crime Scene Management and Preservation Trainers Manual
  - e. PD 03.04.100 Health Services
  - f. TCF Memo Approved Victim Advocates dated May 16, 2019
  - g. TCF Emails
  - h. TCF Memo 115.21 (c) dated May 30, 2019
  - i. CAJ-854 TCF Victim Advocate Training
  - j. TCF Memo 115.21 (d) dated May 30, 2019
  - k. TCF Victim Advocate Training Records
  - l. TCF – TADS Victim Advocate Training Records
  - m. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - n. Agency Memo Victim Advocates dated November 28, 2016
2. Interviews:
  - a. Random Staff
  - b. Health Service Administrator (HUM)
  - c. SAFE/SANE
  - d. PCM
  - e. Inmates who reported sexual abuse
3. Sight Review Observations:
  - a. Control Center

115.21 (a) The above policies were reviewed including the PREA Manual which indicates that when receiving an allegation of sexual abuse or sexual harassment, 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 investigative report, PREA investigation worksheet(s) and pertinent computerized database entry(ies).

Also reviewed was the MDOCs Crime Scene Management and Preservation Trainers Manual (August 2014) which standardizes practices used to manage crime scenes and protecting evidence. It is based on practices used by the United States Army Criminal Investigation Command and various Michigan State Police training materials. One of the main objectives of the training is teaching staff at a crime scene to preserve and collect relevant information and any physical evidence. It includes a crime scene preservation checklist containing 17-items for staff processing a crime scene. Policy and curriculum are consistent with the requirements of the provision.

An MSP letter dated September 30, 2015, to the MDOC Director established that the Department of Michigan State Police (MSP) is a state agency responsible for investigating criminal allegations of sexual abuse in the MDOC prisons.

Pre-audit, the facility responded positively in the questionnaire that the agency/facility is responsible for conducting administrative ONLY sexual abuse investigations (including inmate on inmate sexual abuse or staff

sexual misconduct). The facility also responded that the Michigan State Police (MSP) has responsibility for conducting either administrative or criminal sexual abuse investigations. The facility also responded positively that when conducting a sexual abuse investigation, the agency follows a uniform evidence protocol (see above).

During the onsite phase of the audit, 11-random staff were interviewed and all 11-staff responded that they were aware of and understood the agency's protocol for obtaining usable physical evidence if an inmate alleges sexual abuse. All-11 went on to describe securing the crime scene and preserving physical evidence. Additionally, 11-random staff were asked about who at TCF conducts sexual abuse investigations. Responses included: the PCM (6); the PCM and the MSP (3), a supervisor or LT (1), and the SAFE/SANE (1).

Also observed during the onsite phase of the facility tour were evidence collection kits stored in the Control Center.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, staff interviews, and tour observations, that the facility meets the requirements of provision (a).

115.21 (b) The above policies were reviewed including the MDOCs Crime Scene Management and Preservation Trainers Manual (August 2014) which references the United States Army Criminal Investigation Command and various Michigan State Police training materials.

Pre-audit, the facility responded positively in the questionnaire that the protocol is developmentally appropriate for youth. Additionally, the facility also responded positively that the protocol was adapted from or is otherwise based on the most recent edition of the DOJ's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed at 2011.

Previously, this auditor received "Prison and Jail Standards Documentation Requirements" from the NPRC by The Moss Group, Inc. which identifies standards and provisions which explicitly require documentation of agency or facility activities through policy or other forms of documentation. This provision does not require policy or documentation to demonstrate compliance.

Based on documentation, this auditor finds the facility compliant for provision (b).

115.21 (c) The above policies were reviewed including the PREA Manual which indicates that a prisoner, who is alleged to have been sexually abused less than 96-hours previously and where forensic evidence may be present, shall be transported to a local hospital for a forensic medical examination. The examination shall be without financial cost to the prisoner and performed by a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE), where possible. If a SAFE or SANE cannot be made available, the examination can be performed by another qualified medical practitioner(s). The Department shall document efforts to provide the examination by a SAFE or SANE. A copy of the completed PREA Forensic Examination Completed at Outside Hospital Form (CAJ-1020) and any notes evidencing the Department's efforts shall be maintained with the investigation packet.

Also reviewed was PD 03.04.100 Health Services which indicates similar language as the PREA Manual and adds that efforts to provide the examination by a SAFE or SANE shall be documented in the prisoner's health record. Prisoner victims of sexual abuse shall be provided treatment services without financial cost to the prisoner.

Pre-audit, the facility responded positively in the questionnaire that it offers all inmates who experience sexual abuse access to forensic medical examinations at an outside facility, and that these exams are offered without

financial cost to the victim. Where possible, examinations are conducted by SAFES or SANES. Where SAFE or SANES are not available, a qualified medical practitioner performs forensic medical examinations. The facility also responded positively that it documents efforts to provide SANES and SAFES. In the past 12-months, 2-forensic medical exams were conducted, including by SANE/SAFES, and that zero (0) such exams were performed by other qualified medical practitioners during the past 12-months.

TCF provided samples of documentation involving 2-alleged sexual abuse victims. Documentation included 2-emails, and 1-CAJ-1020 PREA Forensic Examination Completed at Outside Hospital Form. Both alleged victims were taken to the hospital for the conduct of SAFE/SANE examinations. These instances occurred on 6/11/2018 and 4/9/2019, respectively.

TCF provided a memo dated May 30, 2019, from the facility's PCM to this auditor which corroborates the aforementioned examination numbers and additionally documented the facility's efforts to provide SAFE/SANES.

During the onsite phase of the audit, this auditor interviewed a health service administrator (HUM). It was discussed that SAFE/SANE exams are performed at the Hurley Medical Center in Flint, MI at no cost to victims.

Post audit, this auditor spoke to Emergency Room staff at the Hurley Medical Center in Flint, MI regarding its SAFE/SANE services. Staff reported that they do provide SAFE/SANE services. They do so in conjunction with staff from the local YWCA who are contracted to perform rape kits for the hospital. He further elaborated that these services are available 24-hours per day/7-days per week.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and staff interviews, the facility meets the requirements of provision (c).

115.21 (d) The above policies were reviewed including the PREA Manual which indicates that the Department shall attempt to make available a victim advocate from a rape crisis centers, which are not part of the criminal justice system, that provide counseling and confidentiality to prisoner victims. If a victim advocate from a rape crisis center is not available to provide victim advocate services, the facility shall make available to the prisoner a properly trained advocate from: 1-the hospital at which the prisoner will be transported for sexual abuse treatment; 2-the facility's medical and/or mental health staff; 3-on-shift facility staff who have agreed to be a victim advocate; and 4-off-shift facility staff who have agreed to be a victim advocate. As requested by the victim, the victim advocate, qualified community-based organization staff member or qualified staff shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals. MDOC investigations shall not be impeded or delayed while the prisoner waits for an advocate. For the purposes of this section, qualified staff or a qualified community-based staff member shall be an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general. Policy is consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that the facility attempts to make a victim advocate from a rape crisis center available to the victim, either in person or by other means. Additionally, these efforts are documented and if and when a rape crisis center is not available to provide victim advocate services, the facility provides a qualified staff member from a community-based organization or a qualified agency staff member.

TCF provided a memo from the Warden to this auditor dated May 30, 2019, regarding standard 115.21(d) which indicated that despite attempts to coordinate victim advocate services from a rape crisis center, none would

agree to offer their services to prisoners free of charge. TCF will continue to offer and provide victim advocate services from trained facility staff members as well as victim advocates staffed at Hurley Medical as available. TCF provided a memo to Shift Supervisors/Shift Commanders dated May 16, 2019 for Approved Victim Advocates. 27-staff of medical, mental health, counselor, and corrections officers were identified as approved victim advocates who had been screened for appropriateness and completed the necessary training. The memo directs that any prisoner that has alleged to have been a victim of sexual assault, within 96-hours of the alleged complaint shall be transported to Hurley Hospital in Flint for a forensic exam. A victim advocate is to be offered to the prisoner, from the listed staff, if the prisoner accepts the offer of an advocate. TCF on-duty staff shall be chosen first; and off-duty victim advocates will be utilized only when none is available at the facility. If the victim is sent out for a forensic examination, a CAJ-1020 Forensic Form is to be sent with transportation staff to be completed by the SANE Nurse at Hurley Hospital and returned to the facility PCM.

TCF provided training records which indicated that staff were trained in 14-courses provided by the Office for Victims of Crime, Training and Technical Assistance Center which covered: advocacy, addressing victim's needs, basic communication skills, collaboration, confidentiality, conflict management/negotiation, crisis intervention, culture-diversity-inclusivity, documentation, problem solving, referrals, self-care, trauma-informed care, and incarcerated victims of sexual violence. This was entered into TADS on 1/4/2018. Two training records were provided with the first depicting 31-staff trained for victim advocacy and the second depicting 27-staff trained for victim advocacy. Training occurred between 2017 and 2019.

During the onsite phase of the audit, the PCM was interviewed and responded positively that if requested by a victim, a victim advocate who is either a qualified agency staff member, or qualified community-based organization staff member, accompanies and provides emotional support, crisis intervention, information, and referrals during the forensic medical examination process and investigatory interviews. He further elaborated that TCF uses a list of staff-trained victim advocates and inmates are informed of their availability. Additionally, the facility attempted an MOU with Lapeer County, but was not able to find an available provider that was willing or was within a reasonable distance.

5-inmates were interviewed who reported sexual abuse. It was learned during the interviews that 1-inmate's allegation was sexual harassment related and not sexual abuse. The 4-other inmates responded negatively that they were allowed to contact someone upon reporting. 1-elaborated that he could not recall making contact with an advocate.

The auditor finds that based on pre-audit materials reviewed including policy, document reviews, and interviews, the facility meets the requirements of provision (d). This auditor found that the information provided by the facility regarding its practices compellingly outweighed interview responses by the inmates.

115.21 (e) The above policies were reviewed including the PREA Manual which indicates that as requested by the victim, the victim advocate, qualified community-based organization staff member or qualified staff shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals. MDOC investigations shall not be impeded or delayed while the prisoner waits for an advocate. For the purposes of this section, qualified staff or a qualified community-based staff member shall be an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general. Policy is consistent with the requirements of the provision.

PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners was reviewed which indicates that the Department shall attempt to make a victim advocate from rape crisis centers, which are not part of the criminal justice system, that provide counseling and confidentiality to prisoner victims. If a victim advocate from rape

crisis center is not available to provide the victim advocate services, the facility shall make available to the prisoner a properly trained advocate from: 1-the hospital at which the prisoner will be transported for sexual abuse treatment; 2-the facility's medical and/or mental health staff; 3-on-shift facility staff who have agreed to be a victim advocate; and 4-off-shift facility staff who have agreed to be a victim advocate. Policy content is consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that if requested by the victim, a victim advocate, qualified agency staff member, or qualified community-based organization staff member accompanies and supports the victim through the forensic medical examination process and investigatory interviews and provides emotional support, crisis intervention, information, and referrals.

TCF provided a memo to Shift Supervisors/Shift Commanders dated May 16, 2019 for Approved Victim Advocates. 27-staff of medical, mental health, counselor, and corrections officers were identified as approved victim advocates who had been screened for appropriateness and completed the necessary training. The memo directs that any prisoner that has alleged to have been a victim of sexual assault, within 96-hours of the alleged complaint shall be transported to Hurley Hospital in Flint for a forensic exam. A victim advocate is to be offered to the prisoner, from the listed staff, if the prisoner accepts the offer of an advocate. TCF on-duty staff shall be chosen first; and off-duty victim advocates will be utilized only when none is available at the facility. If the victim is sent out for a forensic examination, a CAJ-1020 Forensic Form is to be sent with transportation staff to be completed by the SANE Nurse at Hurley Hospital and returned to the facility PCM.

During the onsite phase of the audit, the PCM was interviewed. Due to TCF providing trained victim advocate services, it is not applicable for TCF to ensure the qualifications of victim advocates of other providers.

5-inmates were interviewed who reported sexual abuse. It was learned during the interviews that 1-inmate's allegation was sexual harassment related and not sexual abuse. The 4-other inmates responded negatively that they were allowed to contact someone upon reporting. 1-elaborated that he could not recall making contact with an advocate.

The auditor finds that based on pre-audit materials reviewed including policy, document reviews, and interviews, the facility meets the requirements of provision (e). This auditor found that the information provided by the facility regarding its practices compellingly outweighed interview responses by the inmates.

115.21 (f) The above policies were reviewed including the PREA Manual which indicates that when receiving an allegation of sexual abuse or sexual harassment, 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(ies). The facility shall coordinate the actions of the investigators, first responders, law enforcement and forensic examiners to ensure that available direct and circumstantial evidence is gathered and preserved, including any physical DNA evidence and available electronic monitoring data. Further, regarding referral for prosecution, upon completion of the administrative investigation and in accordance with policy, the Department shall ensure that all Sufficient Evidence/Substantiated investigations that appear to be criminal are referred for prosecution. The assigned investigator shall remain informed about the progress of the criminal investigation and disposition. Documentation of such information shall be recorded in the Department investigative report, PREA investigation worksheet(s), pertinent computerized entry(ies) and forwarded to the Office of Legal Affairs. Criminal investigations shall be documented in a written report that contains a thorough description of physical, forensic, testimonial and documentary evidence and attaches copies of all documentary evidence where feasible. The facility shall request, from the applicable law enforcement agency, a copy of the criminal



investigation report to include with the Department's administrative investigation report. Any state entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations.

Pre-audit, the facility responded positively in the questionnaire that if the agency is not responsible for investigating administrative or criminal allegations of sexual abuse and relies on another agency to conduct these investigations, the agency has requested that the responsible agency follow the requirements of paragraphs 115.21 (a) through (e) of the standards.

An MSP letter dated September 30, 2015, to the MDOC Director established that the Department of Michigan State Police (MSP) is a state agency responsible for investigating criminal allegations of sexual abuse in the MDOC prisons. The letter further defines the MSP's responsibilities to comply with (a) through (e) of the standard, with MSP staff of its Field Services Bureau acknowledging agreement to compliance.

This auditor finds that based on pre-audit materials reviewed, and policy and documentation reviewed, the facility meets the requirements of provision (f) and is overall compliant with the standard; provision (g) and (h) of the standard are not audited.

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

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

#### 115.22 (a)

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

#### 115.22 (b)

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

#### 115.22 (c)

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

#### 115.22 (d)

- Auditor is not required to audit this provision.

#### 115.22 (e)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 01.01.140 Internal Affairs
  - c. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - d. MSP Referral Emails
  - e. MDOC web page samples
  - f. MSP Letter dated September 30, 2015
  - g. TCF Investigative Files
2. Interviews:
  - a. Agency Head or Designee
  - b. Investigative Staff
3. Sight Review Observations: None

115.22 (a) The above policies were reviewed including the PREA Manual which indicates that all prisoner on prisoner sexual abuse, staff on prisoner sexual misconduct and staff on prisoner sexual harassment allegations as described in the definitions of this manual, whether reported verbally, in writing, anonymously, or from third parties shall be entered into the Department's computerized investigation database and investigated. Additionally, when receiving an allegation of sexual abuse or sexual harassment, 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.

PD 01.01.140 Internal Affairs (IA) was reviewed which indicates that the Manager of the Internal Affairs Division shall review all cases, including the PREA and discriminatory harassment related cases. The IA Manager shall also coordinate the investigation of all cases under the jurisdiction of the IA Division which are referred to the Michigan State Police (MSP) or a local law enforcement agency for criminal investigation.

Cases within the jurisdiction of the IA Division investigate allegations against employees including: 1. Staff sexual misconduct, defined as a sexual act directed by an employee toward an offender, including any of the following: an attempted, threatened, or requested sexual act or helping, advising, or encouraging another employee to engage in a sexual act; the intentional touching, either directly or through clothing, of an offender's genitals, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify the sexual desire of any person; Invasion of privacy for sexual gratification, indecent exposure, or voyeurism; Staff overfamiliarity, which is defined as conduct between an employee and an offender which has resulted in or is likely to result in intimacy, including but not limited to a kiss or a hug, of a close personal or non-work related association.

Further, the IA Division Manager shall review each allegation entered in AIPAS and make a determination as set forth below. The referring work site administrator or designee shall receive notice in AIPAS of that decision. 1. CFA Facility/FOA Investigation; 2. IA Monitored Investigation; 3. IA Investigation. Additionally, the IA Manager shall ensure that all investigations are conducted in a prompt and thorough manner. Investigations of staff overfamiliarity, staff sexual misconduct, staff sexual harassment, and prisoner on prisoner sexual violence shall be investigated consistent with the requirements set forth in PD 03.03.140 Prohibited Sexual Conduct Involving Prisoners. The IA Manager shall keep the Chief Deputy Director, the PREA Administrator, and other appropriate EPT members advised regarding any significant issues that come to the Manager's attention during the investigation.

PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners was reviewed and was found to contain language consistent with the 2-former policies. Additionally, it directed that the assigned investigator shall personally interview the alleged victim, the alleged perpetrator, and sufficient witnesses to establish the facts, unless otherwise directed by the investigating law enforcement agency. The investigation shall be coordinated as necessary with the Hearing Investigator if misconduct charges are issued. Any allegation(s) that appear to be criminal shall be referred to the MSP or other appropriate law enforcement agency to be criminally investigated and referred for the prosecution. The Department investigation shall be coordinated as necessary with the investigating law enforcement agency to ensure the Department's efforts will not be an obstacle for prosecution. However, the Department shall proceed with PD 01.01.140 "IA" and regardless of whether the referral results in criminal prosecution. Regarding staff sexual misconduct/harassment and staff overfamiliarity, all reported allegations of staff sexual misconduct/sexual harassment or staff overfamiliarity, whether reported verbally or in writing, shall be referred for investigation as set forth in PD 02.03.100 Employee Discipline or PD 01.01.140 IA, as appropriate. Any allegation(s) that appear to be criminal shall be referred to the MSP or other appropriate law enforcement agency to be criminally investigated and referred for prosecution. The Department investigation shall be coordinated as necessary with the investigating law enforcement agency to ensure the Department's efforts will not be an obstacle for prosecution. However, the Department investigation shall proceed in accordance with PD 01.01.140 IA, and PD 02.03.100 Employee Discipline regardless of whether the referral results in criminal prosecution. In all investigations of staff sexual misconduct/sexual harassment or staff overfamiliarity, investigators shall personally interview the complainant, the alleged victim if not the complainant, the alleged perpetrator, and sufficient witnesses to establish the facts. The investigation shall not be closed simply due to the resignation, transfer, or termination of the accused staff person.

Pre-audit, the facility responded positively in the questionnaire that it ensures that an administrative or criminal investigation is completed for all allegation of sexual abuse and sexual harassment. The facility also reported that in the past 12-months, there were 31 allegations of sexual abuse and sexual harassment that were received; that 31-allegations resulted in administrative investigations; and that of those, 11-allegations were referred for criminal investigation. Not all of the allegations received during the past 12-months that were investigated are completed as some investigations were ongoing at the time of the audit.

During the onsite phase of the audit, the Agency Head Designee was interviewed and responded positively that the agency ensures that an administrative or criminal investigation is completed for all allegations of sexual abuse or sexual harassment, per policy. Additionally, in describing how an administrative or criminal investigation is completed for allegation of sexual abuse or harassment, IA conducts the administrative investigations and the MSP conduct the criminal investigations.

The facility's investigation tracker was reviewed for the 12-months' preceding the onsite audit. During the onsite phase of the audit, 31-investigative files were available for review. Included with these files were files older than 12-months. Of 31-files, 7-files were selected for review. All 7-files contained documentation of reports of sexual abuse and/or sexual harassment, documentation of investigations including full investigative reports with findings, except in 2-investigations which were ongoing at the time of the onsite audit.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and staff interviews, the facility meets the requirements of provision (a).

115.22 (b) The above policies were reviewed including the PREA Manual which indicates that when receiving an allegation of sexual abuse or sexual harassment, 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 entries. Additionally, for incidents where the alleged perpetrator is a staff member and the investigations does not result in substantiated rule violations, the investigation shall not be retained in an employee's personnel file or used for any purpose not authorized in PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners or any other policy directive. Access to the information in the computerized databases is limited to designated employees at each location as authorized by the Director or designee.

PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoner was reviewed which indicates that regarding prisoner on prisoner sexual abuse, any allegations that appear to be criminal shall be referred to the MSP or other appropriate law enforcement agency to be criminally investigated and referred for prosecution. The Department investigation shall be coordinated as necessary with the investigating law enforcement agency to ensure the Department's efforts will not be an obstacle for prosecution. However, the Department investigation shall proceed with PD 01.01.140 IA and regardless of whether the referral results in criminal prosecution. Regarding staff sexual misconduct/harassment and staff overfamiliarity, any allegations that appear to be criminal shall be referred to the MSP or other appropriate law enforcement agency to be criminally investigated and referred for prosecution.

The above policies were reviewed including the PREA Manual which indicates that for every sexual abuse or sexual harassment investigation a PREA sexual abuse investigation worksheet or PREA Sexual Harassment Investigation worksheet must be completed in its entirety. Additionally, all prisoner on prisoner sexual abuse, staff on prisoner sexual misconduct and staff on prisoner sexual harassment allegations as described in the definition of this manual, whether reported verbally, in writing, anonymously, or from third parties shall be entered into the Department's computerized investigation database and investigated.

Pre-audit, the facility responded positively in the questionnaire that the agency has a policy that requires allegations of sexual abuse or sexual harassment to be referred for investigation to an agency with the legal authority to conduct criminal investigations, including the agency if it conducts its own investigations, unless the allegation does not involve potentially criminal behavior. Additionally, the facility responded positively in the questionnaire that the agency policy regarding the referral of allegations of sexual abuse or sexual harassment for criminal investigation is published on the agency website or made publicly available via other means. Additionally, the facility responded positively in the questionnaire that the agency documents all referrals of allegations of sexual abuse or sexual harassment for criminal investigation.

During the onsite phase of the audit, 1-investigative staff was interviewed and responded positively that the agency policy requires that allegations of sexual abuse or sexual harassment be referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. He further elaborated that any sexual abuse allegations are referred to MSP and that sexual harassment allegations must rise to a criminal level to be referred to the MSP.

TCF provided 4-email samples of referrals of PREA allegations to the MSP between 6/25/2018 and 2/28/2019. TCF also provided 1-web page screen image showing that related policies are available for review on the MDOC's website. These include the 01.01.140 IA policy and the 03.03.140 Prohibited Sexual Conduct Involving Prisoners policy.

TCF also provided an MSP letter dated September 30, 2015 indicating that the MSP is a state agency responsible for investigating criminal allegations of sexual abuse in MDOC prisons. It further specifies its responsibilities for compliance with standard 115.21.

The facility's investigation tracker was reviewed for the 12-months' preceding the onsite audit. During the onsite phase of the audit, 31-investigative files were available for review. Included with these files were files older than 12-months. Of 31-files, 7-files were selected for review. All 7-files contained documentation of reports of sexual abuse and/or sexual harassment, documentation of investigations including full investigative reports with findings, except in 2-investigations which were ongoing at the time of the audit. Of the 7-files, 3-investigations were referred to MSP; 1-investigation reflected that it is ongoing; and 2-investigations reflected that prosecution by the MSP was declined.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and staff interviews, the facility meets the requirements of provision (b).

115.22 (c) The above policies were reviewed including PD 01.01.140 Internal Affairs (IA) which indicates that the Manager of the IA Division shall review all cases, including the PREA and discriminatory harassment related cases. The IA manager shall also coordinate the investigation of all cases under the jurisdiction of the IA Division which are referred to the MSP or a local law enforcement agency for criminal investigation. All Department employees shall assist and cooperate with IA and law enforcement staff conducting an investigation and ensure a prompt and thorough response is provided to any request made relating to the investigation, consistent with Department policy. This provision is not intended to place any duty on an employee contrary to state or federal law, or to limit an employee's right under a collective bargaining unit agreement, or Civil Service Commission rule.

PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners was reviewed which indicates that any allegation(s) that appear to be criminal shall be referred to MSP or other appropriate law enforcement agency to be criminally investigated and referred for prosecution. The Department investigation shall be coordinated as

necessary with the investigating law enforcement agency to ensure the Department's investigation shall proceed with PD 01.01.140 IA and regardless of whether the referral results in criminal prosecution. Additionally, regarding staff sexual misconduct/harassment or staff overfamiliarity all reported allegation of staff sexual misconduct/sexual harassment or staff overfamiliarity, whether reported verbally or in writing, shall be referred for investigation as set forth in PD 02.03.100 Employee Discipline, or PD 01.01.140 IA, as appropriate. Any allegation(s) that appear to be criminal shall be referred to the MSP or other appropriate law enforcement agency to be criminally investigated and referred for prosecution. The Department investigation shall be coordinated as necessary with the investigating law enforcement agency to ensure the Department's efforts will not be an obstacle for prosecution. However, the Department investigation shall proceed in accordance with PD 01.01.140 IA and PD 02.03.100 Employee Discipline regardless of whether the referral results in criminal prosecution.

TCF provided a website screen sample from the MDOCs public website indicating its IA policy 01.01.140 with accessible pdf documents. Policy 03.03.140 Prohibited Sexual Conduct Involving Prisoners is also available to view with accessible pdf documents from the MDOCs public website at [www.michigan.gov/corrections](http://www.michigan.gov/corrections) and is depicted in the same manner on an MDOC website screen sample.

TCF also provided an MSP letter dated September 30, 2015 indicating that the MSP is a state agency responsible for investigating criminal allegations of sexual abuse in MDOC prisons. It further specifies its responsibilities for compliance with standard 115.21.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and staff interviews, the facility meets the requirements of provision (c). Inasmuch as provisions (d) and (e) are not audited and are N/A, the auditor finds the facility overall compliant for the standard.

## TRAINING AND EDUCATION

### Standard 115.31: Employee training

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

##### 115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on inmates' right to be free from sexual abuse and sexual harassment ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on the dynamics of sexual abuse and sexual harassment in confinement? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on the common reactions of sexual abuse and sexual harassment victims? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to detect and respond to signs of threatened and actual sexual abuse? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to avoid inappropriate relationships with inmates? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities?  
☒ Yes ☐ No

#### 115.31 (b)

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

#### 115.31 (c)

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

#### 115.31 (d)

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

#### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. 2015 In-service Training Plan
  - c. 2015 New Employee Training Plan
  - d. 2016 In-service Training Plan
  - e. 2016 Menu Course Catalog
  - f. 2016 New Employee Training Plan
  - g. 2016 PREA Modules 1 and 2
  - h. PREA Sexual Abuse & Sexual Harassment, 320-hour Training Program
  - i. Program A CFA Security Regulations, August 2014
  - j. TCF Training Logs
  - k. TCF Memo dated June 11, 2019 on 115.31(a)
  - l. TCF Position Report as of 4/20/2019
  - m. CCMW Module 3
  - n. CCMW Training Manual
  - o. HO 1 Module 5 Handout PREA
  - p. HO 2 Module 8 Handout
  - q. HO 3 CCMW Implementation
  - r. HO 4 CCMW Cog skills
  - s. Computer Based Training (CBT) slides
  - t. Training Completion Certificates
2. Interviews:
  - a. Random Staff
  - b. Training Coordinator
  - c. PCM
3. Sight Review Observations:
  - a. Training Modules 1 and 2



115.31 (a) The above policies were reviewed including the PREA Manual which indicates that all Department employees who may have contact with prisoners shall receive PREA training developed by the Training Division that includes at a minimum, the 10-items enumerated by the provision.

Pre-audit, the facility responded positively that the agency trains all employees who may have contact with inmates on the following matters, which includes all 10-items enumerated by the provision, including:

- (1) The Department's zero-tolerance policy for sexual abuse and sexual harassment of prisoners;
- (2) Staff responsibilities related to sexual abuse and sexual harassment prevention, detection, reporting and response;
- (3) Prisoner's right to be free from sexual abuse and sexual harassment;
- (4) The right of prisoners and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
- (5) The dynamics of sexual abuse and sexual harassment in confinement;
- (6) The common reactions of sexual abuse and sexual harassment victims;
- (7) How to detect and respond to signs of threatened or actual sexual abuse;
- (8) How to avoid inappropriate relationships with prisoners;
- (9) How to communicate effectively and professionally with prisoners including lesbian, gay, bisexual, transgender, intersex or gender nonconforming prisoners; and
- (10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

TCF provided the following items as evidence of compliance with this provision: 2015 In-service training plan including 2-hours of CBT for PREA sexual abuse and sexual harassment. This training was required for security and non-security staff as well as medical/mental health staff. The 2015 New Employee Training Plan included the same PREA training content. 2016 In-Service training plan including 2-hours for sexual abuse and sexual harassment for health care staff (PREA, 2-hours CBT); and online PREA training. The 2016 New Employee Training Plan included the same PREA training content. PREA Modules 1 and 2 were reviewed; their content is consistent with the requirements of the provision. The Instructor's Module for PREA: Sexual Abuse and Sexual Harassment in Confinement was reviewed and its content is consistent with the requirements of the provision. Program A CFA (Security Regulations) dated August 2014 was reviewed and was found to contain information consistent with the provision as well. It further discusses overfamiliarity or unauthorized contact with inmates. All items were reviewed and their contents were found to be consistent with the requirements of the provision.

During the on-site phase of the audit, 11-random staff were interviewed and all 11-staff responded positively that they had received annual or refresher training on the 10-enumerated items, although 1-staff could not recall being trained on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities. The Training Coordinator was informally interviewed and along with the PCM who demonstrated portions of the online CBT training for Module 1 and Module 2.

Training logs were reviewed for employee training on Sexual Abuse and Sexual Harassment in Custody. 300-staff received this training leading up to 6/5/2019 including in the past 12-months.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, staff interviews and facility observations, that the facility meets the requirements of provision (a).

115.31 (b) The above policies were reviewed including the PREA Manual which indicates that training shall address gender-specific issues of prisoners housed with the MDOC. The employee shall receive additional training if the employee is reassigned from a facility that houses only male prisoners to a facility housing only female prisoner, or vice versa. Policy content is consistent with the requirements of the provision.

Pre-audit, the facility responded positively that training is tailored to the gender of the inmates at the facility; and that employees who are reassigned from facilities housing the opposite gender are given additional training.

Multiple modules of PREA training for employees were reviewed including handouts for the training. Also included were training materials for Collaborative Case Management for Women. The agency has PREA training curriculum tailored toward staff of male facilities and PREA training curriculum tailored toward staff of female facilities. The content of the curriculums is consistent with the requirements of the standard.

Training logs were reviewed for employee training on Sexual Abuse and Sexual Harassment in Custody. 300-staff received this training leading up to 6/5/2019 including in the past 12-months.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, the facility meets the requirements of provision (b).

115.31 (c) The above policies were reviewed including the PREA Manual which indicates that the Department shall provide each employee with refresher training every 2-years to ensure that all employees know the Department's policies and procedures. In years in which an employee does not receive refresher training, the Department will provide refresher information on current sexual abuse and sexual harassment policies.

Pre-audit, the facility responded in the questionnaire that the number of staff employed in the facility, who may have contact with inmates, who were trained or retrained on the PREA requirements enumerated in provision (a) was 308-staff. A Position Report dated 5/3/2019 provided by the facility indicated that 308-staff are employed at the facility who may have contact with inmates; thus, 100% of staff received the training required by the provision. This is the first PREA audit for this facility and calculating for the number and percentage of staff trained since the last audit is not applicable. The facility reported that staff receive monthly emails from the PCM with PREA reminders; a sample email was viewed by this auditor which was associated with another standard regarding this practice. The facility also reported that annually, employees who may have contact with inmates receive refresher training on PREA requirements.

Computer Based Training (CBT) modules 1 and 2 on Sexual Abuse and Sexual Harassment in Confinement were reviewed and the contents were found to meet the requirements of the standard. Training logs were reviewed for employee training on Sexual Abuse and Sexual Harassment in Custody. 300-staff received this training leading up to 6/5/2019 including in the past 12-months.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, the facility meets the requirements of provision (c).

115.31 (d) The above policies were reviewed including the PREA Manual which indicates that the Department shall document through an employee signature or electronic verification that employees received and understood the training. Policy content is consistent with the provision requirements.

Pre-audit, the facility responded positively in the questionnaire that the agency documents that employees who may have contact with inmates understand the training they have received through employee signature or electronic verification.

Computer Based Training (CBT) modules 1 and 2 on Sexual Abuse and Sexual Harassment in Confinement were reviewed and the modules were found to contain a "Mastery Test" that requires users to achieve a score of 70% or better to confirm their understanding of the curriculum content. Curriculum-based questions are asked

during the presentation and the responses to the multiple choice and true/false questions are entered by the user. The presentation will indicate if a response is correct or not. Any user who does not achieve a score of 70% must retake the Mastery Test. Upon successful completion of the training, users enter their name and employee ID# to receive a certificate of completion. Certificates for both modules are submitted along with the employees' CAR-854 as proof of training completion.

Training logs were reviewed for employee training on Sexual Abuse and Sexual Harassment in Confinement. 300-staff received this training leading up to 6/5/2019 including in the past 12-months. Each TCF employee is associated with an HRMN ID number which is the same employee ID# entered by users at the conclusion of the CBT training. It was learned during an informal interview with the Training Coordinator, that training can be tracked and searched for by using both the employee's ID# as well as their name, among other search fields. The CAR-854 form is entered in the Training Automated Data System (TADS) and has a 7-year retention.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and staff interviews, the facility meets the requirements of provision (d) and is overall compliant with the standard.

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

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

#### **115.32 (a)**

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

#### **115.32 (b)**

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

#### **115.32 (c)**

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

### **Auditor Overall Compliance Determination**

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

## Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 03.02.105 Volunteer Services and Programs
  - c. Program A CFA dated August 2015
  - d. TCF Contractor – Volunteer Training Records
  - e. TCF Vendor/Contractor/Volunteer Agreements
2. Interviews:
  - a. Volunteers or Contractors who have Contact with Inmates
3. Sight Review Observations: None

115.32 (a) The above policies were reviewed including the PREA Manual which indicates that the Department ensures that all volunteers, contractors and their staff who have contact with prisoners have been trained regarding their responsibilities/obligations under the Department's policies and procedures. The level and type of training provided to volunteers and contractors who have contact with prisoners shall be notified of the Department's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents. The facility shall maintain documentation confirming that volunteers receive and understand such training. The Department shall maintain documentation confirming that contractors receive and understand such training.

PD 03.02.105 Volunteer Services and Programs policy was also reviewed and it discusses overfamiliarity with prisoners being prohibited. It further discusses the consequences of volunteers and contractors who engage in prohibited contact with prisoners, which is consistent with the requirements of the standards. Program A CFA of August 2014 regarding Security Regulations was reviewed and it provides standardized training and orientation training required for all contractors, vendors, skilled trades, construction workers, student interns, and volunteers providing services at Correctional Facility Administration work sites. Topics included in the training program are searches, vehicles, tool control, contraband, prisoner contact, discriminatory harassment, and emergencies. It further elaborates on the Agency's zero tolerance policy and other required training content enumerated within the standards.

Pre-audit, the facility responded positively in the questionnaire that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency's policies and procedures regarding sexual abuse/harassment prevention, detection, and response. The facility reported that in the past 12-months there have been 67-volunteers and individual contractors who have contact with inmates, who have received the required training.

During the onsite phase of the audit, 2-volunteers and 1-contractor were interviewed and all 3-responded positively that they were trained in their responsibilities regarding sexual abuse and sexual harassment prevention, detection, and response per agency policy and procedure.

Training records for 67-non-employees were reviewed and consisted of signatures and electronic ID verification for completion of non-employee orientation. This training occurred leading up to 05/31/2019 and represents 100% of the volunteers and contractors who have contact with prisoners having been trained regarding their responsibilities/obligations under the Department's policies and procedures relating to PREA and as required by the provision.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and interviews, the facility meets the requirements of provision (a).

115.32 (b) The above policies were reviewed including the PREA Manual which indicates that the level and type of training provided to volunteers and contractors shall be based on the services they provide and the level of contact they have with prisoners. PD 03.02.105 was also reviewed and indicates that the CFA Special Activities Coordinator shall develop and maintain a pamphlet providing general information regarding volunteer services and the requirements of this policy. The pamphlet provides the following information: Volunteers and contractors, who have contact with inmates, shall be trained on their responsibilities under the Department's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. The facility shall maintain documentation confirming that volunteers and contractor understand the training they have received.

Program A CFA of August 2014 regarding Security Regulations was reviewed and it provides standardized training and orientation training required for all contractors, vendors, skilled trades, construction workers, student interns, and volunteers providing services at Correctional Facility Administration work sites. Topics included in the training program are searches, vehicles, tool control, contraband, prisoner contact, discriminatory harassment, and emergencies. It further elaborates on the Agency's zero tolerance policy and other required training content enumerated within the standards.

Pre-audit, the facility responded positively in the questionnaire that the level and type of training provided to volunteers and contractors is based on the services they provide and the level of contact they have with inmates. The facility also responded positively that volunteers and contractors who have contact with inmates have been notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

During the onsite phase of the audit, 2-volunteers and 1-contractor were interviewed and all 3-responded positively that they received training and that the training consisted of zero-tolerance, first responder responsibilities, reporting requirements, etc. 2-volunteers further elaborated about having watched a 45-minute film, and answered questions during a quiz. 1-volunteer further discussed reporting requirements. All 3-confirmed having been notified of the agency's zero-tolerance policy on sexual abuse and sexual harassment, as well as about how to report such incidents.

While onsite, this auditor also observed 9-samples of TCF Vendor/Contractor/Volunteer agreements signed by the aforementioned and dated in July 2019. It indicates that "My signature acknowledges that I have received information and understand the Michigan Department of Corrections policies and regulations on PREA (Prison Rape Elimination Act) and overfamiliar behavior with offenders."

Additionally, training records for 67-non-employees were reviewed and consisted of signatures and electronic ID verification for completion of non-employee orientation. This training occurred leading up to 05/31/2019 and represents 100% of the volunteers and contractors who have contact with prisoners having been trained regarding their responsibilities/obligations under the Department's policies and procedures relating to PREA and as required by the provision.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, and interviews, the facility meets the requirements of provision (b).

115.32 (c) The above policies were reviewed including the PREA Manual which indicates that the facility shall maintain documentation confirming that volunteers receive and understand such training and that the Department shall maintain documentation confirming that contractors receive and understand such training. PD 03.02.105 was also reviewed which indicates that the facility shall maintain documentation confirming that volunteers and contractors understand the training they have received. Policy is consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that it maintains documentation confirming that volunteers/contractors understand the training they have received.

During the onsite phase of the audit, this auditor observed 9-samples of TCF Vendor/Contractor/Volunteer agreements signed by the aforementioned and dated in July 2019. It indicates that "My signature acknowledges that I have received information and understand the Michigan Department of Corrections policies and regulations on PREA (Prison Rape Elimination Act) and overfamiliar behavior with offenders."

Additionally, training records for 67-non-employees were reviewed and consisted of signatures and electronic ID verification for completion of non-employee orientation. This training occurred leading up to 05/31/2019 and represents 100% of the volunteers and contractors who have contact with prisoners having been trained regarding their responsibilities/obligations under the Department's policies and procedures relating to PREA and as required by the provision.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviewed, the facility meets the requirements of provision (c) and is overall compliant with the standard.

## **Standard 115.33: Inmate education**

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

#### **115.33 (a)**

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

#### **115.33 (b)**

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

#### 115.33 (c)

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

#### 115.33 (d)

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

#### 115.33 (e)

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

#### 115.33 (f)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. MDOC PREA Manual, April 2017
  - b. OP ECF 04.01.140 Prisoner Orientation
  - c. 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - d. PD 04.01.140 Prisoner Orientation
  - e. PD 04.01.105 Reception Facility Services
  - f. RGC OP 04.01.140 Prisoner Orientation
  - g. WHV OP 04.01.140 Orientation for New Prisoners
  - h. Orientation/Education Materials/Packets
  - i. Intake Records for 12-months
  - j. CAJ-1036 Forms PREA Education Verification
  - k. TCF Operating Procedure – Orientation
  - l. TCF Proof of Education samples
  - m. JDI posters in English and Spanish sample
  - n. Sexual Abuse poster sample
  - o. PREA posters in Spanish sample
  - p. PREA brochures in Spanish sample
  - q. Prisoner Guidebook in Spanish sample
  - r. Dual-language PREA signage sample
  - s. JPay PREA emails in Spanish sample
  - t. TCF orientation packets in Spanish sample
  - u. PREA brochure in Braille sample
  - v. "An End to Silence" Inmate Handbook 3<sup>rd</sup> edition
  - w. Multiple TCF Memos
2. Interviews:
  - a. Intake Staff



- b. Staff Responsible for Risk Screening
  - c. Ransom Staff
  - d. Random Inmates
3. Sight Review Observations:
- a. Adult intake/reception area
  - b. Youthful Offender (YO) intake area
  - c. Prison Counselors' Offices
  - d. Education Building including Library

115.33 (a) This auditor reviewed policies and directives 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners, PD 04.01.140 Prisoner Orientation, PD 04.01.105 Reception Facility Services, RGCOP 04.01.140 Prisoner Orientation, WHV OP 04.0.140 Orientation of New Prisoners, and PREA Prison Education Verification (CAJ-1036) and Education Materials. They address the standard's requirements to educate inmates during the intake process including the agency's zero-tolerance policy, how to report sexual abuse and sexual harassment, as well as available services.

Pre-audit, the facility reported that 328-inmates had been received in the past 12-months with 100% of them receiving PREA information at intake. Pre-audit, the facility provided 2-samples of orientation packets. During onsite interviews with facility intake staff, two (2) staff were interviewed: 1-staff who conducts intake with youthful offenders (YO) and 1-staff who conducts intake with adults. Both reported that inmates are provided orientation packets containing information about the zero-tolerance policy and how to report incidents or suspicions of sexual abuse or sexual harassment. This portion of intake is performed on the housing unit for the YO. Adults receive the same information. Intake staff reported that education is completed through a video-based presentation that is accompanied by information 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. Thumb Correctional Facility staff provided additional sample documentation demonstrating that inmates received training and it was documented on form CAJ 1036, indicating acknowledgement. Additional orientation samples were reviewed onsite. 10-electronic records were sampled for both YO and adult inmates and found that education was provided timely.

Random inmate and staff interviews indicated that inmates were provided PREA materials and educated regularly during the intake process with the Michigan Department of Corrections at the Thumb Correctional Facility and that the materials met the requirements of provision (a). 2-intake staff were interviewed and a total of 22-inmates were randomly interviewed. The inmates represented all of the housing units and were selected by choosing every 5<sup>th</sup> inmate on each of the housing rosters. 10-inmates refused to participate and alternates were selected for them by choosing every 5<sup>th</sup> inmate starting at the bottom of the housing rosters. Of the 22-interviewed inmates, 21-responded positively that they received the required education; 1-could not recall.

1-adult prison counselor, also referred to as an Adult PREA Educator, was informally interviewed and related that adult inmates receiving PREA education after transfer to TCF watch the DVD "Taking Action" which is viewed uninterrupted. Staff asks about the inmates' understanding of it afterwards and they are given a brochure "How to Avoid Sexual Violence in Prison" by MDOC (2007). The inmate signs the PREA Education Verification Form; staff signs for the delivery of it; and it is retained in the inmate's counselor file.

Based on information provided pre-audit, reviews of policy, documentation and practices, and interviews, the auditor finds the facility compliant with provision (a).

115.33 (b) Thumb Correctional Facility provided sample documents showing that inmates received PREA education within 30-days of intake that included the Video PREA training "Taking Action." Sampled electronic records for both YO and adults indicated that all of the sampled inmates received the comprehensive education within 30-days of intake and that the materials covered the requirements of provision (b). Intake staff for the YO elaborated that they use a wall calendar to assist them in keeping track of due dates for the required comprehensive education. Additionally, the intake staff for YO reported quizzing the inmates to determine if they paid attention during the video. Staff enter notes in the Offender Management Network Information (OMNI) that education was received each time.

Random Inmate and Staff interviews indicated that inmates were provided PREA materials and trained regularly as part of intake in the Michigan Department of Corrections/Thumb Correctional Facility. Intake staff reported that the video is viewed and that discussions with inmates regarding PREA are conducted confidentially. Of the 22-inmates randomly interviewed, 21-inmates responded positively that they were educated; 1-could not recall. 18-inmates reported receiving the education within a couple days to 1-week after arrival and 4-inmates could not recall the timeframe within which it was received.

Based on information provided pre-audit, reviews of policy, documentation and practices, and interviews, the auditor finds the facility compliant with provision (b).

115.33 (c) Random Interviews with Staff indicated that when an inmate is received from a different facility, to the extent that policies and procedures are different from the prior inmate's facility, inmates are educated.

Interviews with 2-intake staff indicated that YO are not received through transfers from other facilities. They arrive directly from sentencing. The other intake staff indicated that with the adult transfers, their records are reviewed to ensure that they received the comprehensive education. If it is found that they have not, they receive it within days of arrival at the Thumb Correctional Facility. 1-intake staff indicated that it involves the same materials as the YO.

Based on information provided pre-audit, reviews of policy, documentation and practices, and interviews, the auditor finds the facility compliant with provision (c).

115.33 (d) Thumb Correctional Facility provided inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, otherwise disabled, as well as to inmates with limited reading skills.

Pre-audit, the facility reported providing PREA education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, otherwise disabled, and limited in their reading skills. Policy was reviewed including the MDOC PREA Manual; it was noted that its contents are consistent with the requirements of the provision. These were reviewed by the auditor.

The facility provided many samples of inmate PREA education in a variety of formats that included JDI posters in English and Spanish, PREA posters in Spanish, PREA brochures in Spanish, Prisoner Guidebook in Spanish, dual-language PREA signage, JPay PREA emails in Spanish, TCF orientation packets in Spanish, and a PREA brochure in Braille. During an interview with a staff who performs risk screening, he explained that he ensures that PREA information is explained thoroughly to inmates, especially for those inmates that may have cognitive disabilities or difficulty reading. The facility also has access to interpretation services through Video Relay Interpreting (VRI) of the Global Interpreting Services with a wide variety of tools to accommodate individuals including those who are hard of hearing and/or non-English Speaking. This service was tested by the audit team during targeted inmate interviews and met with successful results.

Based on information provided pre-audit, reviews of policy, documentation and practices, and interviews, the auditor finds the facility compliant with provision (d).

115.33 (e) Thumb Correctional Facility maintains documentation of participation in these education sessions. The facility provided sample documentation demonstrating that inmates received training and it was documented on form CAJ 1036. Additionally, it was observed onsite that education is tracked on an excel spreadsheet in addition to the OMNI system. This was observed by the auditor with 10-electronic records that were sampled for both YO and adult inmates and found that education was provided timely.

Based on information provided pre-audit, reviews of policy, documentation and practices, the auditor finds the facility compliant with provision (e).

(f) Thumb Correctional Facility ensures that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats.

It was observed during the audit tour that PREA posters and all information required by the standard were visible throughout the facility. This included all areas where inmates had access including housing units, and other buildings. The posters were in both English and Spanish. It was also observed that Sexual abuse hotline numbers were posted along with posters about advocacy by JDI. The library in the programming building hosted a PREA resource center that included brochures along with posters. This auditor observed and reviewed the inmate handbook "An End to Silence" by the NPRC and it was found to contain information consistent with the standard.

Based on information provided pre-audit, reviews of policy, documentation and practices, and interviews, the auditor finds the facility compliant with provision (f) and overall compliant with the standard.

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

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

#### **115.34 (a)**

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

#### **115.34 (b)**

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

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

#### 115.34 (c)

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

#### 115.34 (d)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - c. Basic Investigator Training Manual (August 2014)
  - d. NIC Online Training Program website screen images
  - e. TCF Memo dated June 10, 2019, TCF PREA Investigators
  - f. TCF Investigator Training Logs dated 06/11/2019
  - g. MSP PREA Compliance Letter dated September 30, 2015

2. Interviews:
  - a. Investigative Staff
  - b. Training Coordinator
3. Sight Review Observations: None

115.34 (a) The above policies were reviewed including the PREA Manual which indicates that regarding Investigator Specialized Training, in addition to the general PREA training provided to all employees, Department investigators are required to receive specialized training from the Training Division to be able to conduct sexual abuse investigations in confinement settings. PD 03.03.140 was reviewed which indicates that investigations of sexual abuse/harassment shall be completed by staff who have received specialized investigator training as outlined in the PREA Manual. All investigations shall be conducted promptly, thoroughly, and objectively. All PREA investigations shall be conducted in accordance with the Sexual Abuse/Sexual Harassment Investigations portion of the PREA Manual. Policy is consistent with the requirements of the provision.

Pre-audit, the facility indicated positively in the questionnaire that it has a policy that requires that investigators are trained in conducting sexual abuse investigations in confinement settings.

The MDOC's Basic Investigator Training Manual (August 2014) was reviewed. It was found to cover interview techniques, investigations and evidence, the Employee Handbook, report writing basics, report format, employee rights, discriminatory harassment, and PREA. The NICs PREA Investigating Sexual Abuse in a Confinement Setting Course was reviewed. It is used by TCF. The main purpose of this course is to assist agencies in meeting the requirements of PREA Section 115.34. Course objectives include participants explaining their knowledge, components, and considerations that an investigator must use to perform a successful sexual abuse or sexual harassment investigation consistent with the PREA standards.

TCF provided a memo dated June 10, 2019 from the Warden to the PREA Analyst indicating that 12-staff on the 1<sup>st</sup> shift, 6-staff on the 2<sup>nd</sup> shift; and 4-staff on the 3<sup>rd</sup> shift is trained and qualified to conduct investigations of prisoner sexual abuse and sexual harassment using the MDOC's Basic Investigator training and the NIC's Investigation training.

During the onsite phase of the audit, Investigative Staff (1) were interviewed and responded positively that training was received specific to conducting sexual abuse investigations in confinement settings. He further elaborated that this included NIC's online training, and included some of the components of the training such as approaching victims, handling evidence, etc.

TCF provided Investigator Training Logs dated 6/11/2019 for the Basic Investigator Training (MDOC) and depicted that 30-staff from TCF had completed the course. Also provided were Investigator Training logs also dated 6/11/2019 for NIC PREA Investigator Training (online) and depicted 31-staff from TCF had completed the course.

Also reviewed was the facility's investigation tracker for the 12-months' preceding the onsite audit. During the onsite phase of the audit, 31-investigative files were available for review. Included with those files were files older than 12-months. Of 31-files, 7-files were selected for review. The PREA Audit – Adult Prisons and Jails Documentation Review form was used. It was found that investigators for all 7-cases had received the MDOC's Basic Investigator Course along with the NIC's Specialized Investigator Training.

Based on information provided pre-audit, reviews of policy, documentation and practices, and staff interviews, the auditor finds the facility compliant with provision (a).

115.34 (b) The above policies were reviewed including the PREA Manual which indicates that in addition to general PREA training provided to all employees, Department investigators are required to receive specialized training from the Training Division to be able to conduct sexual abuse investigations in confinement settings. Specialized training includes 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.

Also reviewed was the MDOC's Basic Investigator Training manual including contents for interview techniques, investigations and evidence, employee rights and PREA. In particular, criteria and evidence required to substantiate a case or administrative action or prosecution referral was discussed. Types of evidence include direct or testimonial evidence, indirect or circumstantial evidence, scientific evidence, as well as responsibilities of collecting evidence. Each type of evidence is reviewed for the extent to which it is relied upon for different types of investigations and thresholds needed to prosecute cases as well as for administrative investigations. The use of Miranda and Garrity warnings is covered as well.

The NIC's Specialized Investigator Training was reviewed. It also includes use of Miranda and Garrity warnings along with the Criteria and Evidence for Administrative Action and Prosecution.

During the onsite phase of the audit, Investigative staff were and responded positively that the training topics included: techniques for interviewing sexual abuse victims, Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative or prosecution referral.

TCF provided Investigator Training Logs dated 6/11/2019 for the Basic Investigator Training (MDOC) and depicted that 30-staff from TCF had completed the course. Also provided were Investigator Training logs also dated 6/11/2019 for NIC PREA Investigator Training (online) and depicted 31-staff from TCF had completed the course.

Based on information provided pre-audit, reviews of policy, documentation and practices, and staff interviews, the auditor finds the facility compliant with provision (b).

115.34 (c) The above policies were reviewed including the PREA Manual which indicates that documentation of training attendance shall be maintained in MDOC Training Automated Data System (TADS). Policy is consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that the agency maintains documentation showing that investigators have completed the required training. It also reported that 22-investigators are currently employed who have completed the required training.

TCF provided Investigator Training Logs dated 6/11/2019 for the Basic Investigator Training (MDOC) and depicted that 30-staff from TCF had completed the course. Also provided were Investigator Training logs also dated 6/11/2019 for NIC PREA Investigator Training (online) and depicted 31-staff from TCF had completed the course. It was learned during an informal interview with the Training Coordinator, that training can be tracked and searched for by using both the employee's ID# as well as their name, among other search fields. The CAR-854 form is entered in the Training Automated Data System (TADS) and has a 7-year retention.

Additionally, an MSP letter to the MDOC Director dated September 30, 2015, indicated that as MSP is a state agency responsible for investigating criminal allegations of sexual abuse in MDOC prisons, the MSP is required to comply with section 115.21 of the PREA Standards for Prisons and Jails.

Based on information provided pre-audit, reviews of policy, documentation and practices, and staff interviews, the auditor finds the facility compliant with provision (c). Insomuch as provision (d) is not audited, the auditor finds the facility overall compliant with the standard.

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

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

#### **115.35 (a)**

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

#### **115.35 (b)**

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

#### **115.35 (c)**

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

### 115.35 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 02.05.101 In-service Training
  - c. PREA CBT Health Care Training Module 2
  - d. PREA CBT Qualified Mental Health Training Module 2
  - e. TCF PREA HC/MHS/Dental Training Records dated 06/05/2019
  - f. TCF SANE/SAFE Forensic Exams Memo
2. Interviews:
  - a. Medical and Mental Health Staff
3. Sight Review Observations: None

115.35 (a) The above policies were reviewed including the PREA Manual which indicates that in addition to general PREA training provided to all employees, contracted and volunteer health care and mental health case staff will be provided with specialized training developed by the training division related to sexual abuse in



confinement settings. Specialized training includes: 1-How to detect and assess signs of sexual abuse and sexual harassment; 2-how to preserve physical evidence of sexual abuse; 3-How to respond effective and professionally to victims of sexual abuse and sexual harassment; and 4-How and who to report allegations or suspicions of sexual abuse and sexual harassment including mandatory reporting of incidents alleged to have occurred when a prisoner was in custody of the Department. Additionally, contractors who enter the facility to conduct forensic exams must be appropriately trained to conduct such exams and be provided with required Department contractor training and agree to abide by policy prior to providing services within the Department.

Also reviewed was PD 02.05.101 In-Service Training which defines the In-Service Training Plan as a plan that provides for the comprehensive annual training within the Department. The plan is developed annually and approved by each administration's Deputy Director or designee, the Chief Deputy Director, and the Director. Additionally, the Administrator of the Training Division, Budget and Operations Administration (BOA), is responsible for coordinating all in-service training provided by Department staff to meet Department training requirements, including approving training modules required to be used during in-service training. The Training Division Administrator is also responsible for ensuring that all mandatory training, including training required to meet state or federal laws, has been developed and is available for staff. Policies are consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that it has a policy related to the training of medical and mental health practitioners who work regularly in its facilities. It indicated that 27-medical and mental health care practitioners work regularly at the facility who have received the training, which represents 100% who have received the training required by agency policy.

During the onsite phase of the audit, 2-medical/mental health staff were interviewed and both responded positively that they have received the required training which includes the 4-enumerated topics included in the training. 1-staff further elaborated that it included online and classroom training and they received booklets.

CBT medical/mental health PREA training courses were reviewed and found to contain the 4-enumerated curricula items required by the provision. TCF training logs dates 06/05/2019 were reviewed for the aforementioned staff and it was found that all of the 27-staff had completed the required training along with 2-additional staff. Also reviewed were 14-sample CAR-854 Individual Training Program Reports indicating completion of general CBT PREA training for health care staff.

Based on information provided pre-audit, reviews of policy, documentation and practices, and staff interviews, the auditor finds the facility compliant with provision (a).

115.35 (b) The above policies were reviewed including the PREA Manual which indicates that contractors who enter the facility to conduct forensic exams must be appropriately trained to conduct such exams and be provided with required Department contractor training and agree to abide by policy prior to providing services within the Department.

Pre-audit, the facility responded in the questionnaire that medical staff at this facility do not conduct forensic medical examinations.

TCF provided a memo dated May 16, 2019 from its PCM to the PREA Analyst indicated that "any Prisoner that has alleged to have been a victim of sexual assault; within 96 hours of the alleged complaint shall be sent out for a forensic exam. A victim advocate is offered to the prisoner, if the prisoner accepts the offer of an advocate a trained TCF staff member will be assigned to serve as the prisoner's victim advocate. TCF utilizes trained facility staff as victim advocates as no community outside agency has been located willing to provide victim advocate

and/or SANE-SAFE services. All TCF medical and Mental Health staff have completed the required victim advocate training along with several custody and non-custody staff volunteers. In the event a victim advocate is needed, TCF on-duty staff shall be chosen first, and off-duty staff victim advocates will be utilized only when none is available at the facility. If the victim is sent out for a forensic examination, a CAJ-1020 Forensic Form is sent with transportation staff to be completed by the examining SANE Nurse and returned to the facility PREA Coordinator. TCF does not conduct sexual assault or forensic exams and all prisoners requiring one are transported to Hurley Hospital in Flint, MI to have an exam conducted.”

During the onsite phase of the audit, 2-medical/mental health staff were interviewed and responded that forensic examinations are conducted at the Hurley Hospital in Flint, MI.

Insomuch as this provision is not applicable for the facility, the auditor finds the facility provided information adequate to support this.

115.35 (c) The above policies were reviewed including the PREA Manual which indicates that in addition to general PREA training provided to all employees, contracted and volunteer health care and mental health case staff will be provided with specialized training developed by the training division related to sexual abuse in confinement settings. Specialized training includes: 1-How to detect and assess signs of sexual abuse and sexual harassment; 2-how to preserve physical evidence of sexual abuse; 3-How to respond effective and professionally to victims of sexual abuse and sexual harassment; and 4-How and who to report allegations or suspicions of sexual abuse and sexual harassment including mandatory reporting of incidents alleged to have occurred when a prisoner was in custody of the Department. Additionally, contractors who enter the facility to conduct forensic exams must be appropriately trained to conduct such exams and be provided with required Department contractor training and agree to abide by policy prior to providing services within the Department.

Also reviewed was PD 02.05.101 In-Service Training which defines the In-Service Training Plan as a plan that provides for the comprehensive annual training within the Department. The plan is developed annually and approved by each administration's Deputy Director or designee, the Chief Deputy Director, and the Director. Additionally, the Administrator of the Training Division, Budget and Operations Administration (BOA), is responsible for coordinating all in-service training provided by Department staff to meet Department training requirements, including approving training modules required to be used during in-service training. The Training Division Administrator is also responsible for ensuring that all mandatory training, including training required to meet state or federal laws, has been developed and is available for staff. Policies are consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that medical and mental health practitioners have completed the required training.

CBT medical/mental health PREA training courses were reviewed and found to contain the 4-enumerated curricula items required by the standard. TCF training logs dates 06/05/2019 were reviewed for the aforementioned staff and it was found that all of the 27-staff had completed the required training along with 2-additional staff. Also reviewed were 14-sample CAR-854 Individual Training Program Reports indicating completion of general CBT PREA training for health care staff.

Based on information provided pre-audit, reviews of policy, and documentation and practices, the auditor finds the facility compliant with provision (c).

115.35 (d) The above policies were reviewed including the PREA Manual which indicates that in addition to general PREA training provided to all employees, contracted and volunteer health care and mental health case

staff will be provided with specialized training developed by the training division related to sexual abuse in confinement settings. Specialized training includes: 1-How to detect and assess signs of sexual abuse and sexual harassment; 2-how to preserve physical evidence of sexual abuse; 3-How to respond effective and professionally to victims of sexual abuse and sexual harassment; and 4-How and who to report allegations or suspicions of sexual abuse and sexual harassment including mandatory reporting of incidents alleged to have occurred when a prisoner was in custody of the Department. Additionally, contractors who enter the facility to conduct forensic exams must be appropriately trained to conduct such exams and be provided with required Department contractor training and agree to abide by policy prior to providing services within the Department.

CBT medical/mental health PREA training courses were reviewed and found to contain the 4-enumerated curricula items required by the standard. TCF training logs dates 06/05/2019 were reviewed for the aforementioned staff and it was found that all of the 27-staff had completed the required training along with 2-additional staff. Also reviewed were 14-sample CAR-854 Individual Training Program Reports indicating completion of general CBT PREA training for health care staff.

The training received by TCF medical and mental health staff is consistent with the provisions of 115.31, 115.32, and 115.34 based on this auditor's reviews of training curricula and the aforementioned training logs provided by TCF.

Based on information provided pre-audit, reviews of policy, and documentation and practices, the auditor finds the facility compliant with provision (d), and is overall compliant with the standard.

## **SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS**

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

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

#### **115.41 (a)**

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

#### **115.41 (b)**

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

#### **115.41 (c)**

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

#### 115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes? ☒ Yes ☐ No

#### 115.41 (e)

- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, as known to the agency, prior acts of sexual abuse? ☒ Yes ☐ No

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

#### 115.41 (f)

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

#### 115.41 (g)

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

#### 115.41 (h)

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

#### 115.41 (i)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. MDOC PREA Manual, April 2017
  - b. OP-TCF 03.03.140 PRISONER RAPE ELIMINATION ACT AND PROHIBITED SEXUAL
  - c. CONDUCT INVOLVING PRISONERS
  - d. PD 03.03.140 PREA Risk Assessment Manual Update
  - e. PD 05.01.140 Prisoner Placement
  - f. TCF Sample Risk Assessments Screens
  - g. OMNI Risk Assessment Tool (CAJ-1023)
  - h. TCF PREA Risk Assessment Tracker 2017-2019
2. Interviews:
  - a. Staff Responsible for Risk Screening
  - b. Random Sample of Inmates
  - c. PREA Coordinator
  - d. PREA Compliance Manager
3. Sight Review Observations:
  - a. Adult intake/reception area
  - b. Youthful Offender (YO) intake area
  - c. Inmate unit clerk desks (2)

115.41 (a) Agency policy including MDOC PREA Manual, OP-TCF 03.03.140, PD 03.03.140, PREA Risk Assessment Manual Update were reviewed and were found to support the requirements of provision (a) of the standard that all inmates be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates. Content of the policies are consistent with the requirements of the standard.

Interviews were conducted with staff responsible for risk screening. Two staff were interviewed; 1-staff who performs risk screening with youthful offenders (YO) and 1-staff who performs risk screening with adults. Both responded positively that inmates are screened upon admission to the facility or when transferred from another facility for risk of sexual abuse victimization or sexual abusiveness toward other inmates.

Of the 22-inmates that were randomly selected, 21-inmates had arrival dates that were not within the most recent 12-months. Of the 1-inmate that had arrived within the most recent 12-months, he could not recall being asked the PREA risk screening questions. TCF housing unit rosters did not include reception dates that would facilitate the audit team selecting more inmates with more recent arrivals.

During the facility tour, the adult intake and reception areas were observed. A security staff member oriented the audit team to the location in Building #200 where adults being received as transfers are processed; no adult inmates were being received at the time of the observation. The audit team observed that this process involves 4-rooms including an entry area, the intake room, a strip search room, and a holding room. Adult inmates are processed through each room individually until they arrive in the holding room. It was noted that privacy screens are used during the strip search portion of intake to afford inmates privacy. Inmates are signed in and also receive their bedroll during intake, and receive an initial health care screening by medical staff. Normally, 2-security staff and 1-security lobby officer are present during this process, along with medical staff. Staff responsible for risk screening noted that screening is performed on the housing unit privately with staff after intake. Due to the low number of intakes annually at TCF, a risk screening was not occurring to be viewed during the audit.

YO are processed separately through Building #100. YO are always received directly from sentencing and are not received as transfers from other MDOC facilities. Adults are not processed at the same time as the YO. The audit team observed the areas used for intake in Building #100 that included an intake area with Livescan, photo system, and strip search area. Inmates initially have their identification verified, then receive a photo for inmate ID and are entered into the OMNI system and an OTIS system, which is an Offender Tracking Information Site. Inmates receive medical screening and are then quarantined on a housing unit for 3-days to verify their PPD testing results. Individuals returning from WRIT are also processed through Building #100. An audit team member observed the intake process of a YO at Building #100 however due to being a female observer, could not observe the entire process; this occurred on the last day of the onsite audit. The audit team member observed the identification portion of the process involving photographs. It was conveyed to her by facility staff that the YO would also be searched while in building #100 and then escorted to meet with medical staff in building #200 for a physical screening, before being delivered to the Franklin housing unit. It was conveyed by a risk screener separately that YO and HYTA intakes receive a psychological screening during their screenings at building #200 as well.

Pre-audit, the facility provided 3-samples of inmate screenings that all met with risk screening scores of “No score.” Based on observed facility information, the inmates did not have a score that met the threshold for either risk of victimization or abusiveness.

Based on reviews of policy, interviews with staff and inmates, tour observations, and other information, the auditor finds the facility compliant for provision (a).

115.41 (b) The above policies which also included PD 05.01.140 Prisoner Placement were reviewed and were found to support the requirements of provision (b) for intake screening ordinarily occurring within 72-hours of arrival at the facility. Content of the policies are consistent with the requirements of the standard.

Pre-audit, the facility reported that in the past 12-months, 328-inmates had been admitted to the facility whose length of stay was for 72-hours or more. They also reported that 100% had received the required initial screening.

Interviews were conducted with staff responsible for risk screening. Two staff were interviewed; 1-staff who performs risk screening with youthful offenders (YO) and 1-staff who performs risk screening with adults. Both

responded positively that inmates are screened within 72-hours of intake, or earlier. This auditor observed tracking of the initial screening which demonstrated that all had been conducted within 72-hours of arrival. 10-sampled electronic records for both YO and adults indicated that all of the sampled inmates received the screening within 72-hours of intake which meets the requirements of provision (b). Additionally, the welcome book provided upon arrival provided a copy of the PREA Prisoner Education/PREA Risk Assessment Tracker for 100% of the TCF inmates; an additional 10-records were reviewed for inmates received in December, 2018 and were found to have been screened timely.

Of the 22-inmates that were randomly selected, 21-inmates had arrival dates that were not within the most recent 12-months. Of the 1-inmate that had arrived within the most recent 12-months, he could not recall being asked the PREA risk screening questions. TCF housing unit rosters did not include reception dates that would facilitate the audit team selecting more inmates with more recent arrivals.

Based on reviews of policy, interviews with staff and inmates, tour observations, and reviewed documentation, the auditor finds the facility compliant for provision (b).

115.41 (c) The above policies were reviewed and were found to meet the requirements of the provision in that the assessments are conducted using an objective screening instrument. Content of the policies are consistent with the requirements of the standard. An assessment tool is considered objective when the tool can be administered by multiple individuals, and when provided the same information, will result in a similar risk designation score.

The auditor observed a sample of the risk assessment tool, contained within the OMNI system, and labeled as form CAJ-1023. The PREA Risk Assessment Worksheet contains risk screening for both aggressor risk and victim risk and meets objective criteria as required in provision (c). 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.

The auditor observed the electronic risk screening tool onsite as it was demonstrated by one of the staff who performs risk screening. This auditor was not able to observe an inmate risk screening being performed due to the low number of intakes annually at TCF.

During an interview with the risk screener who performs screening for youthful inmates, it was explained that pre-sentence reports are used to input criminal history information along with incarceration history information from the inmates' files. Risk screeners only rely on pre-sentence reports and other agency/facility generated records to confirm responses provided by inmates. Very limited self-reported information is relied upon for the completion of the risk assessment. Thus, there is more opportunity for consistency of risk assessment results.

Based on reviews of policy, staff interviews, and observed samples, the auditor finds the facility compliant with provision (c).

115.41 (d) The above policies as well as the PREA Risk Assessments Manual and a copy of the risk screening tool were reviewed and were found to support provision (d) in that the risk screening tool takes into consideration nine of the 10-enumerated items to determine an inmate's risk of victimization. The 10<sup>th</sup> item involving detention solely for civil immigration purposes is not applicable as the facility does not detain inmates solely for



these purposes, based on pre-audit information and staff interviews. Content of the policies are consistent with the requirements of the standard.

Interviews conducted with 2-staff who perform risk screening indicated that the facility's risk screening tool takes into consideration all of the required criteria, with the exception of whether an inmate is detained solely for civil immigration purposes. Both staff elaborated that inmates are not detained at TCF solely for this purpose. Both staff discussed the format of the risk screening tool and that it includes a checklist of set questions resulting in yes or no responses. One staff further elaborated that information from the inmate's file is incorporated and entered into the OMNI system; the OMNI system auto scores the form and auto provides the PREA designation, if there is one.

Based on the policy reviews, staff interviews, and observations of the PREA risk screening tool, the auditor finds the facility compliant with provision (d).

115.41 (e) The auditor reviewed the above policies including the PREA Risk Assessment Manual. They were found to support provision (e). Content of the policies are consistent with the requirements of the standard.

The auditor also reviewed the PREA risk screening tool. It gauges questions for aggressor risk including: Aggressor of substantiated prisoner on prisoner non-consensual sexual acts in MDOC; any history of perpetrated sexual victimization by threat or force; any history of perpetrated physical abuse; any history of perpetrating domestic violence; gang affiliation within the last 2-years; history of strong-arming or predatory/intimidating behavior; and history of facility consensual sex. The tool takes into consideration "any" history related to prior acts of sexual abuse and history of prior institutional violence or sexual abuse, with the first 2-questions and subsequent questions. Regarding the requirement for screening that includes prior convictions for violent offenses, the PREA Risk Assessment Manual elaborates that "The prisoner has a documented history of strong-arming or predatory/intimidating behavior in the community or prison/jail, not including instances where predatory or intimidating behavior was sexually motivated."

The risk screening tool used by the facility adds a question regarding "history of facility consensual sex?" which is not included in the 3-prescribed items discussed above. The PREA Risk Assessment Manual defines this as "Prisoner was a willing participant in sexual activity with another prisoner in which the prisoner received, and was found guilty of, a Sexual Misconduct ticket in accordance with PD 03.03.105 "Prisoner Discipline."

Interviews conducted with 2-staff who perform risk screening indicated that the facility's risk screening tool supports provision (e) and one staff further elaborated that information from the inmate's file is incorporated and entered into the OMNI system; the OMNI system auto scores the form and auto provides the PREA designation, if there is one. Both staff added that the risk screening is performed in the privacy of the counselor's office after intake and that the questions on the survey are asked; the form is not handed to the inmate to just fill out on their own.

Based on reviews of policy, risk screening practices, and interviews with staff, the auditor finds the facility compliant with provision (e).

115.41 (f) The above policies including PD 05.01.140 Prisoner Placement and the PREA Risk Assessment Manual were reviewed. They were found to support provision (f) for reassessment within 30-days of arrival. Content of the policies are consistent with the requirements of the standard.

Pre-audit the facility reported that 304-inmates were admitted to the facility during the past 12-months whose length of stay in the facility was for 30-days or more. They also reported that 100% of the 304-inmates had received their 30-day reassessment.

Two staff who perform the 30-day risk screening were interviewed onsite and both responded that inmates' PREA risk levels are reassessed within 30-days. Five electronic records for adult offenders were randomly selected and observed during the audit and all-five records depicted the 30-day reassessment being completed on or before the 30-day due date.

Of the 22-inmates that were randomly selected, 21-inmates had arrival dates that were not within the most recent 12-months. Of the 1-inmate that had arrived within the most recent 12-months, he could not recall being asked the PREA risk screening questions again. TCF housing unit rosters did not include reception dates that would facilitate the audit team selecting more inmates with more recent arrivals.

PRE-audit the facility provided 3-samples of the 30-day reassessment and all occurred within the 30-day time period. A copy of the facility's PREA Risk Assessment Tracker for 2017-2019 was also reviewed. It consists of columns for prisoner number, name, housing, arrival date, education data, name of staff completing the 72-hour PREA Risk Assessment and file review, due date of 72-hour assessment, date of 72-hour assessment completed, date of MH referral for prior perpetrators of sexual abuse, date of MH/MED referral for victims of sexual abuse, due date for 30-day PREA Risk Assessment, date of 30-day assessment completed, and name of the staff completing the 30-day PREA Risk Assessment review. Unless released earlier, all inmates received their 30-day reassessment on or before the 30<sup>th</sup> day.

Based on reviews of policy, staff interviews, and very thorough documentation, the auditor finds the facility compliant for provision (f).

115.41 (g) The above policies were reviewed including OP-TCF 03.03.140 and PD 03.03.140 and were found to support provision (g) in that inmates' risk levels are reassessed when warranted due to referrals, requests, incidents of sexual abuse, or receipt of additional information that bears on the inmates' risk of sexual victimization or abusiveness. Content of the policies are consistent with the requirements of the standard.

2-staff responsible for reassessment screening were interviewed and responded positively that inmates are reassessed when warranted due to the aforementioned reasons.

Of the 22-inmates that were randomly selected, 21-inmates had arrival dates that were not within the most recent 12-months. Of the 1-inmate that had arrived within the most recent 12-months, he could not recall being asked the PREA risk screening questions again.

Pre-audit the facility provided 1-electronic record sample of an inmate who was reassessed due to it being warranted. It was noted in the electronic record sample that the inmate "threatened to rape the person he assaulted in the misconduct received on 5/24/18." The inmate previously did not meet the threshold for a PREA

designation based on earlier results and based on the reassessment, staff performed an override designating the inmate as "PREA-Potential Aggressor."

The 2017-2019 PREA Risk Assessment Tracker was reviewed and found that it almost exclusively tracks the 72-hour assessment and the 30-day reassessment. Staff make notations on the tracker for WRIT returns and if inmates were WRIT outside MDOC custody; and new YO or HYTA arrivals. They also note other information not relevant to this provision.

A review of investigative files from the last 12-months for alleged victim status and alleged abuser status was reviewed against the PREA tracker and notes were not contained therein regarding reassessment associated with this provision. 2-investigated cases were randomly selected involving sexual abuse investigations and additional information was requested from the facility. Post-audit this auditor spoke to the PREA Compliance Manager and ascertained that the selected investigations were unsubstantiated and the behaviors alleged in the allegations did not rise to a level that warranted the alleged abusers to be reassessed. A third investigation was discussed that involved sexual abuse and sexual harassment and the alleged abuser was reassessed. Documentation was received from the facility verifying that the alleged abuser was reassessed and resulted in the score being overridden to Potential Abuser.

Based on reviews of policy, staff interviews, documentation and practices, the auditor finds the facility compliant for provision (g).

115.41 (h) The above policies including the MDOC PREA manual were reviewed and were found to support provision (h) in that inmates may not be disciplined for refusing to answer or for not disclosing responses pursuant to disabilities, LGBTI or non-conforming status, previous sexual victimization, and inmates' own perception of vulnerability. Content of the policies are consistent with the requirements of the standard.

Staff who perform risk screening were interviewed and both responded that no inmate is disciplined for refusing to answer or for not disclosing complete information regarding the aforementioned items.

Based on reviews of policy and staff interviews, the auditor finds the facility compliant for provision (h).

115.41 (i) The above policies including the MDOC PREA manual were reviewed and were found to support provision (i) in that the agency implements appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard. Content of the policies are consistent with the requirements of the standard.

The PREA Coordinator was interviewed during the onsite audit and responded positively that this information is restricted to those with a need to know basis and that only select staff have access to the OMNI system. He further elaborated that inmates are not informed of their scores.

The PREA Compliance Manager was interviewed during the onsite audit and responded positively that the agency outlines who has access to inmates' risk assessments including prison counselors, unit managers, shift commanders, the record administrator, and investigative staff. He further elaborated that no paper copy of the risk screening is kept in the unit file; other staff can see the score results in the computer but not the reasons for the scores and this aids in security decision-making.

Staff who perform risk screening were interviewed during the audit and both responded positively that the agency outlines who has access to inmates' risk assessments. One further elaborated the positions with access by title and this matched the response provided by the PREA Compliance Manager.

This auditor noted that during the onsite audit tour, 3-instances of unrestricted access to PREA scores were observed. The first instance involved an inmate unit clerk's desk with a binder for inmate movement. Call-out sheets containing a column for PREA risk designations within the binder were observed by this auditor and were brought to the attention of a security staff member. He immediately removed the information from the binder and destroyed it. Later the same day, the PREA Compliance Manager sent an email to facility staff advising them of the restricted nature of this information.

The second incident of unrestricted access was observed in another housing unit at another desk of an inmate unit clerk. An in-box containing stacks of tablet sign-out sheets also contained a column of PREA risk designations. The tablet charging station was observed nearby by this auditor. The tablet sign-out sheets were removed by staff from the inmate unit clerk's desk. It was explained that the form used for tablet sign-outs was a locally generated form and not an agency form. During the morning of the last day of the onsite audit, the staff member who generated the original tablet sign-out sheet presented a revised format of the form to this auditor. The PREA risk designation column was removed from the format.

The third incident of unrestricted access was observed on the last day of the onsite audit when this auditor again inspected the original binder at the first inmate unit clerk's desk and again found it to contain more callout sheets with PREA risk designations. This auditor observed a counselor remove all of the forms from the binder containing the information.

These instances of inmate access to PREA risk designations resulted in a memo being email distributed from the Warden to all facility staff reminding them of the need for controlled dissemination of such information including that inmates are not permitted to know their own PREA risk screening results. This memo was distributed prior to the conclusion of the onsite audit. Corrective actions taken by staff satisfied this auditor.

Based on reviews of policy, staff interviews, audit tour observations, and corrective actions taken by facility staff during the onsite audit, the auditor finds the facility compliant for provision (i) and overall compliant for the standard. No corrective action is required.

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

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

#### **115.42 (a)**

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

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

#### 115.42 (b)

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

#### 115.42 (c)

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

#### 115.42 (d)

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

#### 115.42 (e)

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

#### 115.42 (f)

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

## 115.42 (g)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. MDOC PREA Manual, April 2017
  - b. OP-TCF 03.03.140 PRISONER RAPE ELIMINATION ACT AND PROHIBITED SEXUAL

- c. CONDUCT INVOLVING PRISONERS
  - d. PD 03.03.140 PREA Risk Assessment Manual Update
  - e. PD 05.01.140 Prisoner Placement
  - f. PD 04.06.184 Gender Dysphoria
  - g. MDOC Medical Service Advisory Committee GID Guidelines
  - h. MDOC TCF OP 03.03.130 Prisoner Room Assignment
  - i. Facility Count Boards – PREA Designation
  - j. TCF Classification Memo, June 7, 2019
  - k. PREA Risk Assessment and Corresponding Housing Assignment sample
  - l. OMNI Lock History GID Prisoner sample
  - m. TCF GID Management Plan sample
  - n. TCF Memo – One possible GID, June 5, 2019
  - o. MDOC TCF GID Psych Eval and GID Review Schedule sample
  - p. MDOC TCF GID Psych Eval with inmate views sample
  - q. MDOC TCF GID Management Plan showers sample
  - r. MDOC TCF GID Lock history screen sample
  - s. MDOC TCF GID inmate photo sample
2. Interviews:
- a. PREA Compliance Manager
  - b. Staff Responsible for Risk Screening
  - c. Random Security Staff
  - d. Employment Classification Staff
  - e. Transgender/Intersex/Gay/Lesbian Inmates
3. Sight Review Observations:
- a. Control Center
  - b. Housing Assignment Application
  - c. All Housing Units and Shower Areas

115.42 (a) The above policies including PD 05.01.140 Prisoner Placement were reviewed and found to support provision (a) for using the risk screening required by 115.41 to inform housing, bed, work, education and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. Content of the policies are consistent with the requirements of the standard.

Pre-audit, the facility responded positively in the questionnaire that it uses the required risk screening to inform the aforementioned items. This auditor reviewed a TCF Classification Memo dated June 7, 2019, indicating that in an effort to support sexual safety at TCF, staff “take into consideration PREA risk assessments, misconduct history, criminal offense history, previous assaultive patterns and behaviors” for work assignments involving Michigan State Industries Laundry, Food Service, Segregation Porters, Horticulture Workers, Barber, and Auditorium Technician. These positions have limited direct staff supervision.

Before placing an offender into one of the above assignments their file is reviewed for flags or mitigating circumstances. When necessary by policy or as decided for safety concerns a screening is completed and forwarded to the Deputy Warden for final approval.

Work positions with more direct staff supervision include Prisoner Observation Aide and Education/Trades Tutor which involves staff reviewing the criteria of PREA risk assessments, misconduct history, criminal offense history, previous assaultive patterns and behaviors due to their possible interaction with offenders with an increased risk of sexual abuse or sexual harassment

Youthful Offenders (YO) are limited to the work positions of Unit Porter/Unit Laundry in the Franklin B Unit to prevent any unsupervised interaction with adult offenders.”

During the onsite audit, the PREA Compliance Manager was interviewed and responded positively that the facility uses the risk screening required by 115.41 to inform housing, bed, work, education and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

Staff who perform Risk Screening were also interviewed and 1-staff who works with youthful offenders (YO) responded that regarding housing for YO, potential victims cannot be celled with potential aggressors, based on risk screening results. He further elaborated that their risk screening results do not restrict their participation from education and programming. 1-staff who screens adult inmates reiterated the response of the first risk screener.

Staff who perform employment classification were interviewed. They conveyed that PREA risk screening is taken into consideration for job placement within the facility, along with other classification information. They discussed that inmates with designated PREA risk screening results are designated for specific employment positions within the facility; this is to ensure sexual safety of inmates within the facility.

During the onsite audit tour, the audit team visited the control center and a security staff member demonstrated the electronic system used for making housing assignments. It relies on the PREA risk screening results and prevents potential victims from being housed with potential aggressors. The staff member tried to intentionally cell the 2-PREA risk designations together and received an error message preventing the housing assignment.

TCF housing assignment rosters were reviewed for all housing units. They contain columns for cell, bunk, prisoner, age, and PREA designation. PREA designations include “no score,” “potential aggressor,” and “potential victim.” Individuals with a verified status may be designated as “aggressor” or “victim.” No instances were observed of potential aggressors or aggressors and potential victims or victims being celled together.

Based on the facility’s questionnaire response, policy review, documentation and practice reviews, and staff interviews, this auditor finds the facility compliant for provision (a).

115.42 (b) The above policies including policy PD 05.01.140 Prisoner Placement were reviewed and found to support provision (b) for making individualized determinations about how to ensure the safety of each inmate. This auditor noted that policies centered on the timing of and reasons for assessments or reassessments, and use of assessment scores in accordance with this provision. Content of the policies are consistent with the requirements of the standard.

Pre-audit, the facility responded positively to making individualized determinations about how to ensure the safety of each inmate. During the onsite audit, staff who perform Risk Screening were interviewed and 1-staff who works with youthful offenders (YO) responded that regarding housing for YO, potential victims cannot be celled with potential aggressors, based on risk screening results. He further elaborated that their risk screening



results do not restrict their participation from education and programming. 1-staff who works with adult inmates reiterated the response of the first risk screener.

Documentation was reviewed that demonstrated an example of risk scores and subsequent housing / cell assignments for 2-YO. One was designated as a potential victim and the other was designated as a potential aggressor; neither were celled with each other or anyone else with a conflicting PREA designation. Of the 24-inmates listed on the housing roster, all but 3-inmates were identified as potential victims in the YO housing unit.

Based on the facility's questionnaire response, policy review, documentation and practice reviews, and staff interviews, this auditor finds the facility compliant for provision (b).

115.42 (c) The above policies including policies PD 04.06.184 Gender Dysphoria, the TCF GID Plan, and the TCF Medical Advisory Guideline GID, and were found to support provision (c) for deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency considers on a case by case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems. Content of the policies are consistent with the requirements of the standard.

Pre-audit, the facility responded positively that it makes housing and programming assignments for transgender and intersex inmates on a case by case basis. During policy review, this auditor noted that the decision making for such assignments relies upon PD 04.06.184. The MDOC uses a Gender Dysphoria Collaborative Review Committee (GDCRC) "co-chaired by the Michigan Department of Corrections (MDOC) Chief Medical Officer (CMO) or designee and the Chief Psychiatric Officer (CPO) or designee. Other members shall include the Mental Health Services Director, Gender Dysphoria consultant(s), and the Correctional Facilities Administration (CFA) Deputy Director or designee. Other members may include other physicians, psychologists, and qualified health professionals appointed by the CMO/CPO. This group meets monthly (or at least 9 times a year) or more frequently as determined by the CMO or his/her designee."

The GDCRC's role is to facilitate training and provide consultation, supervision and support to front line medical and mental health providers in Gender Dysphoria screening, provisional identification and referral for specialized Gender Dysphoria evaluation, as well as their follow-up treatment and management of Gender Dysphoric prisoners with established diagnosis and GDCRC approved management plans. They also, in consultation with the onsite facility primary care provider, review and affirm the Gender Dysphoria diagnosis, and formulate a management plan that would include any additional medical and/or mental health assessment needs, indicated physical medical and psychiatric/mental health treatment (e.g., medications, hormones, etc.), facility and housing placements, custody classification, institutional programming and periodic follow up requirements.

Onsite, the PREA Compliance Manager was interviewed and responded that currently, there were no transgender/intersex inmates assigned. Previously, they were single celled near the officer's station and would not have been restricted from programming. He also responded positively that placement takes into consideration management and security needs, to prevent victimization and also considers their own comfort level as well.

As there were no transgender/intersex inmates identified at the facility at the time of the onsite audit, none were interviewed. During the facility tour, at least 1-security staff member was informally interviewed at each housing unit. None indicated that any transgender/intersex inmates were presently assigned at TCF and that

none had been assigned there for a period of time. The facility provided this auditor with a memo dated June 5, 2019, indicating, along with electronic screen samples, that only 1-inmate who was potentially GID, was housed at TCF from 12/8/2017 to 10/18/2018. They reported following all the required protocols and that the inmate was subsequently transferred to another facility.

Based on the facility's questionnaire response, policy review, documentation reviews, and staff interviews, this auditor finds the facility compliant for provision (c).

115.42 (d) The above policies including PD 04.06.184 Gender Dysphoria were reviewed and were found to support provision (d) that placement and programming assignments for each transgender or intersex inmate be reassessed at least twice each year to review any threats to safety experienced by the inmate. Specifically, this auditor noted that approved management plans can be altered for these inmates, if needed based on assessments by an appropriate medical provider, in consultation with the GDCRC, according to policy. Content of the policies are consistent with the requirements of the standard.

During the onsite audit, the PREA Compliance Manager was interviewed and responded that although there were currently no transgender or intersex inmates currently assigned at TCF, if there were, they would be reassessed semi-annually. 2-staff who perform risk screening were interviewed and both responded that although none are presently assigned, this would be completed twice per year for any transgender or intersex inmates that would be assigned at TCF.

Pre-audit the facility provided a sample electronic medical record of 1-inmate suspected of having Gender Dysphoria (GID). According to medical records, the inmate had the initial Gender Dysphoria evaluation on 4/17/18; this included a review of the inmate's safety. The inmate was scheduled for the subsequent follow up reassessment for October 2018. A TCF memo dated June 5, 2019, indicated that the inmate was scheduled for the follow up reassessment but was transferred to another facility prior to the reassessment occurring.

Based on the policy review, documentation and practice reviews, and staff interviews, this auditor finds the facility compliant for provision (d).

115.42 (e) The above policies including PD 04.06.184 Gender Dysphoria were reviewed and were found to support provision (e) that transgender or intersex inmates' own views toward their own safety be given serious consideration. This auditor noted that the agency's PREA Manual specifically takes placement decisions into consideration regarding these inmates' own views with respect to their safety. Policy also indicates that the semi-annual assessment of transgender or intersex inmates gives serious consideration to their own views with respect to his or her own safety. These evaluations, including safety considerations, are retained within the Prisoner Health Record. Content of the policies are consistent with the requirements of the standard.

During the onsite audit, the PREA Compliance Manager was interviewed and responded positively that the requirements of provision (e) would occur. He further elaborated that it would be dealt with directly, being coordinated with mental health staff to ensure that the standard was met. 2-staff who perform risk screening were interviewed and responded positively that this would occur, although no transgender or intersex inmates are currently assigned at TCF. Due to no transgender or intersex inmates currently being assigned at TCF, none were available for interview.

Pre-audit, the facility provided a sample management plan (form CHJ-339) as required by policy 04.06.184. The plan includes consideration for placement (facility type, cell, toilet, and shower provisions), clothing (bra provisions), medications (only those specific to GID), and frequency of mental health services (every 3-months or

other frequency) needed. The sample provided was approved by the Chief Medical Officer and a Deputy Director for Correctional Facilities Administration and dated 5/31/2018. This was an original plan, and not a plan update, and was based on a focused physical exam and psych evaluation, which included safety considerations.

Based on the policy review, documentation and practice reviews, and staff interviews, this auditor finds the facility compliant for provision (e).

115.42 (f) The above policies including PD 04.06.184 Gender Dysphoria were reviewed and were found to support provision (f) that transgender or intersex inmates are given the opportunity to shower separately from other inmates. Content of the policies are consistent with the requirements of the standard.

Pre-audit, the facility provided a sample management plan (form CHJ-339) as required by policy 04.06.184. The plan includes consideration for placement (facility type, cell, toilet, and shower provisions), clothing (bra provisions), medications (only those specific to GID), and frequency of mental health services (every 3-months or other frequency) needed. The sample provided was approved by the Chief Medical Officer and a Deputy Director for Correctional Facilities Administration and dated 5/31/2018. This was an original plan, and not a plan update, and was based on a focused physical exam and psych evaluation, which included safety considerations. Specifically, this plan approved the inmate to have "Relative Privacy" versus "No Special Provisions" for showering.

During the onsite audit, the PREA Compliance Manager was interviewed and responded that none of the housing units have community showers; they all have single showers and that transgender and intersex inmates would be showering separately from other inmates, if any were assigned at TCF.

Staff who performed risk screening were interviewed and both responded that any transgender or intersex inmates would receive accommodations, and shower separately from other inmates. With no transgender or intersex inmates assigned currently at TCF, none were available to be interviewed.

During the onsite audit facility tour, all housing units were toured and at least 1-security staff member was informally interviewed at each housing unit. All informally interviewed security staff responded that all inmates shower separately. The audit team toured each housing unit and only individual showers were observed on each of the housing units. All showers had privacy curtains. On the Franklin housing units (for youthful offenders (YO) and HYTA inmates), security staff indicated that if there were any transgender or intersex inmates assigned, they would have alternate shower times and the shower area can be secured. Their showers also had privacy curtains. All observed shower curtains were serviceable without any tears.

Based on the policy review, documentation and practice reviews, staff interviews, and tour observations, this auditor finds the facility compliant for provision (f).

115.42 (g) The above policies including PD 05.01.140 Prisoner Placement and OP-TCF 03.03.130 Prisoner Room Assignments were reviewed and were found to support provision (g) that LGBTI inmates not be placed in dedicated facilities, units or wings solely on the basis of their identification or status, unless such placement is in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates. Specifically, PD 05.01.140 indicates that "information about a prisoner's sexual orientation that is unrelated to the prisoner's behavior shall not be used by staff for any purpose, including placement and transfer decisions..." Additionally, TCF OP 03.03.130 indicates that administrative moves for any inmate are due to disruptive inmate behavior, conflict between inmates, or conflict between staff and inmates. Inmate sexual orientation is not a reason for an inmate to be moved to a different housing or cell assignment. It is noted that

the Control Center performs housing assignments of newly arrived inmates and that operational needs of the facility drive housing assignments. Content of the policies are consistent with the requirements of the standard.

During the onsite audit, the PREA Coordinator was interviewed and responded that at TCF, LGBTI inmates are not isolated to dedicated facilities, units, or wings based solely on their orientation. He further elaborated that TCF relies on PREA risk screening, medical screening, and the inmates' own perception of their vulnerability for proper classification and placement. The PREA Compliance Manager was interviewed and responded similarly to the PREA Coordinator.

Facility staff aided the auditors by identifying inmates by housing unit for each of the specialized inmate interview categories with color coded housing unit rosters. Only 1-inmate was identified as gay or bisexual and the specialized interview questions were attempted with this inmate, however they denied identifying as such and the specialized interview could not be conducted.

Pre-audit the facility provided a housing assignment history from 2017 to 2018 demonstrating that an inmate that was suspected of being transgender was housed in general population as a Level 2 custody inmate. There was no evidence to indicate that the inmate was housed in any dedicated facility, unit, or wing based on their orientation.

This auditor conducted an internet search and was not able to locate any current consent decree, legal settlement, or legal judgement for the purpose of protecting such inmates with a dedicated facility, unit or wing based solely on the basis of their identification or status.

Based on the policy review, documentation and practice reviews, staff interviews, and tour observations, this auditor finds the facility compliant for provision (g) and overall compliant with the standard.

## **Standard 115.43: Protective Custody**

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

#### **115.43 (a)**

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

#### **115.43 (b)**

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible? ☒ Yes ☐ No

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

#### 115.43 (c)

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

#### 115.43 (d)

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

#### 115.43 (e)

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

#### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 04.05.120 Segregation Standards
  - c. PD 04.05.120B Attachment
  - d. CSJ-686 Request for Protection Investigation
  - e. TCF CAJ-1024 Sample
  - f. TCF CSJ-686 Sample Hearing Report
  - g. Variance to PD 04.05.120
  - h. TCF Email Dated August 3, 2018 Segregation Victim hold explanation
2. Interviews:
  - a. Warden
  - b. Staff who supervise inmates in segregated housing
3. Sight Review Observations:
  - a. Segregation unit

115.43 (a) The above policies were reviewed including the PREA Manual which indicates that regarding protective custody, prisoners at high risk of victimization or who are alleged to have suffered sexual abuse shall not be placed in involuntary temporary segregation unless an assessment of all available alternatives is complete and a determination has been made that no less restrictive means of separation from likely abusers exist. If the review cannot be conducted immediately, the prisoner may be held in temporary segregation for up to 24-hours while the review is completed. If no less restrictive means of separation from the abuse or likely abusers exist, the prisoner shall be assigned to temporary segregation in accordance with PD 04.05.120 Segregation Standards for a time period not to ordinarily exceed 30-calendar days.

PD 04.05.120 Segregation Standards was also reviewed and it was found that temporary segregation is used when it is necessary to remove a prisoner from general population pending a hearing for a major/Class I misconduct violation, classification to administrative segregation, pending an investigation of a prisoner's need for protection or transfer.

Pre-audit, the facility responded positively in the questionnaire that it has a policy prohibiting the placement of inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all

available alternatives has been made and a determination has been made that there is no available alternative means of separation from likely abusers. Within the last 12-months, the facility responded that 1-inmate at risk of sexual victimization was assigned to involuntary segregated housing in the past 12-months for 1- to 24-hours awaiting completion of the assessment.

During the onsite phase of the audit, the Warden was interviewed and responded positively about agency policy prohibiting placing inmates at high risk of sexual victimization or who have alleged sexual abuse in involuntary segregated housing in lieu of other housing areas, unless an assessment has determined there are no available alternative means of separation from potential abusers. He further added that segregation is temporary and is a last resort until an alternative placement is found.

TCF provided a blank CSJ-686 Request for Protection/Investigation Report for review. It includes consideration for consider for prior protection requests and placements, including protective segregation as well as an SCC Review and Decision including rationales for decisions, if transfer to general population at another facility is recommended, including why it is believed that protection needs cannot be met at the current facility.

A sample CAJ-1024 PREA Sexual Abuse Investigation Worksheet completed 8/10/2018 indicated a victim placement in segregation starting 6/25/2018 for longer than 24-hours. The reason for the extended segregation was due to a SCC pending assessment review.

Based on the policy review, documentation and practice reviews, and staff interviews, this auditor finds the facility compliant for provision (a).

115.43 (b) The above policies were reviewed including the PREA Manual which indicates that prisoners placed in temporary segregation for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to these opportunities, the facility shall document: 1-opportunities that have been limited; 2-the duration of the limitation; and 3-the reasons for the limitation.

PD 04.05.120 Segregation Standards were also reviewed and indicated that temporary segregation is used for a number of reasons including a prisoner's need for protection. A prisoner's placement in temporary segregation and reason is documented in writing and approved by the Warden or designee within 72-hours of placement. It also specifies that prisoners in segregation have access to basic needs such as healthcare, prescription medication, medically necessary items such as wheelchairs, eyeglasses, etc., clothing, hygiene items, 3-meals per day, shower opportunities, bedding items, hair care, mail, visits, 1-hour per day and 5-days per week for out of cell exercise, etc., although some items are restricted based on sanctioning or security needs for non-protective custody inmates. It further explains that prisoners housed in administrative segregation unit shall be permitted recreation, educational programming, and religious programming to the extent they are administratively feasible and can be safely afforded. Such privileges shall not be provided in a group setting. Policy is consistent with the requirements of the provision.

TCF provided a completed CAJ-1024 PREA Sexual Abuse Investigation Worksheet. It indicated that the alleged victim was placed in segregation from 6/25/18 to 8/2/18 "per SCC pending." Programs, privileges, education and work opportunities were limited which included the MSI work detail and level 2 general population privileges; the duration of the limitation and the reason for the limitation was noted on the form.

1-Staff who supervises inmates in the adult segregated housing was interviewed and responded that when inmates are placed in segregated housing for protection from sexual abuse or after having alleged sexual abuse, they still have access to some programs however cannot participate in their work assignments due to security

reasons. They still have access to some programs and can get homework for those programs; they still have access to privileges and education. Additionally, if the facility restricts access to programs, privileges, or work opportunities, it is indicated in policy that what they can and cannot do is covered by a checklist. At the time of the audit, there were no inmates in segregated housing for risk of sexual victimization or who alleged to have suffered sexual abuse. The facility had no inmates available to interview in this targeted category.

During the onsite tour, the Segregation Unit within Building #200 was also visited and it consists of an upper level and a lower level. The maximum capacity downstairs is 10-inmates and the maximum capacity upstairs is 12-inmates. The unit had a current population of 20-inmates at the time of the tour. Posters were observed telling inmates about their rights to be free from sexual abuse/harassment; about how to report PREA allegations, PREA audit notices, JDI posters; and several cameras were visible on the unit. 1-observation cell has a camera in it however the toilet area is blocked out on the monitor; windows to the exterior are tinted so that inmates outside the building cannot see inside the cells. Mirrors are also used for monitoring in the unit. There were no blind spots observed.

Based on the policy review, documentation and practice reviews, staff interviews, and observations during the onsite tour, this auditor finds the facility compliant for provision (b).

115.43 (c) The above policies were reviewed including the PREA Manual which indicates that if no less restrictive means of separation from the likely abuser exists, the prisoner shall be assigned to temporary segregation in accordance with PD 04.05.120 Segregation Standards, for a time period not to ordinarily exceed 30-calendar days. PD 04.05.120 was reviewed and it was found that Wardens shall ensure that prisoners are not confined in temporary segregation housing for more than 7-business days however one of the exceptions to this includes prisoners awaiting transfer to an institution which meets the prisoner's protection needs. In which cases, prisoners will be transferred as soon as possible.

Pre-audit, the facility responded in the questionnaire that it had 1-inmate in the past 12-months who was assigned to involuntary segregated housing for longer than 30-days while awaiting alternative placement.

During the onsite phase of the audit, the Warden was interviewed and responded that positively that inmates are high risk for sexual victimization or who have alleged sexual abuse are placed in involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged. Additionally, they are only placed there to the extent necessary, until an alternate placement can be found.

1-Staff who supervises inmates in the adult segregated housing was interviewed their responses echoed the Warden's responses. They further elaborated that the victim feeling safe is also taken into consideration for the length of the segregated housing.

At the time of the audit, there were no inmates in segregated housing for risk of sexual victimization or who alleged to have suffered sexual abuse. The facility had no inmates available to interview in this targeted category.

TCF provided a completed CAJ-1024 PREA Sexual Abuse Investigation Worksheet. It indicated that the alleged victim was placed in segregation from 6/25/18 to 8/2/18 "per SCC pending." Programs, privileges, education and work opportunities were limited which included the MSI work detail and level 2 general population privileges; the duration of the limitation and the reason for the limitation was noted on the form. Referrals for medical/mental health and advocacy were made. The Security Classification Committee (SCC) reviews occur



regularly during the first 2-months of segregation and then every 30-calendar days thereafter until a prisoner is reclassified to general population status per PD 04.05.120 Segregation Standards. Also provided was a CSJ-686 Request for Protection/Investigation Report which coincided with the aforementioned case. The SCC Review and Decision recommended transfer to an alternate facility due to protection needs not being able to be met at the current facility. The alleged abuser was transferred from the facility which coincided with the inmate's release from segregation; it appeared that locating an alternate location for the abuser prolonged the victim's segregation placement.

The agency provided a variance request for PD 04.05.120 indicating reasons that prisoners can remain in temporary segregation for more than the agency's 7-business day temporary segregation period. This included prisoners being involved with PREA investigations. This was approved by the MDOC Director on 11/4/2015.

Based on the policy review, documentation and practice reviews, staff interviews, and observations during the onsite tour, this auditor finds the facility compliant for provision (c).

115.43 (d) The above policies were reviewed including the PREA Manual which indicates that if temporary segregation assignment is made pursuant to this section and PD 04.05.120, the facility shall clearly document 1- the basis for the facility's concern for the prisoner's safety; and 2-the reason why no less restrictive means of separation can be arranged. PD 04.05.120 was reviewed and it was found that a prisoner's placement in temporary segregation, including the reason for such placement, shall be documented in writing.

Pre-audit, the facility responded in the questionnaire that from a review of case files of inmates at risk of sexual victimization who were held in involuntary segregated housing in the past 12-months, the number of case files that include both of the requirements of the provision is 1-case.

TCF provided a blank CSJ-686 Request for Protection/Investigation Report for review. It includes consideration for consider for prior protection requests and placements, including protective segregation as well as a n SCC Review and Decision including rationales for decisions, if transfer to general population at another facility is recommended, including why it is believed that protection needs cannot be met at the current facility.

TCF provided a completed CAJ-1024 PREA Sexual Abuse Investigation Worksheet. It indicated that the alleged victim was placed in segregation from 6/25/18 to 8/2/18 "per SCC pending." Programs, privileges, education and work opportunities were limited which included the MSI work detail and level 2 general population privileges; the duration of the limitation and the reason for the limitation was noted on the form. Referrals for medical/mental health and advocacy were made. The Security Classification Committee (SCC) reviews occur regularly during the first 2-months of segregation and then every 30-calendar days thereafter until a prisoner is reclassified to general population status per PD 04.05.120 Segregation Standards. Also provided was a CSJ-686 Request for Protection/Investigation Report which coincided with the aforementioned case. The SCC Review and Decision recommended transfer to an alternate facility due to protection needs not being able to be met at the current facility. The alleged abuser was transferred from the facility which coincided with the inmate's release from segregation; it appeared that service of a misconduct by the alleged abuser, completion of the PREA investigation, and locating an alternate location for the abuser prolonged the victim's segregation placement. TCF also provided emails dated August 3, 2018 which indicated additional safety concerns for the alleged victim that prolonged his period of temporary segregation.

Based on the policy review, documentation and practice reviews, and staff interviews, this auditor finds the facility compliant for provision (d).

115.43 (e) The above policies were reviewed including the PREA Manual which indicates that every 30-calendar days, the facility shall afford the prisoner a review to determine whether there is a continuing need for separation from the general population. The Security Classification Committee (SCC) reviews occur regularly during the first 2-months of segregation and then every 30-calendar days thereafter until a prisoner is reclassified to general population status per PD 04.05.120 Segregation Standards.

Pre-audit, the facility responded positively in the questionnaire that if an involuntary segregated assignment is made, the facility affords each such inmate a review every 30-days to determine whether there is a continuing need for separation from the general population.

The agency provided a variance request for PD 04.05.120 indicating reasons that prisoners can remain in temporary segregation for more than the agency's 7-business day temporary segregation period. This included prisoners being involved with PREA investigations. This was approved by the MDOC Director on 11/4/2015.

During the onsite phase of the audit, 1-staff who supervises inmates in adult segregated housing was interviewed and responded positively that when an inmate is assigned to involuntary segregated housing, the facility reviews the inmate's circumstances every 30-days to determine if continued placement in involuntary segregated housing is needed. The staff member further elaborated that there may have been 1-case that exceeded the normal length of time for this type of placement and that policy dictates that alternate placements are to be found within 24-hours.

At the time of the audit, there were no inmates in segregated housing for risk of sexual victimization or who alleged to have suffered sexual abuse. The facility had no inmates available to interview in this targeted category.

Based on the policy review, documentation and practice reviews, and staff interviews, this auditor finds the facility compliant for provision (e) and overall compliant with the standard.

## REPORTING

### Standard 115.51: Inmate reporting

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

#### 115.51 (a)

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

#### 115.51 (b)

- Does the agency also provide at least one way for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency? ☒ Yes ☐ No
- Is that private entity or office able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials? ☒ Yes ☐ No
- Does that private entity or office allow the inmate to remain anonymous upon request? ☒ Yes ☐ No
- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security? (N/A if the facility *never* houses inmates detained solely for civil immigration purposes) ☒ Yes ☐ No ☐ NA

#### 115.51 (c)

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

#### 115.51 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners

- c. Legislative Corrections Ombudsman MOU
- d. MDOC PREA Poster Sample
- e. Prisoner Guidebook June 2014
- f. Sexual Violence Brochure March 2015
- g. TCF Samples of Prisoner Private Reporting
- h. TCF Prisoner Orientation Packet

2. Interviews:

- a. Random Staff
- b. Random Inmates
- c. PREA Compliance Manager
- d. Mailroom Staff

3. Sight Review Observations:

- a. PREA Signage Throughout Facility
- b. Mailroom

115.51 (a) The above policies were reviewed including the PREA Manual which indicates that regarding prisoner reporting, prisoners may privately report sexual abuse, sexual harassment, retaliation by other prisoners or staff for reporting sexual abuse or sexual harassment, and staff neglect or dereliction of duty that may have contributed to such incidents verbally, in writing, anonymously, or through third parties. Prisons can file such reports through: 1-verbal and/or written report to any staff member; 2-the MDOC Sexual Abuse Hotline; 3-prisoner grievance process; 4-via third parties; or 5-informing the Michigan Legislative Corrections Ombudsman. Prisoners may report sexual abuse or sexual harassment to the Michigan Legislative Corrections Ombudsman's Office. Upon receipt of a complaint, the Ombudsman's office shall immediately forward the complaint in writing to the Department PREA Manager on the PREA Sexual Abuse/Harassment Referral form. Prisoners may file a PREA Grievance at any time regarding sexual abuse. Prisoners must follow the PREA Grievance process outlined in PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners. Prisoners may file a Grievance at any time regarding alleged sexual harassment. Prisoners must follow the Grievance process outlined in PD 03.02.130 Prisoner/Parolee Grievances.

PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners was reviewed and indicates that prisoners may report allegations of conduct prohibited by this policy, including threats of such conduct and retaliation for reporting such conduct, verbally or in writing to any Department employee, through the MDOC Sexual Abuse Hotline, through the PREA Grievance process, as outlined in this policy, through the Legislative Corrections Ombudsman, or through a third party. If reported verbally to an employee, the employee shall document it in writing as soon as possible and report it to appropriate supervisory staff. When receiving any report of sexual abuse or sexual harassment, regardless of the source, staff shall promptly document and forward the complaint to the appropriate supervisory staff for investigation. Further, the PREA Grievance process is a 2-step process allowing prisoners to grieve regarding allegations of sexual abuse. PREA Grievances alleging sexual abuse shall not be denied or rejected. A prisoner may file a PERA grievance at any time by submitting a completed CAJ-1038A to the appropriate staff, as identified by the Warden, of the institution at which the prisoner is housed. Third parties, including fellow prisoners, staff members, family members, attorneys, and outside advocates, shall be permitted to assist prisoners in filing PREA Grievances related to sexual abuse and shall be permitted to file such grievances on the prisoner's behalf. Policy is consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that the agency has established procedures allowing for multiple internal ways for inmates to report privately to agency officials about 1-sexual abuse or

sexual harassment; 2-retaliation by other inmates or staff for reporting sexual abuse or sexual harassment; and 3-staff neglect or violation of responsibilities that may have contributed to such incidents.

Pre-audit the facility also provided screen images of the MDOC's public website explaining PREA reporting requirements and indicates that third-parties can report PREA allegations on behalf of inmates by contacting the facility, using the PREA hotline, reporting online through the MDOC's public website, and writing to the PREA office.

The facility provided samples of items that can be completed on behalf of alleged sexual abuse or sexual harassment victims and these items include: CAJ-1038A PREA Prisoner Grievance form which indicated an option for third-party submission; and use of a Legislative Corrections Ombudsman that can receive and immediately forward prisoner reports of sexual abuse and sexual harassment to MDOC officials that were made verbally, in writing anonymously and from third-parties. Electronically, third-parties can use the MDOC's website to report PREA allegations on behalf of prisoners; this was observed by the auditor.

The Prisoner Guidebook June 2014 was reviewed and the reporting methods included are consistent with the requirements of the provision. It also stresses the importance of reporting incidents of prisoner sexual abuse as soon as prisoners become aware it has occurred.

TCF emails dated May 28, 2019, indicated a prisoner private report for sexual harassment was made verbally and in writing. It also included a report being made through the hotline number with the allegation being reported back to the facility. Another example depicted a prisoner private report through the PREA Grievance system using the CAJ-1038A PREA Prisoner Grievance Form. The allegations were entered into the facility's AIM system for follow up investigation.

Also observed was the TCF Prisoner Orientation Packet which includes JDI resources where inmates can contact for confidential, non-recorded, and non-monitored, emotional support in response to sexual abuse and sexual harassment. The information describes the limits to confidentiality by JDI counselors which includes if inmates say they are in immediate danger of harming themselves or others, if they tell a counselor about a crime against a child or dependent adults such as someone with a mental condition that prevents them from being able to protect themselves. Instructions to contact JDI anonymously include the use of an 11-digit pin. Other information in the orientation packet includes the brochure for Identifying and Addressing Sexual Abuse and Sexual Harassment. These resources provide inmates with methods of reporting that are consistent with the requirements of the provision.

During the onsite phase of the audit, 11-random staff were interviewed and all 11-staff reported knowing at least 1-method of private reporting for inmates that included the hotline (5); PREA Grievances (4); tell a supervisor (3); tell the police (1); or tell the PCM (2).

22-inmates were interviewed about knowing ways to report sexual abuse or sexual harassment for themselves or someone else. Of the 22-interviewed, most responded knowing more than one way to report: telling a staff member (18); using the hotline (18); using the Grievance system (4); sending a kite (2); and 1-responded that they would not report it and would mind their own business. Of those that would report it to someone outside the facility, 19-reported that they would notify family or friends.

During the facility tour, the audit team observed PREA posters displayed throughout the facility which indicate that parolees, staff, or the public can report PREA allegations through the PREA Hotline and also online at [www.michigan.gov/corrections](http://www.michigan.gov/corrections).

Based on the policy review, documentation and practice reviews, staff and inmate interviews, and tour observations, this auditor finds the facility compliant for provision (a).

115.51 (b) The above policies were reviewed including the PREA Manual which indicates that Prisoner reporting includes third parties; or informing the Michigan Legislative Corrections Ombudsman. Prisoners may report sexual abuse or sexual harassment to the Michigan Legislative Corrections Ombudsman's Office. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners was reviewed and indicates that prisoners may report allegations of conduct prohibited by policy including threats of such conduct and retaliation for reporting such conduct, verbally or in writing to any Department employee, through the MDOC Sexual Abuse Hotline, the PREA Grievance process as outlined in policy, through the Legislative Corrections Ombudsman, or through a third party. If reported verbally to an employee, the employee shall document it in writing as soon as possible and report it to appropriate supervisor staff. When receiving any report of sexual abuse or sexual harassment, regardless of the source, staff shall promptly document and forward the complaint to the appropriate supervisor staff for investigation. PD 05.03.118 Prisoner Mail was reviewed which indicates that outgoing mail of prisoners in segregation shall not be sealed and shall be inspected by staff prior to mailing. However, mail that is clearly identified as being sent to the business address of one of the following may be sealed by the prisoner and shall not be opened or otherwise inspected by staff prior to mailing, unless the entity has specifically objected in writing to receiving mail and subject to paragraphs d, l, o, s, u, v; this includes mail of the Office of the Legislative Corrections Ombudsman. Policy is consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that the agency provides at least one way for inmates to report abuse or harassment to a public or private entity or office that is not part of the agency. The facility also responded positively that inmates detained solely for civil immigration purposes be provided information on how to contact relevant consular officials and relevant officials of the Department of Homeland Security.

The facility provided the MOU for the Corrections Legislative Ombudsman as a reporting method. Prisoners may report sexual abuse or sexual harassment to the Michigan Legislative Corrections Ombudsman's Office. Upon receipt of a complaint, the Ombudsman's office shall immediately forward the complaint in writing to the Department PREA Manager on the PREA Sexual Abuse/Harassment Referral form. Outgoing mail to the Office of the Legislative Corrections Ombudsman is handled as legal mail per PD 05.03.118 Prisoner Mail.

The Prisoner Guidebook June 2014 was reviewed and the reporting methods included are consistent with the requirements of the provision. It also stresses the importance of reporting incidents of prisoner sexual abuse as soon as prisoners become aware it has occurred.

During the onsite phase of the tour, the PREA Compliance Manager was interviewed and responded positively that the facility provides at least 1-way for inmates to report abuse or harassment to a public or private entity or office that is not part of the agency. He further elaborated that JDI provides emotional support and receives reports of such; the ombudsman; the hotline; the MSP; and family members can report for them. JDI replaced the use of RAINN and a local, Lapeer based advocacy group that rescinded its support locally. Additionally, the PCM reported positively that JDI allows for anonymous reporting as does the ombudsman. TCF provides a universal, anonymous pin number for inmates to use when calling JDI. It prevents the call from being recorded and prevents the caller from being identified in any way.

22-inmates were interviewed about knowing ways to report sexual abuse or sexual harassment for themselves or someone else. Of the 22-interviewed, most responded knowing more than one way to report: telling a staff member (18); using the hotline (18); using the Grievance system (4); sending a kite (2); and 1-responded that they would not report it and would mind their own business. Of those that would report it to someone outside

the facility, 19-reported that they would notify family or friends. Additionally, when asked if they were allowed to make a report without giving their name, 15-responded positively and 7-responded that they were unsure.

During the facility tour, the audit team observed PREA posters displayed throughout the facility which indicates that parolees, staff, or the public can report PREA allegations through the PREA Hotline and also online at [www.michigan.gov/corrections](http://www.michigan.gov/corrections). The mailroom was also visited previously in the administration building and mailroom staff was interviewed. Discussions with that staff corroborated the policy regarding the handling of legal mail, including PREA related mail.

The facility noted pre-audit that they do not house inmates solely for civil immigration purposes. Previously, this auditor received "Prison and Jail Standards Documentation Requirements" from the NPRC by The Moss Group, Inc. which identifies standards and provisions which explicitly require documentation of agency or facility activities through policy or other forms of documentation. This provision does not require policy or documentation to demonstrate compliance.

Based on the policy review, documentation and practice reviews, staff and inmate interviews, and tour observations, this auditor finds the facility compliant for provision (b).

115.51 (c) The above policies were reviewed including the PREA Manual which indicates that regarding prisoner reporting, prisoners may privately report sexual abuse, sexual harassment, retaliation by other prisoners or staff for reporting sexual abuse or sexual harassment, and staff neglect or dereliction of duty that may have contributed to such incidents verbally, in writing, anonymously, or through third parties. Prisons can file such reports through: 1-verbal and/or written report to any staff member; 2-the MDOC Sexual Abuse Hotline; 3-prisoner grievance process; 4-via third parties; or 5-informing the Michigan Legislative Corrections Ombudsman. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners was reviewed which indicates that prisoners may report allegations of conduct prohibited by this policy, including threats of such conduct and retaliation for reporting such conduct, verbally, or in writing to any Department employee, through the MDOC Sexual Abuse Hotline, through the PREA grievance process as outlined in this policy, through the Legislative Corrections Ombudsman, or through a third party. The PREA Manual also adds that when receiving any report of sexual abuse or sexual harassment, regardless of the source, staff shall promptly document and forward the complaint to the appropriate supervisory staff for investigation. PD 03.03.140 further specifies that if reported verbally to an employee, the employee shall document it in writing as soon as possible and report it to appropriate supervisory staff. When receiving any report of sexual abuse or sexual harassment, regardless of the source, staff shall promptly document and forward the complaint to the appropriate supervisory staff for investigation. Policy content is consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that that the agency has a policy mandating that staff accept reports of sexual assault and sexual harassment made verbally, in writing, anonymously, and from third parties. It also requires staff to document verbal reports. The timeframe required to do so is immediately. TCF provided email examples of abuse and harassment complaints being provided by inmates verbally to staff and staff documenting them. These reports were documented on 2/19/2019, 2/27/2019, and 7/11/2019 and were found to have been created promptly based on the verbal reports.

During the onsite phase of the audit, 11-random staff were interviewed and all 11-responded positively that sexual abuse or sexual harassment reports are made verbally, in writing, anonymously, and from third-parties. All 11-responded that they would document the reports made verbally. 9-reported documenting them immediately; 1-reported documenting it ASAP; and 1-reported documenting it when the situation was secured. The following actions were noted: document it in the logbook (3); tell a supervisor (4); notify the PCM (2); and tell the shift commander (1).

22-random inmates were interviewed during the onsite phase of the audit about making reports in person or in writing. 20-inmates reported being able to make reports in person and in writing; 1-reported being able to report it in person; 1-was unsure. Regarding anonymous reporting; 18-inmates reported that it was permitted; 4-were unsure if anonymous reporting was permitted.

Based on the policy review, documentation and practice reviews, and staff and inmate interviews, this auditor finds the facility compliant for provision (c).

115.51 (d) The above policies were reviewed including the PREA Manual which indicates that staff may privately report sexual abuse and sexual harassment allegations through their chain of command, via the MDOC sexual abuse hotline message line, MDOC website or by writing to the Internal Affairs Division. Response to allegations made using these methods will be taken seriously, entered into the appropriate MDOC computerized database as outlined above and investigated. PD 03.03.140 was reviewed and found that employee reports may be made privately to appropriate supervisory staff, through the MDOC Sexual Abuse Hotline, by completing a Department Sexual Abuse/Sexual Harassment Complaint form on the MDOC website, by contacting the PREA Manager or by contacting the Department's Internal Affairs Division. Policy content is consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that the agency has established procedures for staff to privately report sexual abuse and sexual harassment of inmates.

TCF provided screen images of the MDOC online reporting method referred to as the Prison Rape Elimination Act – Online Reporting Form. Subsequent screen images were provided to demonstrate use of the form and the required fields. The complainant's information is not required. This is available at [www.michigan.gov/corrections](http://www.michigan.gov/corrections).

TCF also provided the 2016 PREA CBT Module 2 which provides employee reporting methods including reporting to the appropriate supervisory staff or through the MDOC Sexual Abuse Hotline or by completing a Department Sexual Abuse/Sexual Harassment online reporting form (above).

During the onsite phase of the audit, 11-random staff were interviewed with all 11-staff indicating they knew of at least 1-method of how staff can privately report sexual abuse and sexual harassment of inmates. Some staff reported more than one way to report and further elaborated with the following types of reporting methods: tell supervisor (6); call hotline (5); tell PCM (3); call Internal Affairs (1); and tell police (1).

Based on the policy review, documentation and practice reviews, and staff interviews, this auditor finds the facility compliant for provision (d) and overall compliant for the standard.

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

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

#### **115.52 (a)**

- Is the agency exempt from this standard? NOTE: The agency is exempt ONLY if it does not have administrative procedures to address inmate grievances regarding sexual abuse. This does not mean the agency is exempt simply because an inmate does not have to or is not ordinarily expected to submit a grievance to report sexual abuse. This means that as a matter of



explicit policy, the agency does not have an administrative remedies process to address sexual abuse. ☐ Yes ☒ No

#### 115.52 (b)

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

#### 115.52 (c)

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

#### 115.52 (d)

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

#### 115.52 (e)

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

also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.) (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- If the inmate declines to have the request processed on his or her behalf, does the agency document the inmate's decision? (N/A if agency is exempt from this standard.)  
☒ Yes ☐ No ☐ NA

#### 115.52 (f)

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

#### 115.52 (g)

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

#### Auditor Overall Compliance Determination

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



## **Does Not Meet Standard** (*Requires Corrective Action*)

### **Instructions for Overall Compliance Determination Narrative**

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - c. PREA Grievance Forms
  - d. Grievance Sample
  - e. CAJ-1038A PREA Prisoner Grievance Form
  - f. TCF Memo Emergency Grievances dated June 11, 2019
  - g. MDOC Prisoner Guidebook June 2014
  - h. 03.02.130 Prisoner/Parolee Grievances
2. Interviews:
  - a. Inmates who reported sexual abuse
  - b. Grievance Coordinator
3. Sight Review Observations: None

115.52 (a) The above policies were reviewed including the PREA Manual which indicates that regarding sexual abuse allegations, prisoners may file a PREA Grievance at any time regarding alleged sexual abuse. Prisoners must follow the PREA Grievance process as outlined in PD 03.03.140 PREA and Prohibited Sexual Conduct Involving prisoners. PD 03.03.140 was reviewed which indicates that the PREA Grievance process is a 2-step process allowing prisoners to grieve regarding allegations of sexual abuse. A prisoner may file a PREA Grievance at Step I, and may appeal the Step I decision to Step II. The Step II decision shall serve as the Department's final decision on the merits of the PREA Grievance. Issues filed by prisoners regarding sexual abuse, as defined in this policy, serve to exhaust the prisoner's administrative remedies only when filed through both steps of the PREA grievance process. PREA Grievances alleging sexual abuse shall not be denied or rejected.

Pre-audit, the facility responded positively in the questionnaire that the agency has an administrative procedure for dealing with inmate grievances regarding sexual abuse.

Based on the policy review, this auditor finds the facility compliant for provision (a).

115.52 (b) The above policies were reviewed including the PREA Manual which indicates that prisoners may file a PREA Grievance at any time regarding alleged sexual abuse. For grievances containing allegations of sexual abuse, the Department shall not (1) impose a time limit on when a prisoner may submit a grievance regarding an allegation of sexual abuse. PD 03.03.140 was reviewed which indicates that a prisoner may file a PREA grievance at any time by submitted a completed CAJ-1038A to the appropriate staff, as identified by the Warden of the

institution at which the prisoner is housed. Prisoners are not required to use any informal grievance process, or to otherwise attempt to resolve with staff an alleged incident of sexual abuse. Also reviewed was PD 03.02.130 Prisoner/Parolee Grievances (updated 03/18/2019) which discusses the grievance filing process, processing times including responses, and extensions. It also discusses the role of the Grievance Coordinator and references PD 03.03.140 for grievances filed regarding sexual abuse. Any grievance submitted under 03.02.130 that contains an allegation of sexual abuse shall be copied by the Grievance Coordinator and forwarded to the PREA Coordinator (PCM at TCF). The original grievance shall be returned to the prisoner. If the grievance includes a non-PREA grievable issue, it will be to be refiled by the prisoner. Informal interview discussions with the TCF Grievance Coordinator corroborated practices at the facility. The Grievance Coordinator discussed providing any mis-directed PREA Grievances that he received to the TCF PCM.

Pre-audit, the facility responded positively in the questionnaire that policy or procedure allows an inmate to submit a grievance regarding an allegation of sexual abuse at any time, regardless of when the incident is alleged to have occurred. Additionally, the policy does not require an inmate to use an informal grievance process, or otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

TCF provided a CAJ-1038A PREA Prisoner Grievance sample blank form. This document contains a portion for Step I and a portion for Step II. Instructions clearly indicate that the form is only to be used to file a grievance alleging sexual abuse. Form users can submit a regular PREA Grievance, an Emergency PREA Grievance, or a third-party PREA Grievance. For a third-party PREA Grievance, the victim must sign authorizing the third-party filing.

The Prisoner Guidebook was reviewed.

Based on the policy and documentation review, and staff interviews, this auditor finds the facility compliant for provision (b).

115.52 (c) The above policies were reviewed including the PREA Manual which indicates that for grievances containing allegations of sexual abuse, the Department shall not: (3) require the prisoner to submit the grievance to the alleged perpetrator; nor refer the grievance for review or investigation by the alleged perpetrator. PD 03.03.140 was reviewed which indicates that prisoners shall not be required to submit a PREA grievance to a staff member who is the subject of the complaint, nor shall a PREA grievance be referred to a staff member who is the subject of the complaint.

Pre-audit, the facility responded positively in the questionnaire that agency policy and procedure allow an inmate to submit a grievance alleging sexual abuse without submitting it to the staff member who is the subject of the complaint. Additionally, agency policy and procedure allow an inmate to submit a grievance alleging sexual abuse without submitting it to the staff member who is the subject of the complaint.

The Prisoner Guidebook was reviewed.

Based on the policy and documentation review, this auditor finds the facility compliant for provision (c).

115.52 (d) The above policies were reviewed including the PREA Manual which indicates that The PCM shall ensure a written response is provided to the prisoner, regarding his/her PREA Grievance within 60-calendar days of receipt of the Step I PREA Grievance, absent an extension. The facility may claim an extension, not to exceed an additional 70-calendar days. Prisoners may appear a Step I decision to Step II if s/he is dissatisfied with the Step I response or did not receive a Step I response in a timely manner. The Step II response shall be the Department's final decision regarding the matter. The Step II response shall be issued within 90-clanedar days

of receipt of the Step I PREA Grievance. The time consumed by the prisoner to prepare his/her appeal shall not be included in the time limits listed above.

PD 03.03.140 was reviewed and found to contain similar information as the PREA Manual. Additionally, if an extension is taken, the facility shall notify the prisoner in writing of the extension and a date by which a decision will be made. It further discusses inmate appeals from Step I to Step II. The Step II response shall be issued within 90-calendar days of receipt of the Step I PREA Grievance, absent an extension. The time consumed by the prisoner to prepare his/her appeal shall not be included in the time limits listed above.

Pre-audit, the facility responded positively in the questionnaire that agency policy and procedure require that a decision on the merits of any grievance or portion of a grievance alleging sexual abuse be made within 90-days of the filing of the grievance. Additionally, in the past 12-months, the facility responded that the number of grievances filed that alleged sexual abuse was one (1); and that in the past 12-months, the number of grievances alleging sexual abuse that reached final decision within 90-days after being filed was one (1). There were zero (0) grievances alleging sexual abuse that involved extension because final decision was not reached within 90-days. It is not applicable that some grievance took longer than a 70-day extension period to resolve as no extensions were used. The facility also responded positively in the questionnaire that the agency always notifies inmates in writing when the agency files of ran extension, including notice of the date by which a decision will be made.

During the onsite phase of the audit, 5-Inmates who reported sexual abuse were interviewed. Of the 5-inmates, 3-inmates reported being told in writing of any decision made about their report; 1-was ongoing; 1-provided no response; 2-inmates reported receiving a response in 60-days; 1-provided no response; and 1-inmate indicated receiving a response later than 90-days however it is unknown if it was in writing. 4-inmates were unsure if the facility was supposed to provide a decision to them within 90-days. 1-inmate thought that the required response time was 30-days. No responses were provided if it took longer than 90-days to reach a decision or if anything was received in writing.

TCF provided a completed sample of CAJ-1038A received 02/28/2019 regarding a PREA Grievance relating to a sexual abuse allegation (pat down). It was reported on 02/26/2019 for an incident that occurred 02/23/2019. The PREA Grievance was closed, provided an AIM# upon entry into the computerized system and the grievant was informed with a memo dated 03/05/2019 that the grievance was closed and referred for investigation to the Warden's Office in accordance with PD 03.03.140. Screen images of the AIM# were provided indicating the PREA overall finding as Insufficient Evidence. MSP declined prosecution. A TCF Memo by leadership dated 04/03/2019 concurred with the findings.

Based on the policy and documentation review, and interviews, this auditor finds the facility compliant for provision (d).

115.52 (e) The above policies were reviewed including the PREA Manual which indicates third-parties including fellow prisoners, staff members, family members, attorneys and outside advocates shall be permitted to assist prisoners in filing PREA Grievances related to sexual abuse, and shall be permitted to file such grievances on prisoner's behalf. If a PREA Grievance alleging sexual abuse is filed by a third party on behalf of a prisoner, the alleged victim must sign the PREA Grievance authorizing the grievance to be filed on his/her behalf. Failure to sign will result in the grievance being immediately dismissed. PD 03.03.140 was reviewed which mirrors the language of the PREA Manual.

Pre-audit, the facility responded positively in the questionnaire that agency policy and procedure permit third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, to assist

inmates in filing requests for administrative remedies related to allegations of sexual abuse and to file such requests on behalf of Inmates. It also requires that if an inmate declines to have third-party assistance in filing a grievance alleging sexual abuse, the agency documents the inmate's decision to decline. In the past 12-months, there were zero (0) grievances alleging sexual abuse filed by inmates in which the inmate declined third-party assistance.

TCF provided a blank CAJ-1038A PREA Prisoner Grievance Form indicating the opportunity for a third-party filing which requires the victim's signature authorizing the filing.

Insomuch as there have been zero (0) grievances alleging sexual abuse filed by inmates in which the inmate declined third-party assistance in the past 12-months, and based on policy review, this auditor finds the facility compliant for provision (e).

115.52 (f) The above policies were reviewed including the PREA Manual which indicates that if a prisoner has reasonable belief s/he is subject to a substantial risk of imminent sexual abuse, s/he may file an Emergency PREA Grievance in order to seek protection from the imminent risk. Additionally, the Warden or designee shall provide an initial response within 48-hours addressing the prisoner's claim regarding imminent risk and whether emergent action is necessary. Further, the initial response is forwarded to the PCM who provides the Department's final decision within 5-calendar days.

PD 03.03.140 was reviewed which indicates that if a prisoner has reasonable belief s/he is subject to a substantial risk of imminent sexual abuse, s/he may file an Emergency PREA Grievance in order to seek protection from the imminent risk. The PREA Grievance filed must clearly indicate the grievance and state in a clear and concise manner what the prisoner believes to be an imminent risk. Additionally, the subsequent language to the PD mirrors the PREA Manual.

Pre-audit, the facility responded positively in the questionnaire that the agency has a policy and established procedures for filing an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse. The agency also has a policy and procedure for emergency grievances alleging substantial risk of imminent sexual abuse requires an initial response within 48-hours. In the past 12-months, there have been zero (0) emergency grievances filed at TCF for such. The agency has a policy and procedure for emergency grievances alleging substantial risk of imminent sexual abuse requires that a final agency decision be issued within five days; and that there were zero (0) emergency grievances filed at TCF for such.

TCF provided a memo dated June 11, 2019, from the Warden to the PREA Analyst which indicated that in the past 12-months, TCF has had zero (0) emergency grievances alleging substantial risk of imminent sexual abuse filed. However, if one were filed, The Warden's Office would provide an initial response within 48 hours and forward the grievance to the MDOC PREA Manager to ensure a final agency decision was issued within 5-calendar days. The response from the Warden's Office would document the facility's initial determination regarding whether the inmate was in substantial risk of imminent sexual abuse, any information received from the agency in regard to their final determination and the action taken in response to the emergency grievance. Insomuch as there have been zero (0) emergency grievances alleging sexual abuse filed by inmates at TCF in the past 12-months, and based on policy review, this auditor finds the facility compliant for provision (f).

115.52 (g) The above policies were reviewed including the PREA Manual which indicates that for the purpose of prisoner disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying even if an investigation does not establish evidence sufficient to substantiate the allegation. If a prisoner intentionally makes false allegations

of sexual abuse that is investigated and determined to be No Evidence/Unfounded, the prisoner may be disciplined in accordance with PD 03.02.130 Prisoner/Parolee Grievances and PD 03.03.105 Prisoner Discipline.

PD 03.03.140 was reviewed which indicates that if a prisoner makes false allegations of sexual abuse on a PREA grievance which is investigated and determined to be no evidence/unfounded, the prisoner may be disciplined in accordance with PD 03.03.105 Prisoner Discipline in this policy.

Attachment B of 03.03.105 was reviewed which indicates that regarding Interference with the Administration of Rules, making false accusations of misconduct against another prisoner or staff which results in disciplinary action being initiated against the person.

Pre-audit, the facility responded positively in the questionnaire that the agency has a written policy that limits its ability to discipline an inmate for filing a grievance alleging sexual abuse to occasions where the agency demonstrates the inmate filed the grievance in bad faith. In the past 12-months, there were zero (0) grievances alleging sexual abuse that resulted in disciplinary action by the agency against the inmate for having filed the grievance in bad faith.

The MDOC Prison Guidebook June 2014 was reviewed and page 12-13 clearly indicates the misconduct example for Interference with the Administration Rules and indicates that making false accusations of misconduct against another prisoner or staff which results in disciplinary action being initiated against the person. (Note: If written as result of a grievance, it must be shown that prisoner knew allegation was false when s/he made it and intentionally filed a false grievance. Ordinarily, the statement of staff member refuting the claim will not be sufficient.)

Insomuch as there have been zero (0) inmate grievances alleging sexual abuse filed in bad faith by inmates at TCF in the past 12-months, and based on policy review, this auditor finds the facility compliant for provision (g) and overall compliant for the standard.

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

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

#### **115.53 (a)**

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

#### **115.53 (b)**

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

### 115.53 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. MDOC PREA Manual, April 2017
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - c. End to Silence Notice sample
  - d. Multiple TCF Memos
  - e. Multiple TCF JPay samples
  - f. Prisoner Guidebook June 2014 final
  - g. Limits to Confidentiality Poster sample
  - h. Inside Line Letters for Inmates, Staff
  - i. TCF Photo samples of Library PREA literature
2. Interviews:
  - a. Random Inmates
  - b. Inmates Who Reported Sexual Abuse
  - c. Mailroom staff



3. Sight Review Observations:
  - a. PREA signage throughout facility
  - b. Mailroom

115.53 (a) This auditor reviewed policies and directives MDOC PREA Manual (April 2017); PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners; "An End to Silence" notice; TCF memo referencing "An End to Silence" in the library; examples of JPay emails about JDI in English and Spanish, and a TCF memo regarding prisoner PREA Education, PREA Information, and JDI Information. They address the standard's requirements to provide inmates with access to outside victim advocates. Policy Directive 05.03.118 Prisoner Mail, Policy Directive 05.03.130B Prisoner Telephone Use Universal List, MDOC PREA Manual, Prisoner Guidebook June 2014 and TCF Limits of Confidentiality Poster were reviewed regarding informing inmates of the extent to which communications are monitored; they address the requirements of the standard. Also reviewed were an MOU with JDI, Policy Directive 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners, "An Inside Line Intro Letter for MDOC Prisoners," "An Inside Line Intro Letter for MDOC Staff," sample JDI posters in English and Spanish; and photos of TCF PREA literature; they address the requirements of the standard.

Pre-audit, the facility provided examples of Just Detention International (JDI) posters in English and Spanish which include their 1-800 number (1-800-886-1492) along with an 11-digit anonymous pin that inmates can use to anonymously contact JDI at no cost. This is discussed in Policy Directive 05.03.130 Prisoner Telephone Use which also includes 3-additional universal numbers for inmate use such as the Crime Stopper Tip Line, a Sexual Abuse Hotline, and a Sexual Abuse Support Services provider. Also reviewed pre-audit was "An End to Silence" inmate handbook which additionally provides contact information for Michigan's Disability Rights Agency: Michigan Protection and Advocacy Service, Inc. The handbook helps to identify and address sexual abuse. Each facility in the MDOC has 3-copies of the handbook available for inmate access at the library. The MDOC PREA Manual indicates that victim advocates are available from the hospital; the facility's medical or mental health staff; on-shift and off-shift facility staff who have agreed to be victim advocates. A sample JPay (email system that inmates have access to) from May 3, 2019 email was sent from facility staff to all facility inmates reminding them of the availability of confidential support services for sexual abuse and included contact information for JDI, reporting methods, and contact information. Additionally, the JPay email reminded inmates that on every Thursday, the facility cable channel #70 continuously plays the PREA education video "Taking Action." The facility noted pre-audit that they do not house inmates solely for civil immigration purposes.

Random Inmate interviews conducted onsite indicated that of the 22-random inmates interviewed, that 18-inmates were aware that services were available to them from outside the facility for dealing with sexual abuse. 4-inmates were unsure if there was outside help. Of the 18-inmates that were aware of it, 11-inmates were aware of emotional support services in the form of counseling being available to them. The remaining 7-inmates were not sure of the specific services available. Of the 18-random inmates, 16-inmates indicated that there were posters for an agency (JDI) that could be contacted and that the numbers were free to call. 2-inmates were unsure if the call was free. All of the 22-inmates indicated that they had access to use the phone during the day, regularly, except during count.

Five (5) inmates who reported sexual abuse were interviewed onsite and 3-inmates reported that they were aware of receiving contact information for outside services. Of the 3-inmates, all 3-were unsure of the types of services available to them and all-3 knew that the call was free. The other 2-inmates were unsure of the availability of outside services and were not aware of any other details pertaining to this. All 5-inmates had access to use the phones to make calls to service providers if needed.

The facility tour revealed that posters about availability of outside services (JDI) and other information are visible for all inmates throughout the facility including in all housing units, dining facility, program building, correctional industry laundry building, etc.

The auditor finds that based on pre-audit materials reviewed, interviews with inmates and staff, and observations during the facility tour, the facility meets all requirements of provision (a).

115.53 (b) Pre-audit the facility provided Policy Directive 05.03.118 Prisoner Mail, Policy Directive 05.03.130B Prisoner Telephone Use Universal List, MDOC PREA Manual, Prisoner Guidebook June 2014 and TCF Limits of Confidentiality Poster were reviewed regarding informing inmates of the extent to which communications are monitored. All items meet the requirements of the standard.

Regarding outgoing mail, policy indicated that outgoing legal mail is not opened for inspection, this includes mail going to The Office of the Legislative Corrections Ombudsman. The Prisoner Telephone Use Universal List indicated that calls to Sexual Abuse Support Services are monitored. The PREA Manual indicated that prisoners are aware of the extent to which communications are monitored and that they are informed of the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. The Prisoner Guidebook mirrors this information. The facility has displayed posters regarding limits to confidentiality in both English and Spanish and informs inmates of the extent to which limitations exist on the confidentiality of information shared with staff.

22-random inmates were interviewed and indicated that regarding conversations with outside support services remaining private, 10-inmates were unsure if it would remain private; 1-inmate indicated that it would not remain private, and 4-inmates indicated that it would remain private. 7-inmates did not have a response. 6-inmates further elaborated further with 2-inmates indicating that they would contact law enforcement; 2-inmates indicated that they could contact someone by mail; and 2-others were unsure if they could tell someone else about what they told the outside support service provider.

Of the 5-inmates who reported sexual abuse, 3-inmates were did not know if conversations with outside support services would remain private; 1-inmate was unsure; and 1-inmate thought that the contact with the outside support services would remain confidential. None of them know of any options to tell someone else about what they might tell an outside support service provider.

This auditor interviewed 1-mailroom staff regarding the confidentiality of outgoing mail, such as letters from inmates addressed to this auditor in response to the facility PREA audit notice being posted. The staff indicated that it would be treated like legal mail and would not be opened for inspection. This auditor received no mail from the facility in advance of the audit.

The auditor finds that based on pre-audit materials reviewed, interviews with inmates and staff, and observations during the facility tour, the facility meets all requirements of provision (b).

115.53 (c) Pre-audit, this auditor reviewed an MOU with JDI. It was signed by 4/11/2018 by the JDI executive director and on 3/30/2018 by the Director of the MDOC and is active until September 30, 2020. The MOU stipulates the responsibilities of each party and includes the availability of emotional support services related to sexual abuse for inmates. Policy Directive 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners was reviewed and indicates that prisoners have access to outside victim advocates for emotional support services related to sexual abuse. "An Inside Line Intro Letter for MDOC Prisoners," and "An Inside Line Intro Letter for MDOC Staff," were both reviewed and indicate the emotional support services that are available to inmates; the support line is non-recorded and non-monitored. Sample JDI posters in English and Spanish were

reviewed as well as photos of TCF PREA literature, including the inmate handbook on identifying and addressing sexual abuse. All of the items reviewed address the requirements of provision (c).

Pre-audit this auditor contacted JDI via email and learned that they had no information regarding PREA allegations or concerns at TCF.

The auditor finds that based on pre-audit materials reviewed, interviews with inmates and staff, and observations during the facility tour, the facility meets all requirements of provision (c) and is overall compliant for the standard.

## Standard 115.54: Third-party reporting

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

#### 115.54 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - c. OP-TCF 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - d. MDOC Website Reporting sample
  - e. CaJ-1038A PREA Grievance Form sample

- f. MOU between MDOC and Legislative Corrections Ombudsman dated 12/17/2014
- g. Sexual Abuse Poster sample
- h. MDOC PREA Public Website Reporting Requirements sample

2. Interviews: None

3. Sight Review Observations:

- a. Sexual Abuse Posters throughout facility

115.54 (a) The above policies were reviewed including the PREA Manual that indicated that 3<sup>rd</sup>-parties, including fellow prisoners, staff members, family members, attorneys and outside advocates, shall be permitted to assist prisoners in filing PREA Grievances related to sexual abuse, and shall be permitted to file such grievances on the prisoner's behalf. It also indicates that if a 3<sup>rd</sup>-party does file a PREA Grievance on behalf of a prisoner, the alleged victim must sign the PREA Grievance authorizing the grievance to be filed on his/her behalf.

Also reviewed was the OP 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners that indicated that prisoners may report allegations of conducted prohibited in the policy, including threats of such conduct and retaliation for reporting such conduct, verbally or in writing to any Department staff, through the MDOC Sexual Abuse Hotline, through the PREA Grievance process as outlined in policy, and through the Legislative Corrections Ombudsman or through a 3<sup>rd</sup>-party. Policy Directive 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners was reviewed and indicated similar information and added that 3<sup>rd</sup>-parties including fellow prisoners, staff members, family members, attorneys, and outside advocates, shall be permitted to assist prisoners in filing PREA grievances related to sexual abuse, and shall be permitted to file such grievances on the prisoner's behalf. All policy content is consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that the agency/facility provides a method to receive third-party reports of inmate sexual abuse or sexual harassment. The facility provided samples of items that can be completed on behalf of alleged sexual abuse or sexual harassment victims and these items include: CAJ-1038A PREA Prisoner Grievance form which indicated an option for third-party submission; and use of a Legislative Corrections Ombudsman that can receive and immediately forward prisoner reports of sexual abuse and sexual harassment to MDOC officials that were made verbally, in writing anonymously and from third-parties. Electronically, third-parties can use the MDOC's website to report PREA allegations on behalf of prisoners; this was observed by the auditor.

The facility also responded positively in the questionnaire that the agency/facility publicly distributes information on how to report inmate sexual abuse or sexual harassment on behalf of inmates. Pre-audit the facility also provided screen images of the MDOC's public website explaining PREA reporting requirements and indicates that third-parties can report PREA allegations on behalf of inmates by contacting the facility, using the PREA hotline, reporting online through the MDOC's public website, and writing to the PREA office.

During the onsite phase of the audit, the audit team observed PREA posters displayed throughout the facility which indicates that parolees, staff, or the public can report PREA allegations through the PREA Hotline and also online at [www.michigan.gov/corrections](http://www.michigan.gov/corrections).

The auditor finds that based on pre-audit materials reviewed including policy and document samples, and observations during the facility tour, the facility meets all requirements of provision (a) and is overall compliant for the standard.

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

### Standard 115.61: Staff and agency reporting duties

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

#### 115.61 (a)

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

#### 115.61 (b)

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

#### 115.61 (c)

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

#### 115.61 (d)

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

#### 115.61 (e)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - c. MDOC Employee Handbook (2014)
  - d. TCF Samples of Staff Reporting
  - e. TCF Informed Consent Poster sample
  - f. TCF Samples of 3<sup>rd</sup>-party and anonymous reporting
2. Interviews:
  - a. Random staff
  - b. Medical and Mental Health Staff
  - c. Warden
  - d. PREA Coordinator
3. Sight Review Observations:
  - a. Signage throughout facility

115.61 (a) The above policies were reviewed including the PREA Manual which indicates that regarding staff reporting, in accordance with PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners and the Department Employee Handbook, staff are required to immediately report any knowledge, suspicion or information regarding an incident of sexual abuse or sexual harassment that occurred involving a prisoner under the jurisdiction of the Department including third party and anonymous complaints. Reports shall be taken regardless of when the incident was alleged to have occurred. Additionally, information includes retaliation against prisoners or staff who reported such an incident as well as any staff action or work rule violation that may have contributed to an incident or retaliation. Further, regarding prisoner reporting, prisoners may privately report sexual abuse, sexual harassment, retaliation, by other prisoners or staff for reporting sexual abuse or sexual harassment, and staff neglect or dereliction of duty that may have contributed to such incidents verbally, in writing, anonymously, or through third-parties. When receiving any report of sexual abuse or sexual harassment, regardless of the source, staff shall document and forward the complaint to the appropriate supervisory staff for investigation.

PD 03.03.140 was reviewed which indicates that if allegations pertain to conduct at another facility (including county jails, another state prison, federal prison or substance abuse program facility), the Warden shall email notification within 72-hours as follows: 1-For allegations of sexual abuse within the MDOC – To the appropriate facility head. The inter-administration investigation protocol issued by the CFA and FOA deputy directors shall be followed if the allegation is regarding the conduct of an employee from another administration. The appropriate facility head shall verify whether the allegation had been previously investigated. If not, s/he shall ensure the allegation is entered into the Departments computerized database and investigated in a timely manner. A courtesy copy shall be forwarded to the Departments PREA Manager. 2-For allegations of sexual abuse which occurred outside the MDOC – to third-party facility of local law enforcement where the incident was alleged to have occurred. Additionally, regarding reporting prohibited conduct, prisoners may report allegations of conduct prohibited by this policy, including threats of such conduct and retaliation for reporting such conduct, verbally or in writing to any Department employee, through the MDOC Sexual Abuse hotline, through the PREA Grievance process as outlined in this policy, through the Legislative Corrections Ombudsman, or through a third-party. If reported verbally to an employee, the employee shall document it in writing as soon as possible and report it to the appropriate supervisory staff.

Pre-audit, the facility responded positively in the questionnaire that the agency requires all staff to report immediately and according to agency policy any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency. The agency also requires all staff to report immediately and according to agency policy any retaliation against inmates or staff who reported such an incident. The agency also requires all staff to report immediately and according to agency policy any staff neglect or violation of responsibilities that may have contributed to an incident of retaliation.

TCF provided the Employee Handbook which indicates employee reporting responsibilities. Also reviewed were TCF samples of employee reporting which included emails, AIM screen images, and TCF memos for 2-complete investigations.

During the onsite phase of the audit, 11-random staff were interviewed. All 11-staff responded positively about the agency requiring all staff to report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility; retaliation against inmates or staff who reports such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident of retaliation. All staff further elaborated about separating the victim and abuser, secure the area, and contact a supervisor. Some further elaborated on preventing bodily functions, and medical and mental health follow up. 1-staff referred to his MDOC PREA pocket guide and responded: separate the abuser and victim; secure the scene; report to the supervisor/Warden; take to health care; secure evidence; prevent bodily functions; take to ER; SAFE/SANE for exam; reports; contact Psych for evaluations with them; monitor retaliation; contact PCM or Inspector; MSP; and Investigation.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviews, and interviews with staff, the facility meets all requirements of provision (a).

115.61 (b) The above policies were reviewed including the PREA Manual which indicates that all sexual abuse allegations and staff on prisoner sexual harassment allegations shall be reported and entered into the appropriate MDOC computerized database and investigated. Information related to sexual abuse and sexual harassment allegations shall not be revealed to anyone other than to the extent necessary for treatment, investigation or other security and management decisions. All prisoner on prisoner sexual harassment allegations shall be reported and investigated. Information related to sexual harassment allegations shall not be

revealed to anyone other than to the extent necessary for treatment, investigation or other security and management decisions.

PD 03.03.140 was reviewed which indicates that reasonable steps shall be taken to ensure the confidentiality of information obtained during the risk assessment process and from reports of conduct prohibited by this policy and any resulting investigations. Persons interviewed as part of an investigation shall be specifically warned not to discuss the investigation with others. Staff that intentionally compromise this confidentiality shall be subject to discipline in accordance with PD 02.03.100 "Employee Discipline." Prisoners in a CFA facility who intentionally compromise this confidentiality shall be subject to discipline in accordance with PD 03.03.105 "Prisoner Discipline." This does not preclude staff from discussing such matters with their attorneys or in accordance with this or any other policy directive, Civil Service Commission rules and regulations, or applicable collective bargaining unit agreements. This also does not preclude prisoners from discussing such matters with their attorneys, to seek treatment, or to ensure their own safety. The PREA Manager shall share with the facility head and his/her supervisors, as appropriate, allegations of conduct prohibited by this policy, which are received directly by the PREA Section.

Pre-audit, the facility responded positively in the questionnaire that apart from reporting to designated supervisors or officials and designated state or local services agencies, agency policy prohibits staff from revealing any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.

During the onsite phase of the audit, 11-random staff were interviewed. All 11-staff responded positively about the agency requiring all staff to report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility; retaliation against inmates or staff who reports such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident of retaliation. All staff further elaborated about separating the victim and abuser, secure the area, and contact a supervisor. Some further elaborated on preventing bodily functions, and medical and mental health follow up. 1-staff referred to his MDOC PREA pocket guide and responded: separate the abuser and victim; secure the scene; report to the supervisor/Warden; take to health care; secure evidence; prevent bodily functions; take to ER; SAFE/SANE for exam; reports; contact Psych for evaluations with them; monitor retaliation; contact PCM or Inspector; MSP; and Investigation.

The auditor finds that based on pre-audit materials reviewed, policy and documentation reviews, and interviews with staff, the facility meets all requirements of provision (b).

115.61 (c) The above policies were reviewed including the PREA Manual which indicates that Health care and mental health care practitioners are required to report allegations of sexual abuse that occurred in an institutional setting, whether or not the institution is part of the department. The practitioner shall inform the prisoner of the practitioner's duty to report and that confidentiality is limited.

PD 03.03.140 was reviewed which indicates that Employees who are Health Care and Mental Health practitioners are required to report allegations of sexual abuse that occurred in an institutional setting, whether or not the institution is part of the Department. The practitioner shall inform the prisoner of the practitioner's duty to report and that confidentiality is limited.

Pre-audit, the facility provided photos of Informed Consent Posters in both English and Spanish explaining limitations to confidentiality. It explains that all "medical and mental health staff are required to immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment, retaliation, or staff neglect that occurred in a facility. As a result of staff's duty to report, limitations exist on the



confidentiality of information shared with staff in this area.” These were observed during the onsite phase during the facility tour.

During the onsite phase of the audit, 2-medical and mental health staff were interviewed. Both responded positively that at the initiation of services to an inmate, the limitation of confidentiality and staff duty to report are disclosed. 1-further elaborated that it is shared verbally; and follows guidelines in a binder; and ensure that the inmates understand what’s being said. Regarding reporting responsibilities, both responded positively about being required to report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment to a designated supervisor or official immediately upon learning of it. 1-staff further elaborated about reporting it to the HUM and the Shift Commander. Both were asked if they had every become aware of any such incidents and had they reported them. Both responded positively and noted a few details of the incidents.

Previously, this auditor received “Prison and Jail Standards Documentation Requirements” from the NPRC by The Moss Group, Inc. which identifies standards and provisions which explicitly require documentation of agency or facility activities through policy or other forms of documentation. This provision does not require policy or documentation to demonstrate compliance.

The auditor finds that based on pre-audit materials reviewed, policy reviewed, and staff interviews, the facility is compliant with provision (c).

115.61 (d) The above policies were reviewed including the PREA Manual which indicates that if the alleged victim is under the age of 18 or considered a vulnerable adult under a state or local vulnerable persons statute, the Department shall report the allegation to the designated state or local services agency under applicable mandatory reporting laws. PD 03.03.140 was reviewed which indicates that DD. The facility shall report any allegations of alleged victims under the age of 18 or who are considered a vulnerable adult under a state or local vulnerable persons statute to the PREA Manager. After the PREA Manager receives the reported allegations, s/he will forward the allegations to the appropriate agencies, to the extent the law requires such reporting. During the onsite phase of the audit, the Warden was interviewed and responded that regardless of a victim’s age, the process is conducted similarly as for adult victims of sexual abuse or sexual harassment. He elaborated that evidence is preserved, MSP is contacted, etc. The PREA Coordinator was interviewed and responded that responses for an allegation of sexual abuse or sexual harassment when made by someone under age 18 or someone considered a vulnerable adult under state or local law depends on the location. The Department of Health and Human Services may already have a case open for that victim; it’s the equivalent of calling child services. Informed consent is required for someone over 18-years of age.

Previously, this auditor received “Prison and Jail Standards Documentation Requirements” from the NPRC by The Moss Group, Inc. which identifies standards and provisions which explicitly require documentation of agency or facility activities through policy or other forms of documentation. This provision does not require policy or documentation to demonstrate compliance.

The auditor finds that based on pre-audit materials reviewed, policy reviewed, and staff interviews, the facility is compliant with provision (d).

115.61 (e) The above policies were reviewed including the PREA Manual which indicates that regarding sexual abuse/sexual harassment investigations, where sexual abuse is alleged, an investigator shall be assigned who has received specialized investigator training as outlined in the training section of this manual. PD 03.03.140 was reviewed which indicates that Investigations of sexual abuse/sexual harassment shall be completed by staff

who have received specialized investigator training as outlined in the PREA Manual. All investigations shall be conducted promptly, thoroughly and objectively. All PREA investigations shall be conducted in accordance with the Sexual Abuse/Sexual Harassment Investigations portion of the PREA Manual.

During the onsite phase of the audit, the Warden was interviewed and responded positively that all allegations of sexual abuse and sexual harassment (including those from third-party and anonymous sources) are reported directly to designated facility investigators.

TCF provided samples of 3<sup>rd</sup> party and anonymous reports being provided to the facility's designated investigator. This included emails, CAR-986 Request for Investigation forms, AIM screen images, 1-anonymous hotline report, and occurred between 3/10/2019 and 6/11/2019.

Previously, this auditor received "Prison and Jail Standards Documentation Requirements" from the NPRC by The Moss Group, Inc. which identifies standards and provisions which explicitly require documentation of agency or facility activities through policy or other forms of documentation. This provision does not require policy or documentation to demonstrate compliance.

The auditor finds that based on pre-audit materials reviewed, policy reviewed, and staff interviews, the facility is compliant with provision (e) and overall compliant for the standard.

## Standard 115.62: Agency protection duties

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

#### 115.62 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct involving Prisoners
  - c. 05.01.140 Prisoner Placement and Transfer
2. Interviews:
  - a. Agency Head or Designee
  - b. Warden
  - c. Random Staff
3. Sight Review Observations: None

115.62 (a) The above policies were reviewed including the PREA Manual that indicates that when a prisoner is subject to substantial risk of imminent sexual abuse or is the alleged victim of sexual abuse, the facility shall take immediate action to protect the prisoner by ensuring no contact between the alleged abuser and the alleged victim. Such actions can include housing changes, temporary segregation, reassignment, stop orders and transfers that must be documented, including the time between report and when the action was taken. PD 03.03.140 was reviewed and it indicates that upon receipt of a PREA Grievance, staff shall forward the grievance to the Warden, or designee for immediate corrective action to be taken if appropriate, to protect the prisoner from sexual abuse. The remainder of the policy directive discusses timeframes within which action is required with an initial response being required within 48-hours. 05.01.140 was reviewed and it indicates that 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 the alleged victim. Actions to protect the prisoner align with actions directed in the aforementioned policies. Content of the policies is consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that when the facility learns that an inmate is subject to a substantial risk of imminent sexual abuse, it takes immediate action to protect the inmate. The facility also noted that within the last 12-months, there were zero (0) times when the facility determined that an inmate was subject to a substantial risk of imminent sexual abuse. The remaining questions regarding the amount of time passed before action being taken was "N/A" for the facility.

During the onsite phase of the audit, the Agency Head Designee was interviewed and responded that when it is learned that an inmate is subject to substantial risk of imminent sexual abuse, such as through the grievance process, there is an emergency box that can be checked on the form and if the situation is truly imminent, that is identified within 48-hours. First responder actions occur and the inmate is removed from the imminent risk, which could be with a new housing assignment. Training for staff would occur to ensure that they know how to respond to each situation as well as how to document allegations.

The Warden was interviewed and responded similarly that the inmate is immediately removed from the potential abuse, an investigation is conducted, and MSP is notified to conduct investigations as well.

11-random staff from each shift were interviewed and of the 11-staff, 9-staff indicated separating the alleged abuser from the alleged victim; 1-staff would notify the Inspector; and 1-staff would place the alleged victim in segregation lockup. All 11-random staff indicated that they would take such action immediately.

The auditor finds that based on pre-audit materials reviewed including policy, and staff interviews, the facility meets all requirements of provision (a) and is overall compliant for the standard.

## Standard 115.63: Reporting to other confinement facilities

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

### 115.63 (a)

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

### 115.63 (b)

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

### 115.63 (c)

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

### 115.63 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - c. TCF Sample 72-hour Notices
2. Interviews:

- a. Agency Head Designee
- b. Warden

3. Sight Review Observations: None

115.63 (a) The above policies were reviewed including the PREA Manual which indicates that if a prisoner alleges that s/he was sexually abused while confined at a different facility, including, but not limited to county jails, another state or federal prison, or substance abuse program facility, staff shall forward the allegation to the Warden or Administrator at the prisoner's current facility. Additionally, the Warden or Administrator shall provide email notification immediately, but no later than 72 hours, to the Warden or Administrator of the other location where the incident was alleged to have occurred with a courtesy copy to the Department PREA Manager.

PD 03.03.140 was reviewed which indicates that regarding reporting prohibited conduct the Inter-Administration Investigation Protocol issued by the CFA and FOA Deputy Directors shall be followed if the allegation is regarding the conduct of an employee from another Administration. The appropriate facility head shall verify whether the allegation had been previously investigated. If not, s/he shall ensure the allegation is entered into the Department's computerized database and investigated in a timely manner. A courtesy copy shall be forwarded to the Department's PREA Manager.

Pre-audit, the facility responded positively in the questionnaire that the agency has a policy requiring that, upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility must notify the head of the facility or appropriate office of the agency or facility where sexual abuse is alleged to have occurred. During the past 12-months, there was one (1) allegation received that an inmate was abused while confined at another facility.

TCF provided an email sample of receiving an inmate's report of alleged sexual abuse that occurred at another facility. The report was received on 10/19/2018 at 3:06 PM. A subsequent email depicts the Warden notifying the Sheriff of the involved facility on 10/22/2018 at 2:12 PM, which was within the 72-hour notification period.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, the facility meets all requirements of provision (a).

115.63 (b) The above policies were reviewed including the PREA Manual which indicates that whether or not the prisoner indicates the allegation was investigated, the Warden or Administrator shall provide email notification immediately, but no later than 72 hours, to the Warden or Administrator of the other location where the incident was alleged to have occurred with a courtesy copy to the Department PREA Manager.

PD 03.03.140 was reviewed which indicates that if the allegations pertain to conduct at another facility (including county jails, another state prison, federal prison or substance abuse program facility), the Warden shall provide email notification within 72 hours as follows: 1. For allegations of sexual abuse within the MDOC - To the appropriate facility head. 2. For allegations of sexual abuse which occurred outside the MDOC - To the third-party facility or local law enforcement where the incident was alleged to have occurred.

Pre-audit, the facility responded positively in the questionnaire that the agency policy requires the facility head to provide such notification as soon as possible, but no later than 72-hours after receiving the allegation.

TCF provided an email sample of receiving an inmate's report of alleged sexual abuse that occurred at another facility. The report was received on 10/19/2018 at 3:06 PM. A subsequent email depicts the Warden notifying the Sheriff of the involved facility on 10/22/2018 at 2:12 PM, which was within the 72-hour notification period.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, the facility meets all requirements of provision (b).

115.63 (c) The above policies were reviewed including the PREA Manual which indicates that whether or not the prisoner indicates the allegation was investigated, the Warden or Administrator shall provide email notification immediately, but no later than 72-hours, to the Warden or Administrator of the other location where the incident was alleged to have occurred with a courtesy copy to the Department PREA Manager.

PD 03.03.140 was reviewed which indicates that If the allegations pertain to conduct at another facility (including county jails, another state prison, federal prison or substance abuse program facility), the Warden shall provide email notification within 72 hours.

Pre-audit, the facility responded positively in the questionnaire that it documents that it has provided such notification within 72-hours of receiving the allegation.

TCF provided an email sample of receiving an inmate's report of alleged sexual abuse that occurred at another facility. The report was received on 10/19/2018 at 3:06 PM. A subsequent email depicts the Warden notifying the Sheriff of the involved facility on 10/22/2018 at 2:12 PM, which was within the 72-hour notification period and was documented.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, the facility meets all requirements of provision (c).

115.63 (d) The above policies were reviewed including the PREA Manual which indicates that for allegations of abuse within the Department, the receiving Warden or Administrator shall verify whether the allegation had been previously investigated. If not, ensures that the allegation is entered in the appropriate MDOC computerized database as outlined above and investigated. Additionally, when receiving any report of sexual abuse or sexual harassment, regardless of the source, staff shall promptly document and forward the complaint to the appropriate supervisory staff for investigation.

PD 03.03.140 was reviewed which indicates that when receiving any report of sexual abuse or sexual harassment, regardless of the source, staff shall promptly document and forward the complaint to the appropriate supervisory staff for investigation.

Pre-audit, the facility responded positively in the questionnaire that it requires that allegations received from other facilities and agencies are investigated in accordance with the PREA standards and in the past 12-months, there was one (1) allegation of sexual abuse that the facility received from other facilities.

During the onsite phase of the audit, the Agency Head Designee was interviewed and responded that notifications with another agency's referrals of allegations of sexual abuse or sexual harassment that occurred within an MDOC facility is conveyed head to head, or Warden to Warden, or Director to Director. He added that there are examples of such allegations being reported like this statewide.

The Warden was also interviewed and responded that when an allegation is received from another facility that sexual abuse or sexual harassment occurred at TCF, the alleged victim is removed from any threat and an

investigation is initiated. Additionally, the Warden indicated a couple facilities that have made such reports in the past: Muskegon MCT, and CFA Legal Affairs.

TCF provided a sample email chain dated 10/22/2018 indicating that the facility head that received the notification ensured that the allegation would be investigated. This information was shared with other TCF leadership.

The auditor finds that based on pre-audit materials reviewed, including policy and documentation, and staff interviews, the facility meets all requirements of provision (d) and is overall compliant with the standard.

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

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

#### **115.64 (a)**

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

#### **115.64 (b)**

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

### **Auditor Overall Compliance Determination**

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



## **Does Not Meet Standard** (*Requires Corrective Action*)

### **Instructions for Overall Compliance Determination Narrative**

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. MDOC Sexual Violence Response and Investigation Guide, Revised 2015
  - c. TCF Email dated April 9, 2019 with CAJ-1024 attached
  - d. TCF Email dated June 12, 2018
2. Interviews:
  - a. First Responders
  - b. Inmates who reported sexual abuse
  - c. Random staff
3. Sight Review Observations: None

115.64 (a) The above policies were reviewed including the PREA manual which indicates that First Responders will upon learning of an allegation that a prisoner was sexually abused, shall take action that includes: separate the alleged victim and abuser; preserve and protect any crime scene until appropriate steps can be taken to collect any evidence, if applicable; and if the abuse is alleged to have occurred within the last 96 hours, requested that the victim and ensure that the abuse not take any action that could destroy potential physical and/or forensic evidence including but not limited to washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

Pre-audit, the facility responded positively that it has a first responder policy for allegations of sexual abuse, and that the policy covers all 4-enumerated items of the provision for steps that first responder security staff are required to take. In the past 12-months, there were 14-allegations of inmate sexual abuse according to the questionnaire. Of these allegations, in 6-instances first responder security staff separated the alleged victim and abuser. In 5-instances, staff were notified within a time period that still allowed for the collection of physical evidence. Of these allegations, where staff were notified within a time period that still allowed for the collection of physical evidence, in 2-instances first responder security staff preserved and protected the crime scene, requested that the alleged victim not take any actions that could destroy evidence, and ensured that the alleged abuser did not take any actions to destroy evidence. Policy contents are consistent with the requirements of the provision.

Pre-audit, the facility provided a sample of the MDOC's Sexual Violence Response and Investigation pocket guide. The guidance provided to staff is consistent with the requirements of the provision. These were observed during the tour by the audit team.



Pre-audit, the facility provided 2-samples of a completed CAJ-1024, PREA Sexual Abuse Investigation Worksheet dated 6/15/2018 and 4/30/2019, respectively. The earlier report indicated that the security staff first responder separated the victim and suspect; preserved/protected the crime scene and/or evidence; requested that the victim not wash, brush teeth, change clothes, urinate, defecate, smoke, eat, or drink; and ensured that the suspect not perform the aforementioned bodily functions as well. The latter report indicated that the first responder separated the victim and the suspect; the report was made more than 96-hours after the alleged sexual abuse.

During the onsite phase of the audit, a Security Staff First Responder was interviewed and responded by describing the actions taken as a first responder in response to an allegation of sexual abuse. This included 1. Separating the alleged victim and abuser; 2. Preserving and protecting the crime scene; 3. Requesting that the victim not take any actions that could destroy physical evidence; 4. Ensuring that the alleged abuser does not take any actions that could destroy physical evidence; and 5. Immediately notifying medical and mental health along with their supervisor. The staff further elaborated by sharing the details of the incident for which he was the first responder.

Five (5) inmates who reported sexual abuse were interviewed and of the 5-inmates, 1-inmate's allegation was determined to be sexual harassment and not sexual abuse. Of the 4-remaining inmates, 1-inmate responded getting help from staff about 2-weeks after telling staff; 2-inmates responded that they received help from staff the same day after reporting it to staff; and 1-inmate responded that after telling staff, he was taken to the hole and received help 40-days later. The same 4-inmates were asked if the staff who first got to the scene after the sexual abuse responded quickly and all 4-inmates responded negatively. The same 4-inmates were asked about the first responders' actions taken and this included: 3-inmates described actions that did not align with the actions enumerated in the provision; and 1-inmate described action that included being separated from the alleged abuser.

During the onsite phase of the audit, 7-investigation files were reviewed for documentation of responses to allegations. Of those 7-files, 4-investigations involved allegations of sexual abuse of inmates. Of the 4-sexual abuse investigations, 1-case involved an instance where staff performed as a first responder; reporting indicated that staff performed the actions of a first responder as required by the standard.

The auditor finds that based on pre-audit materials reviewed including policy, document reviews, and interviews, the facility meets the requirements of provision (a). This auditor found that the information provided by the facility regarding its practices compellingly outweighed interview responses by the inmates.

115.64 (b) The above policies were reviewed including the PREA manual which indicates that in response to an allegation of sexual abuse, non-custody staff shall: immediately notify his/her chain of command for a referral to the appropriate custody supervisor; and request that the prisoner victim not take any action that could destroy potential physical and/or forensic evidence. Policy contents are consistent with the requirements of the provision.

Pre-audit, the facility responded in the questionnaire that the agency policy requires that if the first staff responder is not a security staff member, that responder shall be required to 1. Request that the alleged victim not take any actions that could destroy physical evidence; and/or 2. Notify security staff.

According to the questionnaire, of the allegations that an inmate was sexually abused in the past 12-months, there were 2-instances of non-security staff being the first responder. Of those instances, there was 1-instance where the non-security staff first responder requested that the alleged victim not take any actions that could destroy physical evidence; and in both instances, they notified security staff.

Pre-audit, the facility provided a sample of the MDOC's Sexual Violence Response and Investigation pocket guide. The guidance provided to staff is consistent with the requirements of the provision. These were observed during the tour by the audit team.

Pre-audit, the facility provided an email sample dated June 12, 2018 of a non-custody staff member reporting inmate sexual abuse. The alleged victim reported the alleged sexual abuse to an RN and the RN reported it to a facility inspector. The incident was reported within 96-hours of the incident.

During the onsite phase of the audit, no non-security staff first responders were interviewed. Random staff were interviewed and of the 11-random staff interviewed, all 11-staff articulated 1. Separate the alleged victim and abuser; 2. Protect/preserve the crime scene; 3. Prevent bodily functions from occurring by asking the victim to not perform bodily functions and 4. ensuring the abuser doesn't perform bodily functions. 1-staff further elaborated about maintaining confidentiality; 4-staff elaborated about contacting a supervisor; 4-staff elaborated about referring to medical/mental health; and 1-staff elaborated about completing a critical incident report. 1-staff referred to his MDOC Sexual Violence Response and Investigation pocket guide.

During the onsite phase of the audit, 7-investigation files were reviewed for documentation of responses to allegations. Of those 7-files, 4-investigations involved allegations of sexual abuse of inmates. Of the 4-sexual abuse investigations, 1-case involved an instance where staff performed as a first responder; reporting indicated that staff performed the actions of a first responder as required by the standard.

The auditor finds that based on pre-audit materials reviewed including policy, document reviews, and interviews, the facility meets the requirements of provision (b) and is overall compliant with the standard.

## Standard 115.65: Coordinated response

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

#### 115.65 (a)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. OP-TCF 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
2. Interviews:
  - a. Warden
3. Sight Review Observations: None

115.65 (a) The above policies were reviewed including the PREA Manual which indicates that each correctional facility shall include in their operating procedures an institutional plan to coordinate actions taken in response to an allegation of sexual abuse. OP-TCF 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners was reviewed and indicates throughout the entirety of the 7-page policy, the responsibilities taken by TCF staff including first responders, medical and mental health staff, investigators, and facility leadership in response to allegations of sexual abuse.

During the onsite phase of the audit, the Warden was interviewed and responded positively that the facility has a plan to coordinate actions among staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse. He further elaborated that this is defined in policy, procedure, the PREA Manual and that staff receive training in their first responder responsibilities.

The auditor finds that based on pre-audit materials reviewed including policy, and staff interviews, the facility meets all requirements of provision (a) and is overall compliant for the standard.

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

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

#### **115.66 (a)**

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

#### **115.66 (b)**

- Auditor is not required to audit this provision.

### **Auditor Overall Compliance Determination**

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

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. AFSCME AFL-CIO Agreement dated December 15, 2015
  - c. MDOC Security Agreement dated January 15, 2016
  - d. MSEA Collective Bargaining Agreement dated December 15, 2015
  - e. SEIU Labor Agreement dated January 1, 2016 through December 31, 2018 (Scientific/Engineering)
  - f. SEIU Labor Agreement dated January 1, 2016 through December 31, 2018 (Technical)
  - g. UAW Primary Agreement dated January 1, 2016 through December 31, 2018
2. Interviews:
  - a. Agency Head or Designee
3. Sight Review Observations: None

115.66 (a) The above policies were reviewed including the PREA Manual which indicates that the Department or another entity on its behalf shall not enter into or renew any collective bargaining agreement that limits the Department's ability to remove alleged staff sexual abusers from contact with prisoners pending the outcome of an investigation; Imposes a standard higher than preponderance of evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated; Limits the determination of whether and to what extent discipline is warranted; Prohibits disciplinary sanctions up to and including discharge for violation Department work rules as specified in policy; Prohibits disciplinary sanctions that were not consistent for circumstances that are similarly situated; and prohibits referral to law enforcement and relevant licensing bodies, regardless of whether the staff member resigned. Policy content is consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that the agency, facility, or any other governmental entity responsible for collective bargaining on the agency's behalf has entered into or renewed any collective bargaining agreement or other agreement since August 20, 2012, or since the last PREA audit, whichever is later.

Six (6) labor agreements with the MDOC representing a variety of staff work classifications were reviewed and indicated recognizing the authority of the employer to suspend, demote, discharge or take other appropriate disciplinary action against employees for just cause. All 6-labor agreements contained similar language and this auditor finds that the language aligns with the intent of the provision.

During the onsite phase of the audit, the Agency Head Designee was interviewed and responded positively that the agency has entered into or renewed collective bargaining agreements or other agreements since August 20, 2012. He further elaborated that the agreements permit the agency to remove alleged staff sexual abusers from contact with any inmate pending an investigation or a determination of whether and to what extent that discipline is warranted. He added that disciplinary action is not restricted in response to PREA.

The auditor finds that based on pre-audit materials reviewed including policy, and staff interviews, the facility meets all requirements of provision (a). Inasmuch as provision (b) is not audited, the auditor finds the facility is overall compliant with the standard.

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

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

#### **115.67 (a)**

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

#### **115.67 (b)**

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

#### **115.67 (c)**

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff? ☒ Yes ☐ No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff? ☒ Yes ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation? ☒ Yes ☐ No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any inmate disciplinary reports? ☒ Yes ☐ No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate housing changes? ☒ Yes ☐ No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes? ☒ Yes ☐ No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff? ☒ Yes ☐ No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff? ☒ Yes ☐ No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need? ☒ Yes ☐ No

#### 115.67 (d)

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

#### 115.67 (e)

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

#### 115.67 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

## Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - c. CAJ-1022 PREA Sexual Abuse Retaliation Monitoring form sample
  - d. TCF Memo PREA Retaliation Monitors dated June 12, 2019
  - e. TCF Sample AIM Screen Images
  - f. TCF Memo 115.67 (e) dated June 12, 2019
  - g. CAJ-1022 Monitoring Termination sample
2. Interviews:
  - a. Agency Head Designee
  - b. Warden
  - c. Designated Staff Member Charged with Monitoring Retaliation
  - d. Inmates who Reported Sexual Abuse
3. Sight Review Observations: None

115.67 (a) The above policies were reviewed including the PREA Manual which indicates that regarding protection from retaliation, Policy Directive 03.03.140 "Prison Rape Elimination Act (PREA) and Prohibited Sexual Conduct Involving Prisoners" requires that all prisoners and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations are protected from retaliation for reporting or participating in the investigation. Upon receipt of a sexual abuse allegation, staff shall initiate 90 calendar day retaliation monitoring using the appropriate form. If the investigation determines that the allegation is No Evidence/Unfounded, the retaliation monitoring shall discontinue. The form shall be maintained for the PREA Audit. The Department shall monitor for changes that may suggest possible retaliation by prisoners or staff, regardless if the prisoner is transferred, as follows: •Staff who report sexual abuse – 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. •Prisoners who report sexual abuse or have been an alleged victim of a report of sexual abuse – Supervisory staff shall monitor for disciplinary sanctions, housing/program changes and also conduct periodic status checks. The Department shall act promptly to remedy any retaliation including employing protection measures such as housing changes, transfers, changes of alleged staff work assignments, and continue such monitoring beyond 90 calendar days if the initial monitoring indicates a need. Retaliation can be reported as outlined in the Reporting and Recording Sexual Abuse and Sexual Harassment Allegations section of this manual. 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. All monitoring shall be documented on the PREA Retaliation Monitoring form. Staff shall document if the retaliation monitoring discontinued based on a No Evidence/Unfounded finding. Staff members who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations may also contact the State Employee Service Program for emotional support services. Staff may also submit a complaint/grievance. Prisoners who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations shall also be provided emotional support services as outlined in the Confidential Support Services section of this manual.

Additionally, the PREA Manual specifies that • Staff who report sexual abuse – 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. And • Prisoners who report sexual abuse or have been an alleged victim of a report of sexual abuse – Supervisory staff shall monitor for disciplinary sanctions, housing/program changes and also conduct periodic status checks.

PD 03.03.140 was reviewed which indicates that all prisoners and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations are protected from retaliation for reporting the incident or participating in the investigation. Policy is consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that the agency has a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff. The agency also designates staff members or charges departments with monitoring for possible retaliation.

TCF provided a memo dated June 12, 2019, from the PCM to the PREA Analyst indicating that there are 8-staff identified by position and name as being designated to conduct retaliation monitoring on prisoners and staff who report sexual abuse or harassment. The positions are identified as both ARUS and Prison Counselors (PC).

TCF provided three (3) completed CAJ-1022 PREA Sexual Abuse Retaliation Monitoring form samples which depicted retaliation monitoring occurring over the course of 13-weeks and each culminating with a conclusion. Each week, staff had the option of several possible actions including: reviewing disciplinary reports, reviewing housing changes, making face to face contact, reviewing program changes, reviewing performance evaluations, and reviewing staff reassignments. The conclusion included findings of: monitoring complete – no retaliation found; monitoring complete – retaliation addressed and resolved; or continue monitoring for 30-days. All 3- resulted in “monitoring complete – no retaliation found.”

The auditor finds that based on pre-audit materials reviewed including policy and documentation, the facility meets all requirements of provision (a).

115.67 (b) The above policies were reviewed including the PREA Manual which indicates that the Department shall act promptly to remedy any retaliation including employing protection measures such as housing changes, transfers, changes of alleged staff work assignments, and continue such monitoring beyond 90-calendar days if the initial monitoring indicates a need. PD 03.03.140 was reviewed which indicates all prisoners and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations are protected from retaliation for reporting the incident or participating in the investigation.

During the onsite phase of the audit, the Agency Head Designee was interviewed and responded that inmates and staff are protected from retaliation for sexual abuse or sexual harassment allegations with 90-days of



retaliation monitoring. If an inmate is moved, the monitoring follows to the new facility. The Warden was interviewed and responded that staffing levels in housing units are checked and if necessary, move staff. A mental health follow-up is offered.

One (1) staff who is designated with monitoring retaliation was interviewed and responded that their role in retaliation monitoring involves completing the PREA Retaliation Monitoring Form and meeting with inmates to ensure they are okay; these are face to face contacts and also checks for misconducts. Measures taken to protect inmates and staff from retaliation include ensuring inmates and staff are aware of policy and their ability to make reports, where they can find forms, and encourage them to not delay making reports. Rounds are made daily; concerns can be made in writing as well regarding initiating contact with inmates who have reported sexual abuse.

At the time of the audit, there were no inmates in segregated housing for risk of sexual victimization or who alleged to have suffered sexual abuse. The facility had no inmates available to interview in this targeted category.

Five (5) inmates who reported a sexual abuse were interviewed and 3-responded that they feel protected enough against possible revenge from staff or other inmates since they reported what happened to them and 1-further elaborated that his counselor just about this in the last week; 1-reported being unsure; and 1-reported not feeling protected enough.

TCF provided samples of protective measures provided on AIM screen images, CAJ-1022 forms, emails, transfer orders, etc. Protective measures included transfers to other facilities. Emails indicated that 90-day retaliation monitoring was continued at the subsequent facility.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, and interviews, the facility meets all requirements of provision (b).

115.67 (c) The above policies were reviewed including the PREA Manual which indicates that The Department shall monitor for changes that may suggest possible retaliation by prisoners or staff, regardless if the prisoner is transferred, as follows: • Staff who report sexual abuse – 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. • Prisoners who report sexual abuse or have been an alleged victim of a report of sexual abuse – Supervisory staff shall monitor for disciplinary sanctions, housing/program changes and also conduct periodic status checks.

Additionally, upon receipt of a sexual abuse allegation, staff shall initiate 90 calendar day retaliation monitoring using the appropriate form. Staff continue such monitoring beyond 90-calendar days if the initial monitoring indicates a need. Further, the Department shall act promptly to remedy any retaliation including employing protection measures such as housing changes, transfers, changes of alleged staff work assignments.

Pre-audit, the facility responded positively in the questionnaire that the agency/facility monitors the conduct or treatment of inmates or staff who reported sexual abuse and of inmates who were reported to have suffered sexual abuse to see if there are any changes that may suggest possible retaliation by inmates or staff. Monitoring is conducted for 90-days. The facility reported acting promptly to remedy any such retaliation, and continues such monitoring beyond 90-days if the initial monitoring indicates a continuing need for it. The facility reported zero (0) such incidents of retaliation occurring in the past 12-months.

During the onsite phase of the audit, the Warden was interviewed and responded that measures that can be taken when retaliation is suspected can include separating inmates, moving staff, investigating the allegation; transfers will be performed if needed; the corrective action taken is swift. 1-designated staff member charged with monitoring retaliation was interviewed and responded that for an inmate, possible retaliation looks like a behavior change in them: appearance changes, withdrawn, etc.; it is clear when there is a problem. Monitoring occurs for 90-days; and extensions of 30-days can be requested if there is a potential for retaliation occurring.

TCF provided a blank sample of CAJ-1022 PREA Sexual Abuse Retaliation Monitoring form which indicates monitoring that includes reviews of disciplinary reports, housing changes, face to face contact, program changes, performance evaluations, and staff reassignments. TCF retaliation monitoring forms meet the requirements of the provision. TCF also provided completed samples of CAJ-1022 forms for 5-separate instances of retaliation monitoring and all were new, 90-day monitoring periods, not 30-day continuations.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, and interviews, the facility meets all requirements of provision (c).

115.67 (d) The above policies were reviewed including the PREA Manual which indicates that prisoners who report sexual abuse or have been an alleged victim of a report of sexual abuse – supervisory staff shall monitor for disciplinary sanctions, housing/program changes and also conduct periodic status checks.

During the onsite phase of the audit, 1-designated staff member charged with monitoring retaliation was interviewed and responded that for an inmate, possible retaliation looks like a behavior change in them: appearance changes, withdrawn, etc.; it is clear when there is a problem.

TCF provided a blank sample of CAJ-1022 PREA Sexual Abuse Retaliation Monitoring form which indicates monitoring that includes reviews of disciplinary reports, housing changes, face to face contact, program changes, performance evaluations, and staff reassignments; the form notes 13-weeks of face to face contact checks. TCF retaliation monitoring forms meet the requirements of the provision. TCF also provided completed samples of CAJ-1022 forms for 5-separate instances of retaliation monitoring.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, and interviews, the facility meets all requirements of provision (d).

115.67 (e) The above policies were reviewed including the PREA Manual which indicates 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. Policy is consistent with the requirements of the provision.

During the onsite phase of the audit, the Agency Head Designee was interviewed and responded that there is no discipline for reporting and there are different avenues to provide reports; monitoring occurs for an individual who cooperates with an investigation and expresses fear of retaliation. The Warden was also interviewed and responded that measures that can be taken when retaliation is suspected and can include separating inmates, moving staff, investigating the allegation; transfers will be performed if needed; the corrective action taken is swift.

TCF provided a memo dated June 12, 2019 from the PCM to the PREA Analyst regarding 115.67 (e) which indicated that in the past 12-months, TCF has not had to conduct any 90-day retaliation monitoring on any individuals other than victims.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, and interviews, the facility meets all requirements of provision (e) and is overall compliant for the standard. Provision (f) of the standard is not audited.

## Standard 115.68: Post-allegation protective custody

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

#### 115.68 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 04.05.120 Segregation Standards
2. Interviews:
  - a. Warden
  - b. Staff who supervise inmates in segregated housing
3. Sight Review Observations:
  - a. Segregation unit (Building #200)
  - b. Segregation unit (Franklin B)

115.68 (a) The above policies were reviewed including the PREA Manual which indicates that prisoners at high risk of sexual victimization or who are alleged to have suffered sexual abuse shall not be placed in involuntary temporary segregation unless an assessment of all available alternatives is complete and a determination has been made that no less restrictive means of separation from likely abusers exist. If the review cannot be

conducted immediately, the prisoner may be held in temporary segregation for up to 24-hours while the review is completed.

The PREA Manual also specifies that every 30-days, the facility shall afford the prisoner a review to determine whether there is a continuing need for separation from the general population. The contents of policy are consistent with the requirements of the provision.

PD 04.05.120 Segregation Standards were also reviewed and indicated that temporary segregation is used for a number of reasons including a prisoner's need for protection. A prisoner's placement in temporary segregation and reason is documented in writing and approved by the Warden or designee within 72-hours of placement. It also specifies that prisoners in segregation have access to basic needs such as healthcare, prescription medication, medically necessary items such as wheelchairs, eyeglasses, etc., clothing, hygiene items, 3-meals per day, shower opportunities, bedding items, hair care, mail, visits, 1-hour per day and 5-days per week for out of cell exercise, etc., although some items are restricted based on sanctioning or security needs for non-protective custody inmates.

Pre-audit, the facility responded positively in the questionnaire that it has a policy that is consistent with the requirements of the provision in that prisoners at high risk of sexual victimization or who are alleged to have suffered sexual abuse shall not be placed in involuntary temporary segregation unless an assessment of all available alternatives is complete and a determination has been made that no less restrictive means of separation from likely abusers exist. If the review cannot be conducted immediately, the prisoner may be held in temporary segregation for up to 24-hours while the review is completed.

The facility also responded that in the past 12-months, there was 1-inmate who had alleged sexual abuse who was held in involuntary segregation for 1-24-hours awaiting completion of an assessment. There was also 1-inmate who alleged sexual abuse who was held in involuntary segregation in the past 12-months for longer than 30-days while awaiting alternative placement. The reported 1-file containing both a statement for the basis for the facility's concern for the inmate's safety and the reason or reason why alternative means of separation could not be arranged. The facility also responded positively that it affords each inmate a review every 30-days to determine whether there is a continuing need for separation from the general population.

During the onsite phase of the audit, the Warden was interviewed and responded that regarding the placement of inmates at high risk of sexual victimization or who have alleged sexual abuse in involuntary segregated housing in lieu of other housing, that a PREA assessment is completed and housing is based on those results. Temporary segregation is a last resort until an alternate placement can be obtained after segregation. Ordinarily, he added, inmates that are placed in segregation for protective reasons are only there for the extent of time needed, until an alternate placement is found, so that they can return to their work assignments, as quickly as possible. If needed, a transfer to another facility is used. The Warden discussed 1-case in the last 12-months when temporary segregation was used to provide protection. There were other threats being made to the inmate from other inmates that could not be identified. The alleged victim was eventually returned to regular status after completion of the investigation, which had a substantiated finding.

Also interviewed were 2-staff who supervise inmates in segregated housing. 1-staff in the adult segregation unit in building #200 responded that inmates placed in segregated housing for protection from sexual abuse or having alleged sexual abuse still have access to programs, education, and privileges however work opportunities are temporarily suspended. The facility documents if access to the aforementioned is limited, the duration of the limitation and the reason for the limitation; this is listed on a checklist. Placement in involuntary segregated housing is only until an alternative means of separation from the likely abuse can be arranged; and that this

occurs until the victim feels safe. It was added that a review occurs every 30-days to determine if continued placement in involuntary segregated housing is needed.

1-staff who supervises inmates in segregated housing in the Franklin B youthful inmate housing unit was interviewed and explained that youthful inmates are not housed in segregation with the adults in building #200. This area was observed during the tour. The majority of the cells were occupied. There is no protective custody or administrative segregation for youthful inmates. There is only temporary segregation in the housing unit in 6-10 designated cells on the lower level, back tier of the Franklin B housing unit. This is used for behavioral reasons only and during misconduct pre-hearings, youthful inmates (YO) can be detained for 7-business days. If found guilty, they can be held in detention, for up to 10-days, in the same cells. Due to this being the only housing unit in the MDOC for youthful inmates, there are no opportunities for alternative placement in another housing unit or facility.

At the time of the audit, there were no inmates in segregated housing for risk of sexual victimization or who alleged to have suffered sexual abuse. The facility had no inmates available to interview in this targeted category.

During the onsite tour, the Segregation Unit within Building #200 was also visited and it consists of an upper level and a lower level. The maximum capacity downstairs is 10-inmates and the maximum capacity upstairs is 12-inmates. The unit had a current population of 20-inmates at the time of the tour. Posters were observed telling inmates about their rights to be free from sexual abuse/harassment; about how to report PREA allegations, PREA audit notices, JDI posters; and several cameras were visible on the unit. 1-observation cell has a camera in it however the toilet area is blocked out on the monitor; windows to the exterior are tinted so that inmates outside the building cannot see inside the cells. Mirrors are also used for monitoring in the unit. There were no blind spots observed.

The second floor of segregation was also visited and the entire area was observed. A log book was randomly checked here and from 6/23/19 to 7/23/2019, there were 178-rounds performed by Sergeants, Lieutenants, RN's, Chaplains, etc. Upper level administration staff use round readers while performing rounds in this area and other areas.

In association with 115.43, the facility provided a completed CAJ-1024 PREA Sexual Abuse Investigation Worksheet. It indicated that the alleged victim was placed in segregation from 6/25/18 to 8/2/18 "per SCC pending." Programs, privileges, education and work opportunities were limited which included the MSI work detail and level 2 general population privileges; the duration of the limitation and the reason for the limitation was noted on the form. Referrals for medical/mental health and advocacy were made. The Security Classification Committee (SCC) reviews occur regularly during the first 2-months of segregation and then every 30-calendar days thereafter until a prisoner is reclassified to general population status per PD 04.05.120 Segregation Standards. Also provided was a CSJ-686 Request for Protection/Investigation Report which coincided with the aforementioned case. The SCC Review and Decision recommended transfer to an alternate facility due to protection needs not being able to be met at the current facility. The alleged abuser was transferred from the facility which coincided with the inmate's release from segregation; it appeared that service of a misconduct by the alleged abuser, completion of the PREA investigation, and locating an alternate location for the abuser prolonged the victim's segregation placement.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, staff interviews, and onsite tour observations, the facility meets all requirements of provision (a) and is overall compliant with the standard.

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

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

#### 115.71 (a)

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

#### 115.71 (b)

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

#### 115.71 (c)

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

#### 115.71 (d)

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

#### 115.71 (e)

- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as inmate or staff? ☒ Yes ☐ No
- Does the agency investigate allegations of sexual abuse without requiring an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding? ☒ Yes ☐ No

#### 115.71 (f)

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

#### 115.71 (g)

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

#### 115.71 (h)

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

#### 115.71 (i)

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

#### 115.71 (j)

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

#### 115.71 (k)

- Auditor is not required to audit this provision.

#### 115.71 (l)

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

#### Auditor Overall Compliance Determination

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



## **Does Not Meet Standard** (*Requires Corrective Action*)

### **Instructions for Overall Compliance Determination Narrative**

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 03.03.140 PREA and Prohibited Conduct Involving Prisoners
  - c. MDOC Sexual Violence Response and Investigation Guide (2015)
  - d. TCF Investigation Samples (4)
  - e. Basic Investigator Training Manual
  - f. NIC Investigator Curriculum
  - g. TCF Basic Investigator Training Logs
  - h. TCF Memo PREA Investigators dated June 10, 2019
  - i. PREA Administrator Memo dated July 21, 2016
  - j. MSP Letter dated September 30, 2015
  - k. TCF Substantiated Investigation samples
  - l. TCF Memo AIM #22059 dated October 19, 2017
  - m. MSP Information samples
2. Interviews:
  - a. Investigative staff
  - b. Inmates who reported sexual abuse
  - c. Warden
  - d. PREA Coordinator
  - e. PCM
3. Sight Review Observations: None

115.71 (a) The above policies were reviewed including the PREA Manual which indicates that where sexual abuse is alleged, an investigator shall be assigned who has received specialized investigator training as outlined in the Training section of this manual. The investigation shall be conducted promptly, thoroughly and objectively. PD 03.03.140 was also reviewed which indicates that all investigations shall be conducted promptly, thoroughly and objectively. All PREA investigations shall be conducted in accordance with the Sexual Abuse/Sexual Harassment Investigations portion of the PREA Manual.

Pre-audit, the facility responded positively in the questionnaire that the agency/facility has a policy related to criminal and administrative investigations.



During the onsite phase of the audit, 1-investigative staff was interviewed and responded regarding the process of an investigation being assigned following an allegation of sexual abuse or sexual harassment. Upon reporting of the allegation, the allegation is given to a supervisor; criteria are evaluated and it is entered into the computer; it goes to Internal Affairs (IA) in Lansing and within 2-4 days gets assigned with a case number. IA may handle the investigation or a local inspector may investigate it. Additionally, if an anonymous or third-party report of sexual abuse or sexual harassment is received, it is investigated the same way, if there is enough information.

The MDOC's Sexual Violence Response and Investigation Guide (2015) was reviewed and indicates that all investigations shall be conducted promptly, thoroughly, and objectively. TCF also provided 4-investigation samples: AIM #25119, #25830, #26168, #28080. Each of the samples were reviewed and found to be investigated promptly (referred or assigned for investigation within 1-day; within 20-days; within 3-days; and within 5-days, respectively); thoroughly (all investigations contained sufficient information to weigh merits of the case including steps taken and a conclusion; and objectively (each contained exhaustive lists of relevant evidence including video where available: 16 items of evidence; 8-items of evidence; 22-items of evidence; and 13-items of evidence, respectively).

Also during the onsite phase of the audit, 7-investigative files were reviewed by the audit team using the PREA Audit – Adult Prisons & Jails Documentation Review form which includes assessing for: gathered evidence, interviews conducted, review of staff actions, review of evidence described, and the application of preponderance of evidence applied by the investigator per this standard. Of the 7-administrative investigations, the investigative reports indicated that the aforementioned were applicable and applied by the investigator in 5-of the 7-cases. 1-case is ongoing and the 1-remaining case did not note if this standard of proof was applied however had an unsubstantiated finding. 1-case was the result of anonymous third-party reporting.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, and staff interviews, the facility meets the requirements of provision (a).

115.71 (b) The above policies were reviewed including the PREA Manual which indicates that where sexual abuse is alleged, an investigator shall be assigned who has received specialized investigator training as outlined in the Training section of this manual. PD 03.03.140 was also reviewed which indicates that investigations of sexual abuse/sexual harassment shall be completed by staff who have received specialized investigator training as outlined in the PREA Manual. All investigations shall be conducted promptly, thoroughly and objectively. All PREA investigations shall be conducted in accordance with the Sexual Abuse/Sexual Harassment Investigations portion of the PREA Manual.

During the onsite phase of the audit, 1-investigative staff was interviewed and responded positively that training was received that was specific to conducting sexual abuse investigations in confinement settings and that it involved online NIC training, and included approaching victims, abusers, evidence, etc.

TCF provided the MDOC Basic Investigator Training Manual (August 2014), NICs PREA Investigating Sexual Abuse in a Confinement Setting curriculum overview, TCF Basic Investigator and PREA Investigator training records dated 06/11/2019; and a TCF Memo from the Warden to the PREA Analyst dated June 10, 2019 providing a list of 22-trained TCF qualified staff to conduct such investigations. These and similar items were used to evaluate TCF's compliance for standard 115.34.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, and staff interviews, the facility meets the requirements of provision (b).

115.71 (c) The above policies were reviewed including the PREA Manual which indicates that the facility shall coordinate the actions of the investigators, first responders, law enforcement and forensic examiners to ensure that available direct and circumstantial evidence is gathered and preserved, including any physical DNA evidence and available electronic monitoring data.

During the onsite phase of the audit, 1-investigative staff was interviewed and responded that the first steps in initiating an investigation upon an allegation being reported is that an Investigation Request form is completed by staff and supervisors; it is identified as PREA; it goes to the Warden and is entered in AIM, then to IA in Lansing. These actions are immediate and or next business day. The investigation process involves an inspector reviewing the allegation, reviewing any video evidence, interviewing the victim, clarifying what happened, and interviewing witnesses, and interviewing the suspect. An incident of sexual abuse would involve gathering statements, circumstantial evidence such as call out history, placement history, job assignments, to verify allegations.

TCF provided 4-investigation samples: AIM #25119, #25830, #26168, #28080. Each of the samples were reviewed and found to be investigated promptly (referred or assigned for investigation within 1-day; within 20-days; within 3-days; and within 5-days, respectively); thoroughly (all investigations contained sufficient information to weigh merits of the cases including steps taken and a conclusion; and objectively (each contained exhaustive lists of relevant evidence including video where available: 16 items of evidence; 8-items of evidence; 22-items of evidence; and 13-items of evidence, respectively). Interviews conducted included alleged victims, alleged perpetrators, witnesses if applicable, and reviews of perpetrator prior history if applicable.

Also during the onsite phase of the audit, 7-investigative files were reviewed by the audit team using the PREA Audit – Adult Prisons & Jails Documentation Review form which includes assessing for: gathered evidence, interviews conducted, review of staff actions, review of evidence described, and the application of preponderance of evidence applied by the investigator per this standard. Of the 7-administrative investigations, the investigative reports indicated that the aforementioned were applicable and applied by the investigator in 5-of the 7-cases. 1-case is ongoing and the 1-remaining case did not note if this standard of proof was applied however had an unsubstantiated finding.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, and staff interviews, the facility meets the requirements of provision (c).

115.71 (d) The above policies were reviewed including the PREA Manual which indicates that Investigators shall interview alleged victims, suspected perpetrators and sufficient witnesses to establish the facts. When the evidence appears to support criminal prosecution, the assigned investigator shall coordinate all investigative interviews with law enforcement to ensure that interviews conducted by the Department, if any, will not be an obstacle for subsequent criminal prosecution. The investigator shall also review prior complaints and reports of sexual abuse involving the suspected perpetrator at the facility/facilities.

During the onsite phase of the audit, 1-Investigative staff was interviewed and responded that when it is discovered that evidence of a prosecutable crime may have taken place, cases are referred to MSP, prior to interviews. Interviews may also depend on what the MSP investigator requests, however these are otherwise completed by MSP.

Also during the onsite phase of the audit, 7-investigative files were reviewed by the audit team using the PREA Audit – Adult Prisons & Jails Documentation Review form which includes assessing for: gathered evidence, interviews conducted, review of staff actions, review of evidence described, and the application of

preponderance of evidence applied by the investigator per this standard. Of the 7-administrative investigations, 4-cases involved allegations of sexual abuse and all 4-cases were referred to MSP for prosecution. The auditor finds that based on pre-audit materials reviewed including policy and documentation, and staff interviews, the facility meets the requirements of provision (d).

115.71 (e) The above policies were reviewed including the PREA Manual which indicates that the credibility of an alleged victim, suspect or witness shall be assessed on an individual basis and shall not be determined by the person's status as "prisoner" or "staff." A prisoner who alleges sexual abuse shall not be required to submit to a polygraph examination or other truth-telling device/serum as a condition for proceeding with the investigation of an allegation. Policy is consistent with the requirements of the provision.

During the onsite phase of the audit, 1-investigative staff was interviewed and reported that several things are evaluated to determine the credibility of an investigation participant and if they have cognitive or mental health issues. Under no circumstances would TCF staff subject an inmate to submit to a polygraph or truth-telling device. Of 5-inmates who reported sexual abuse, none reported being subject to a polygraph test as a condition for proceeding with a sexual abuse investigation.

The auditor finds that based on pre-audit materials reviewed including policy, and interviews, the facility meets the requirements of provision (e).

115.71 (f) The above policies were reviewed including the PREA Manual which indicates that Department investigative reports shall include: (1) An effort to determine whether staff actions or inaction contributed to the abuse; (2) A description of the physical, forensic and testimonial evidence; (3) The reasoning behind credibility assessments; and (4) Investigative facts and findings.

During the onsite phase of the audit, 1-investigative staff was interviewed and responded that during an administrative investigation, efforts are made to determine if staff actions or failures to act contributed to sexual abuse. This includes identifying when and where sexual abuse was alleged to have happened, reviewing video, and determining if staff took required actions. He affirmed that administrative investigations are documented in written reports. TCF provided the 4-sample investigations discussed above.

The audit team observed 31-files containing documentation of written reports for administrative investigations while onsite. Of the 31-files, the audit team selected 7-investigative files for review using the PREA Audit – Adult Prisons & Jails Documentation Review form which includes assessing for: gathered evidence, interviews conducted, review of staff actions, review of evidence described, and the application of preponderance of evidence applied by the investigator per the standards. Of the 7-administrative investigations, 4-cases involved allegations of sexual abuse and all 4-cases were referred to MSP for prosecution. The investigative reports included descriptions of physical evidence and testimonial evidence, and investigative facts and findings.

The auditor finds that based on pre-audit materials reviewed including policy, and interviews, the facility meets the requirements of provision (f).

115.71 (g) The above policies were reviewed including the PREA Manual which indicates that Administrative investigations into an allegation of sexual abuse or sexual harassment shall be documented in a written report that conforms to Internal Affairs guidelines and forwarded through the chain of command to the appropriate authority with a courtesy copy to the Department's PREA Section within Central Office. Department investigative reports shall include: (1) An effort to determine whether staff actions or inaction contributed to the abuse; (2) A description of the physical, forensic and testimonial evidence; (3) The reasoning behind credibility assessments; and, (4) Investigative facts and findings. The outcome of the investigation shall be documented in

pertinent computerized database entry(ies), including administrative findings and information related to the criminal investigation, including charges and disposition. The investigation shall be processed in accordance with applicable Manuals and Department policies.

PD 03.03.140 was also reviewed which indicates that any allegation(s) that appear to be criminal shall be referred to the MSP or other appropriate law enforcement agency to be criminally investigated and referred for prosecution.

During the onsite phase of the audit, 1-investigative staff was interviewed and responded positively that criminal investigations are documented. They include the sexual assault/sexual harassment checklist, emails, a copy of the MSP report, however MSP may decline to investigate.

TCF provided its Basic Investigator Training Manual; a PREA Administrator Memo dated July 21, 2016 regarding 115.71(h) which indicates that the responsibility for referral for criminal prosecution lies solely with the law enforcement agency investigating the criminal aspects of a particular allegation; and the MSP letter dated September 30, 2015 indicating that the MSP is a state agency responsible for investigating criminal allegations of sexual abuse in the MDOC prisons – it specifically speaks to the MSP's responsibility to comply with 115.21 (a-f).

The audit team observed 31-files containing documentation of written reports for administrative investigations while onsite. Of the 31-files, the audit team selected 7-investigative files for review using the PREA Audit – Adult Prisons & Jails Documentation Review form which includes assessing for: gathered evidence, interviews conducted, review of staff actions, review of evidence described, and the application of preponderance of evidence applied by the investigator per the standards. Of the 7-administrative investigations, 4-cases involved allegations of sexual abuse and all 4-cases were referred to MSP for prosecution. The investigative reports included descriptions of physical evidence and testimonial evidence, and investigative facts and findings. Where feasible, documentary evidence was included. Observed in some of the written reports/files were photographs, overviews of video evidence and/or recorded interviews.

The auditor finds that based on pre-audit materials reviewed including policy, documentation reviews and interviews, the facility meets the requirements of provision (g).

115.71 (h) The above policies were reviewed including the PREA Manual which indicates that regarding Referral for Prosecution, upon completion of the administrative investigation and in accordance with policy, the Department shall ensure that all Sufficient Evidence/Substantiated investigations that appear to be criminal are referred for prosecution. PD 03.03.140 was also reviewed which indicates that regarding prisoner on prisoner sexual abuse, any allegation(s) that appear to be criminal shall be referred to the MSP or other appropriate law enforcement agency to be criminally investigated and referred for prosecution. Additionally, regarding staff sexual misconduct/harassment and staff overfamiliarity, any allegation(s) that appear to be criminal shall be referred to the MSP or other appropriate law enforcement agency to be criminally investigated and referred for prosecution.

Pre-audit, the facility responded positively in the questionnaire that substantiated allegations of conduct that appear to be criminal are referred for prosecution. There were 2-substantiated allegations of conduct that appeared to be criminal that were referred for prosecution.

During the onsite phase of the audit, 1-investigative staff was interviewed and responded that the allegations are referred to MSP; MSP refers the investigations to the prosecutor to see if the prosecutor wants to proceed with prosecution.

TCF provided 2-files containing investigative documentation of substantiated allegations of conduct that appeared to be criminal that were referred for investigation to MSP and referral for prosecution: AIPAS #14252 and #12952. Both files contained investigative documentation by the MSP and indicated referral for prosecution. The first case was not prosecuted due to reasonable doubt; the second case was denied charges by the prosecutor.

The auditor finds that based on pre-audit materials reviewed including policy, documentation reviews and interviews, the facility meets the requirements of provision (h).

115.71 (i) The above policies were reviewed including the PREA Manual which indicates that all investigative reports relating to sexual abuse allegations shall be retained for as long as the alleged abuser is incarcerated or employed by the Department, plus five years.

Pre-audit, the facility responded positively in the questionnaire that the agency retains all written reports pertaining to the administrative or criminal investigation of alleged sexual assault or sexual harassment for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

TCF provided 2-files containing investigative documentation of substantiated allegations of conduct that appeared to be criminal that were referred for investigation to MSP and referral for prosecution: AIPAS #14252 and #12952. Both files contained investigative documentation by the MSP and indicated referral for prosecution. The first case was not prosecuted due to reasonable doubt; the second case was denied charges by the prosecutor. Both investigations stemmed from allegations in 2015 are being retained according to record retention requirements.

The auditor finds that based on pre-audit materials reviewed including policy and documentation reviews, the facility meets the requirements of provision (i).

115.71 (j) The above policies were reviewed including the PREA Manual which indicates that a thorough investigation shall be completed even if: (1) The alleged abuser departs from Department employment; (2) The victim or perpetrator departs from the control of the facility; or (3) The victim or perpetrator departs from control of the Department. PD 03.03.140 was also reviewed which indicates that the investigation shall not be closed simply due to the resignation, transfer, or termination of the accused staff person.

During the onsite phase of the audit, 1-investigative staff was interviewed and responded that if a staff member alleged to have committed sexual abuse terminates employment prior to a completed investigation into his/her conduct, a certified letter is sent to them; we call them. The employee responds to the letter and phone call. Additionally, if a victim or an abuser leaves the facility prior to a completed investigation of sexual abuse or sexual harassment, and they are still in MDOC custody, we can visit that facility, use video conference, or refer it for interview. For someone in the community skype for business can be used. The investigation proceeds.

TCF provided 1-sample investigation AIM# 22059 alleging sexual abuse by an alleged staff abuser who was no longer employed at TCF or by the MDOC. The abuse was alleged to have occurred at TCF in 2007. The investigation proceeded despite the employee no longer being employed by the agency/facility.

The auditor finds that based on pre-audit materials reviewed including policy and documentation reviews, and staff interviews, the facility meets the requirements of provision (j).

Provision (k) is not audited.

115.71 (I) The above policies were reviewed including the PREA Manual which indicates that the facility shall coordinate the actions of the investigators, first responders, law enforcement and forensic examiners to ensure that available direct and circumstantial evidence is gathered and preserved, including any physical DNA evidence and available electronic monitoring data. Additionally, when the evidence appears to support criminal prosecution, the assigned investigator shall coordinate all investigative interviews with law enforcement to ensure that interviews conducted by the Department, if any, will not be an obstacle for subsequent criminal prosecution. Further, regarding referral for prosecution, the assigned investigator shall remain informed about the progress of the criminal investigation and disposition. Documentation of such information shall be recorded in the Department investigative report, PREA investigation worksheet(s), pertinent computerized database entry(ies) and forwarded to the Office of Legal Affairs.

PD 03.03.140 was also reviewed which indicates that regarding prisoner on prisoner sexual abuse, any allegation(s) that appear to be criminal shall be referred to the MSP or other appropriate law enforcement agency to be criminally investigated and referred for prosecution. Additionally, regarding staff sexual misconduct/harassment and staff overfamiliarity, any allegation(s) that appear to be criminal shall be referred to the MSP or other appropriate law enforcement agency to be criminally investigated and referred for prosecution.

During the onsite phase of the audit, the Warden was interviewed and responded that the facility remains informed about progress of sexual abuse investigations performed by outside agencies by email. The inspector and investigator liaison with each other and MSP conduct the criminal investigation. The PREA Coordinator was interviewed and responded that agency investigative staff work hand in hand with MSP and have a rapport. The PCM was interviewed and responded that he liaisons with outside investigators mostly with phone calls and email updates. 1-investigative staff was interviewed and responded that his role is to refer the investigation; and provide access to inmates, staff, crime scene, and reports to the outside investigators.

TCF provided samples of updates from outside investigators regarding statuses of investigations. This included AIM# 28532, 28551, 27950, and 26168. These statuses involved property destruction (2), lack of evidence, and exceptional clearance closure, respectively.

The auditor finds that based on pre-audit materials reviewed including policy and documentation reviews, and staff interviews, the facility meets the requirements of provision (I) and is overall compliant with the standard.

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

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

### **115.72 (a)**

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

### **Auditor Overall Compliance Determination**

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

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

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. Basic Investigator Training Manual (Final)
  - c. Investigative files
2. Interviews:
  - a. Investigative staff
3. Sight Review Observations: None

115.72 (a) The above policies were reviewed including the PREA Manual and the Basic Investigator Training Manual (Final). According to the PREA Manual, the Department shall not enter into or renew any collective bargaining agreements that impose a standard higher than preponderance of evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. Preponderance of the evidence shall be the standard in determining whether allegations of sexual abuse or sexual harassment are substantiated. Based upon the preponderance of the evidence, the investigation shall indicate determination for each allegation contained in the investigation as substantiated, unsubstantiated, or unfounded.

The Basic Investigator Training Manual (Final) indicates that for administrative investigations, typically, the findings based on an administrative investigation do not meet the same degree of proof that criminal investigations require; preponderance of the evidence (in theory 51%) is the general principle that is used administratively.

Pre-audit, the facility responded positively in the questionnaire that the agency imposes a standard of a preponderance of evidence or a lower standard of proof when determining whether allegations of sexual abuse or sexual harassment are substantiated.

During the onsite phase of the audit, 1-investigative staff was interviewed and responded positively that preponderance of evidence is the standard of evidence used to substantiate allegation of sexual abuse or sexual harassment investigations.

Also during the onsite phase of the audit, 7-investigative files were reviewed by the audit team using the PREA Audit – Adult Prisons & Jails Documentation Review form which includes assessing for: gathered evidence, interviews conducted, review of staff actions, review of evidence described, and the application of

preponderance of evidence applied by the investigator per this standard. Of the 7-administrative investigations, the investigative reports indicated that the aforementioned were applicable and applied by the investigator in 5-of the 7-cases. 1-case is ongoing and the 1-remaining case did not note if this standard of proof was applied however resulted in an unsubstantiated finding.

The auditor finds that based on pre-audit materials reviewed, reviews of policy and documentation, and staff interviews, the facility meets all requirements of provision (a) and is overall compliant with the standard.

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

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

#### **115.73 (a)**

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

#### **115.73 (b)**

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

#### **115.73 (c)**

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

#### **115.73 (d)**



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

#### 115.73 (e)

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

#### 115.73 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - c. CAJ-1021 Prisoner Notification of Sexual Abuse and Sexual Harassment Investigative Findings and Action
  - d. TCF samples of CAJ-1021 forms
  - e. OP TCF 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - f. TCF Memo 115.73d dated June 4, 2019
  - g. TCF Memo Prisoner Notification dated May 6, 2019

2. Interviews:
  - a. Warden
  - b. Investigative Staff
  - c. Inmates who Reported Sexual Abuse

3. Sight Review Observations: None

115.73 (a) The above policies were reviewed including the PREA Manual which indicates that Prisoner Notification Following an Investigation: Following investigation of an allegation a prisoner suffered sexual abuse in a facility, the appropriate Warden or Administrator shall ensure the victim is notified in writing as to whether the allegation has been Substantiated/Sufficient Evidence, Unsubstantiated/Insufficient Evidence or Unfounded/No Evidence. PD 03.03.140 was also reviewed which indicates that the Warden or Lake County Residential Reentry Program (LCRRP) Manager, as appropriate, shall ensure the victim is notified in writing of the final disposition of an investigation involving allegations of sexual abuse. The PREA Prisoner Notification of Sexual Abuse Investigative Findings and Action Form (CAJ-1021) shall be used for this purpose. The CAJ-1021 shall be retained as part of the investigative packet. OP-TCF 03.03.140 was also reviewed which further directs that Following an allegation that a staff member committed sexual abuse against a prisoner, the facility conducting the investigation shall inform the prisoner, unless the investigation determines the allegation was unfounded, whenever: 1. Any disciplinary action is taken. However, details of the discipline, including specific charges and sanctions shall not be provided; 2. The staff member is no longer assigned within the prisoner's unit; 3. The staff member is no longer employed at the facility; 4. The department learns the staff member has been indicted on a charge related to sexual abuse within the facility, or 5. The department learns that the staff member has been convicted on a charge related to sexual abuse within the facility. Additionally, following allegations that a prisoner was sexually abused by another prisoner, the department shall subsequently inform the alleged victim whenever: 1. The department learns the alleged abuser has been indicted on a charge related to sexual abuse within the facility, or; 2. The department learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

Pre-audit, the facility responded positively in the questionnaire that the agency has a policy requiring that any inmate who makes an allegation that he or she suffered sexual abuse in an agency facility is informed, verbally or in writing, as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation by the agency. In the last 12-months, the facility reported that there were 14-criminal and/or administrative investigations of alleged inmate sexual abuse that were completed by the agency/facility. Of those, 8-inmates were notified, verbally or in writing of the results of the investigation within the last 12-months.

TCF provided a blank sample of a CAJ-1021 PREA Prisoner Sexual Abuse and Sexual Harassment Investigative Findings and Action form. This 1-page form contains basic information; the investigative finding; sufficient evidence finding – staff suspect with the action taken; or sufficient evidence finding – prisoner suspect with the action taken; the date/time of prisoner notification; and completed by/date.

TCF provided 4-completed samples of the CAJ-1021 form that were processed between 5/15/2017 and 5/30/2019. All 4-forms indicated findings of insufficient evidence and all were properly executed with inmate signatures depicted at the bottom of each.

During the onsite phase of the audit, the Warden was interviewed and responded that the facility notifies inmates who make allegations of sexual abuse when the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation. He further elaborated on the use of the CAJ-1021

form. 1-Investigative staff was interviewed and responded that agency procedures require that an inmate who makes an allegation of sexual abuse must be informed as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation. He further elaborated that the CAJ-1021 form for notification is used. 5-inmates who reported sexual abuse were interviewed and of the 5-inmates, 3-responded positively that they were informed; 1-responded that the investigation is still open; and 1-was unsure if he was notified.

The auditor finds that based on pre-audit materials reviewed, reviews of policy and documentation, and staff and inmate interviews, the facility meets all requirements of provision (a).

115.73 (b) The above policies were reviewed including the PREA Manual which indicates that regarding referral for prosecution, the assigned investigator shall remain informed about the progress of the criminal investigation and disposition. OP TCF 03.03.140 was also reviewed which indicates that following an allegation that a staff member committed sexual abuse against a prisoner, the facility conducting the investigation shall inform the prisoner, unless the investigation determines the allegation was unfounded, whenever: 1. Any disciplinary action is taken. However, details of the discipline, including specific charges and sanctions shall not be provided; 2. The staff member is no longer assigned within the prisoner's unit; 3. The staff member is no longer employed at the facility; 4. The department learns the staff member has been indicted on a charge related to sexual abuse within the facility, or; The department learns that the staff member has been convicted on a charge related to sexual abuse within the facility. Additionally, following allegations that a prisoner was sexually abused by another prisoner, the department shall subsequently inform the alleged victim whenever: 1. The department learns the alleged abuser has been indicted on a charge related to sexual abuse within the facility, or; 2. The department learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility. Policy is consistent with the content of the provision.

Pre-audit, the facility responded positively in the questionnaire that if an outside entity conducts such investigations, the agency requests the relevant information from the investigative entity in order to inform the inmate of the outcome of the investigation. In the past 12-months, there were two (2) investigations of alleged inmate sexual abuse in the facility that were completed by an outside agency. The facility reported that of the 2-investigations completed in the past 12-months by an outside agency, that both inmates alleging sexual abuse in the facility were notified verbally or in writing of the results of the investigation.

The auditor finds that based on pre-audit materials reviewed including reviews of policy, the facility meets all requirements of provision (b).

115.73 (c) The above policies were reviewed including the PREA Manual which indicates that regarding prisoner notification following an investigation that following an allegation that a staff member committed sexual abuse against a prisoner, the facility conducting the investigation shall inform the prisoner, unless the investigation determines the allegation was Unfounded, utilizing a PREA Prisoner Notification of Sexual Abuse and Sexual Harassment Investigative Findings and Action Form (CAJ-1021) whenever: (1) Any disciplinary action is taken. However, details of the discipline including the specific charges and sanctions shall not be provided; (2) The staff member is no longer posted within the prisoner's unit; (3) The staff member is no longer employed at the facility; (4) The Department learns the staff member has been indicted on a charge related to sexual abuse within the facility; or (5) The Department learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

PD 03.03.140 was reviewed which indicates that language contained within the policy mirrors language in the PREA Manual. OP TCF 03.03.140 was also reviewed which indicates that language contained within the local policy also mirrors the PREA Manual.

Pre-audit, the facility reported positively in the questionnaire that following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the agency/facility subsequently informs the inmate (unless unfounded) whenever the 4-instances enumerated by the provision occur. In the last 12-months, there has been a substantiated or unsubstantiated complaint of sexual abuse committed by a staff member against an inmate in an agency facility. In each case, the agency subsequently informed the inmate, (unless unfounded) whenever the 4-instances enumerated by the provision occur.

TCF provided a blank sample of the CAJ-1021, PREA Prisoner Notification of Sexual Abuse and Sexual Harassment Investigative Findings and Action. This 1-page form contains basic information; the investigative finding; sufficient evidence finding – staff suspect with the action taken; or sufficient evidence finding – prisoner suspect with the action taken; the date/time of prisoner notification; and completed by/date. The sufficient evidence finding block for staff suspect provides options for actions including disciplinary action; no longer assigned to your housing unit; no longer employed at the incident location; indicted on a charge related to this allegation; and convicted on a charge related to this allegation. Policy and the notification form are consistent with the requirements of the provision.

TCF provided 3-completed samples of the CAJ-1021 form and all 3-resulted in insufficient evidence.

During the onsite phase of the audit, 5-inmates who reported sexual abuse were interviewed and responded that 2-investigations involved other inmates; 2-investigations are ongoing; and 1-investigation was unfounded.

The auditor finds that based on pre-audit materials reviewed including reviews of policy, the facility meets all requirements of provision (c).

115.73 (d) The above policies were reviewed including the PREA Manual which indicates that regarding prisoner notification following an investigation that a prisoner was sexually abused by another prisoner, the Department shall subsequently inform the alleged victim utilizing a PREA Prisoner Notification of Sexual Abuse and Sexual Harassment Investigative Findings and Action Form (CAJ-1021) whenever: (1) The Department learns the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or (2) The Department learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

PD 03.03.140 was also reviewed which indicates that language within this policy mirrors language in the PREA Manual. OP-TCF 03.03.140 was reviewed which indicates that language in this policy also mirrors language in the PREA Manual.

Pre-audit, the facility responded positively in the questionnaire that following an inmate's allegation that he or she has been sexually abused by another inmate in an agency facility, the agency subsequently informs the alleged victim whenever: the agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility, or the agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

TCF provided a blank sample of the CAJ-1021 PREA Prisoner Notification of Sexual Abuse and Sexual Harassment Investigative Findings and Action. Contained within the area on the form for sufficient evidence finding – prisoner suspect (sexual abuse); staff indicate either action: Indicted on a charge related to this allegation; or convicted on a charge related to this allegation.

During the onsite phase of the audit, 5-inmates who reported sexual abuse were interviewed and reported that 2-investigations were unsubstantiated that involved other inmates; 3-inmates had no response regarding their investigation.

TCF provided a memo regarding 115.73(d) from the facility inspector indicating that since August 20, 2013, TCF has had zero (0) investigations where an alleged abuser has been indicted on a charge related to sexual abuse within TCF or where an alleged abuser has been convicted of a charge related to sexual abuse within TCF.

The auditor finds that based on pre-audit materials reviewed including reviews of policy and documentation, and interviews with inmates, the facility meets all requirements of provision (d).

115.73 (e) The above policies were reviewed including the PREA Manual which indicates that Prisoner Notification Following an Investigation Following investigation of an allegation a prisoner suffered sexual abuse in a facility, the appropriate Warden or Administrator shall ensure the victim is notified in writing as to whether the allegation has been Substantiated/Sufficient Evidence, Unsubstantiated/Insufficient Evidence or Unfounded/No Evidence. PD 03.03.140 was also reviewed which indicates that The Warden or Lake County Residential Reentry Program (LCRRP) Manager, as appropriate, shall ensure the victim is notified in writing of the final disposition of an investigation involving allegations of sexual abuse. The PREA Prisoner Notification of Sexual Abuse Investigative Findings and Action Form (CAJ-1021) shall be used for this purpose. The CAJ-1021 shall be retained as part of the investigative packet.

Pre-audit, the facility responded positively in the questionnaire that the agency has a policy that all notifications to inmates described under this standard are documented. In the past 12-months, the number of notifications provided to inmates pursuant to this was 22; of these 22-notifications, all 22- were documented.

TCF provided a blank sample of the CAJ-1021 PREA Prisoner Notification of Sexual Abuse and Sexual Harassment Investigative Findings and Action. Staff note the date and time on the form that notification is provided to the inmate. TCF also provided completed samples of properly completed CAJ-1021 forms for 2-inmates between 6/5/18 and 2/2/19, respectively. TCF also provided a memo dated May 6, 2019, for AIM #27950 which conveyed the finding of a PREA investigation following an allegation. This was provided by mail to a former inmate no longer housed at TCF.

The welcome book provided during the onsite phase of the audit contained an investigation tracker including the status of investigations and notifications using the CAJ-1021 form. The tracker indicated that for all of the investigations listed in the past 12-months, all had completed notifications, with the exception of ongoing investigations; 22-completed investigations indicated all 22 had completed notifications.

The auditor finds that based on pre-audit materials reviewed including reviews of policy and documentation, the facility meets all requirements of provision (e) and is overall compliant with the standard. Provision (f) is not audited.

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

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

#### 115.76 (a)

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

#### 115.76 (b)

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

#### 115.76 (c)

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

#### 115.76 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 02.03.100 Employee Discipline

- c. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
- d. TCF Memo 115.76 (a-d) dated June 7, 2018
- e. Employee Handbook

2. Interviews: None

3. Sight Review Observations: None

115.76 (a) The above policies were reviewed including the PREA Manual which indicates that regarding disciplinary sanctions/corrective action, staff shall be subject to disciplinary sanctions up to and including discharge for violations of Department sexual abuse or sexual harassment policies and work rules in accordance with PD 02.03.100 "Employee Discipline" and the Employee Handbook. Additionally, discharge shall be the presumptive disciplinary sanction for staff who engage in sexual abuse of a prisoner. Further, employees are required to comply with Civil Service Commission rules and regulations and the Department's policies, procedures, and Employee Handbook. Employees failing to do so may be subject to discipline as set forth in this policy.

PD 03.03.140 was also reviewed which indicates that regarding prohibited conduct, Staff sexual harassment/sexual misconduct and staff overfamiliarity are violations of Department work rules. Staff that engage in such conduct are subject to disciplinary action pursuant to PD 02.03.100 "Employee Discipline." It also is a felony for staff to engage in sexual contact with a prisoner, as defined in MCL 750.520c. Additionally, it is a felony for a contractual employee or a volunteer to engage in sexual contact with an offender, as defined in MCL 750.520c. A contractual employee or volunteer who engages in such behavior shall be prohibited from providing services within any Department correctional facility. In addition, a parolee or a probationer shall not be required to receive services from a contractual employee or volunteer in the community known to have engaged in such conduct. If such contact is reported by a parolee or probationer, the supervising agent shall ensure that the parolee.

Pre-audit, the facility responded positively in the questionnaire that staff is subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.

The MDOC Employee Handbook was reviewed under Section 51 for Sexual Conduct with Offender and Section 52 Sexual Harassment of Offender. It contains similar language to the above policies and references PD 03.03.130 and PD 03.03.140. Additionally, any violation of this work rule shall result in discharge and may lead to criminal prosecution for sexual conduct with an offender.

A TCF memo regarding 115.76 (a-d) dated June 7, 2018 from the Warden to the PREA Analyst indicated that there were zero (0) staff violations of, or termination for, or resignation prior to termination, for violating MDOC policies against sexual abuse or sexual harassment; there was also no related discipline. Discipline up to and including termination and criminal complaint would be made for sexual abuse cases as well as notification to the Department of Licensing and Regulatory Affairs would be notified.

The auditor finds that based on pre-audit materials reviewed including reviews of policy and documentation, the facility meets all requirements of provision (a).

115.76 (b) The above policies were reviewed including the PREA Manual which indicates that discharge shall be the presumptive disciplinary sanction for staff who engage in sexual abuse of a prisoner. The PD attachment for PD 02.03.100 indicates that for a first rule violation, discharge is the designated discipline for sexual conduct

with an offender; the sanction for sexual harassment of an offender includes any sanction up to and including discharge.

Pre-audit, the facility responded in the questionnaire that in the past 12-months, zero (0) staff from the facility violated agency sexual abuse or sexual harassment policies. In the past 12-months, zero (0) staff were terminated or resigned prior to termination for violating agency sexual abuse or sexual harassment policies.

A TCF memo regarding 115.76 (a-d) dated June 7, 2018 from the Warden to the PREA Analyst indicated that there were zero (0) staff violations of, or termination for, or resignation prior to termination, for violating MDOC policies against sexual abuse or sexual harassment; there was also no related discipline. Discipline up to and including termination and criminal complaint would be made for sexual abuse cases as well as notification to the Department of Licensing and Regulatory Affairs would be notified.

The auditor finds that based on pre-audit materials reviewed including reviews of policy and documentation, the facility meets all requirements of provision (b).

115.76 (c) The above policies were reviewed including the PREA Manual which indicates disciplinary sanctions for sexual harassment and other violations of Department sexual abuse or sexual harassment policies and work rules (other than actually engaging in sexual abuse) shall be commensurate with policy and the nature and circumstances of the acts committed, the staff member's disciplinary history and sanctions imposed for comparable offenses committed by other staff with similar histories.

PD 03.03.140 was also reviewed which indicates that staff sexual harassment/sexual misconduct and staff overfamiliarity are violations of Department work rules. Staff that engage in such conduct are subject to disciplinary action pursuant to PD 02.03.100 "Employee Discipline." It also is a felony for staff to engage in sexual contact with a prisoner, as defined in MCL 750.520c. Additionally, it is a felony for a contractual employee or a volunteer to engage in sexual contact with an offender, as defined in MCL 750.520c. A contractual employee or volunteer who engages in such behavior shall be prohibited from providing services within any Department correctional facility. In addition, a parolee or a probationer shall not be required to receive services from a contractual employee or volunteer in the community known to have engaged in such conduct.

PD 02.03.100 was reviewed which indicates that employees are required to comply with Civil Service Commission rules and regulations and the Department's policies, procedures, and Employee Handbook. Employees failing to do so may be subject to discipline as set forth in this policy. Additionally, Attachment A of the Discipline Standards of this of this policy indicates that the designated discipline for sexual conduct with an offender is discharge. The designated discipline for overly-familiar or unauthorized contact with an offender; and sexual harassment of an offender is any sanction up to and including discharge.

Pre-audit, the facility responded positively in the questionnaire that disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) are commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. In the past 12-months there were zero (0) staff from the facility who were disciplined, short of termination, for violation of agency sexual abuse or sexual harassment policies.

A TCF memo regarding 115.76 (a-d) dated June 7, 2018 from the Warden to the PREA Analyst indicated that there were zero (0) staff violations of, or termination for, or resignation prior to termination, for violating MDOC policies against sexual abuse or sexual harassment; there was also no related discipline. Discipline up to and



including termination and criminal complaint would be made for sexual abuse cases as well as notification to the Department of Licensing and Regulatory Affairs would be notified.

The auditor finds that based on pre-audit materials reviewed including reviews of policy and documentation, the facility meets all requirements of provision (c).

115.76 (d) The above policies were reviewed including the PREA Manual which indicates all discharges for sexual abuse or sexual harassment of a prisoner, or resignations by staff who would have been discharged if not for their resignation, shall be reported to law enforcement agencies. PD 03.03.140 was also reviewed which indicates that staff sexual harassment/sexual misconduct and staff overfamiliarity are violations of Department work rules. Staff that engage in such conduct are subject to disciplinary action pursuant to PD 02.03.100 "Employee Discipline." It also is a felony for staff to engage in sexual contact with a prisoner, as defined in MCL 750.520c. Additionally, it is a felony for a contractual employee or a volunteer to engage in sexual contact with an offender, as defined in MCL 750.520c. A contractual employee or volunteer who engages in such behavior shall be prohibited from providing services within any Department correctional facility. In addition, a parolee or a probationer shall not be required to receive services from a contractual employee or volunteer in the community known to have engaged in such conduct.

PD 02.03.100 was reviewed which indicates that employees are required to comply with Civil Service Commission rules and regulations and the Department's policies, procedures, and Employee Handbook. Employees failing to do so may be subject to discipline as set forth in this policy. Additionally, Attachment A of the Discipline Standards of this of this policy indicates that the designated discipline for sexual conduct with an offender is discharge. The designated discipline for overly-familiar or unauthorized contact with an offender; and sexual harassment of an offender is any sanction up to and including discharge.

Pre-audit, the facility responded positively in the questionnaire that all terminations for violations of agency sexual abuse or sexual harassment policies, or resignation by staff who would have been terminated if not for their resignation, are reported to law enforcement agencies, unless the activity was clearly not criminal and to any relevant licensing bodies. The facility reported that in the last 12-months, there were zero (0) staff from the facility that have been reported to law enforcement or licensing boards following their termination (or resignation prior to termination) for violating agency sexual abuse or sexual harassment policies.

A TCF memo regarding 115.76 (a-d) dated June 7, 2018 from the Warden to the PREA Analyst indicated that there were zero (0) staff violations of, or termination for, or resignation prior to termination, for violating MDOC policies against sexual abuse or sexual harassment; there was also no related discipline. Discipline up to and including termination and criminal complaint would be made for sexual abuse cases as well as notification to the Department of Licensing and Regulatory Affairs would be notified.

The auditor finds that based on pre-audit materials reviewed including reviews of policy and documentation, the facility meets all requirements of provision (d) and is overall compliant with the standard.

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

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

#### **115.77 (a)**

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with inmates? ☒ Yes ☐ No

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

#### 115.77 (b)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - c. TCF Memo Investigation of Contractual Employees, dated December 27, 2016
  - d. TCF Memo Internal Affairs Complaint, dated April 10, 2019
  - e. TCF Email dated August 30, 2018
2. Interviews:
  - a. Warden
3. Sight Review Observations: None

115.77 (a) The above policies were reviewed including the PREA Manual which indicated that any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with prisoners and shall be reported to law enforcement agencies. Reporting such conduct to any other relevant licensing bodies shall take place as deemed appropriate and as required by statute. A contractor may also be subject to termination of the contract

with the state. Also reviewed was PD 03.03.140 which indicated that a contractual employee or volunteer who engages in such behavior shall be prohibited from providing services within any Department correctional facility. The agency's policy is consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that it has a policy that requires that any contractor or volunteer who engages in sexual abuse be reported to law enforcement agencies and to relevant licensing bodies. The agency also requires that any contractor or volunteer who engages in sexual abuse be prohibited from contact with inmates. The facility reported that in the last 12-months, zero (0) contractors or volunteers were reported to law enforcement agencies and relevant licensing bodies for engaging in sexual abuse of inmates.

The facility's investigation tracker was reviewed for the 12-months' preceding the onsite audit. During the onsite phase of the audit, 31-investigative files were available for review. Included with those files were files older than 12-months. Of 31-files, 7-files were selected for review. One of these investigations involved a staff-on-inmate allegation of sexual abuse and the alleged abuser was indicated as a contracted food service employee. It was observed during the file review, and email samples provided by the facility, that this case was referred for prosecution to the Michigan State Police. At the time of the audit, the investigation was ongoing.

Another TCF memo provided by the facility dated December 27, 2016, indicated that employee misconduct, including by contracted employees, is entered into the AIM system; that if the alleged misconduct rises to a level of criminal behavior, it must be forwarded to the Michigan State Police. The memo also indicated that all completed investigations of this type need to be sent to Internal Affairs for final review and closure. When IA receives and reviews the completed investigation, IA will notify the appropriate contract monitor of the results of the investigation. In many situations, it is likely that the contracted employee will no longer be working at the correctional facility; this process will confirm that the incident was appropriately investigated and proper action was taken.

The auditor finds that based on pre-audit materials reviewed, reviews of policy and documentation, the facility meets the requirements of provision (a).

115.77 (b) The above policies were reviewed including the PREA Manual which indicated that all discharges for sexual abuse or sexual harassment of a prisoner, or resignations by staff who would have been discharged if not for their resignation, shall be reported to law enforcement agencies. Reporting such conduct to other relevant licensing bodies shall take place as deemed appropriate and as required by statute. It further discusses that any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with prisoners and shall be reported to law enforcement agencies as well as relevant licensing bodies shall take place as deemed appropriate and as required by statute. A contractor may be subject to termination of the contract with the state. The facility shall take appropriate measures, and shall consider whether to prohibit further contact with prisoners, in the case of any other violation of Department sexual abuse or sexual harassment policies by a contractor or volunteer.

Pre-audit, the facility responded positively in the questionnaire that the facility takes appropriate remedial measures and considers whether to prohibit further contact with inmates in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer. The aforementioned TCF memos above were reviewed for consideration of this provision.

During the onsite phase of the audit, the Warden was interviewed and responded that regarding allegations of contractors or volunteers alleged to be engaging in sexual abuse of inmates, the allegation would be investigated and the contact with inmates would be immediately halted. In such cases, a state-wide permanent

ban from all facilities could be imposed. Additionally, the Michigan State Police would be contacted for behavior that rises to a criminal level.

The auditor finds that based on pre-audit materials reviewed, reviews of policy and documentation, and staff interviews, the facility meets the requirements of provision (b) and is overall compliant with the standard.

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

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

#### **115.78 (a)**

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

#### **115.78 (b)**

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

#### **115.78 (c)**

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

#### **115.78 (d)**

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

#### **115.78 (e)**

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

#### **115.78 (f)**

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

#### **115.78 (g)**

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 03.03.105 Prisoner Discipline
  - c. PD 03.03.105 Attachment A and D
  - d. TCF Category Allegation Report Dated 6/7/2019
  - e. TCF Memo 115.78 (a-c) dated June 7, 2019
  - f. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - g. TCF Memo 115.78 (d) dated June 10, 2019
  - h. TCF Allegation Category Report dated June 11, 2019
  - i. TCF Memo 115.78 (e) dated June 8, 2019
  - j. MDOC Prisoner Guidebook 6/2014
  - k. TCF Memo 115.78 (f) dated June 11, 2019
  - l. TCF Memo 115.78 (g) dated June 11, 2019
2. Interviews:
  - a. Warden
  - b. Medical and Mental Health Staff
  - c. Hearings Investigator
3. Sight Review Observations: None

115.78 (a) The above policies were reviewed including the PREA Manual which indicates prisoners are prohibited from having any sexual contact with another prisoner. A prisoner who voluntarily engages in sexual behavior is subject to discipline in accordance with PD 03.03.105 "Prisoner Discipline."

PD 03.03.105 was reviewed which indicates disciplinary sanctions shall be imposed against prisoners for rule violations in accordance with due process requirements. Attachment A of 03.03.105 was reviewed regarding Class I Misconducts which includes sections 013 (prisoner victim, sexual acts), 051 (prisoner victim, abusive sexual contact), 052 (staff victim) and 053 (other victim). Sexual assault is defined as non-consensual sexual acts, meaning sexual penetration of, or sexual contact with, another person without that person's consent or with a person who is unable to consent or refuse; abusive sexual contact, meaning physical contact with another person for sexual purposes without that person's consent or with a person who is unable to consent or refuse. Rape is defined as intentional touching of sexual area (e.g. buttocks, breasts, genitals) without consent; kissing or embracing without consent of one who is kissed or embraced. Attachment D of 03.03.150 was reviewed which indicates the Sanctions for Class I, II, and III Misconducts. For all sanctions, the maximum sanctions are reserved for only the most serious or persistent violators.

Pre-audit, the facility responded positively in the questionnaire that inmates are subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that an inmate engaged in inmate on inmate sexual abuse. Additionally, inmates are subject to disciplinary sanctions only pursuant to a formal disciplinary process following a criminal finding of guilt for inmate on inmate sexual abuse. In the past 12-months, there were zero (0) administrative findings of inmate on inmate sexual abuse that have occurred in the facility. In the past 12-months, there were zero (0) criminal findings of guilt for inmate on inmate sexual abuse that have occurred at the facility.

During the onsite phase of the audit, a Hearings Investigator was interviewed informally and related that he conducts investigations of misconducts that staff have written and ensures that the infractions meet the threshold for the rule violations. He added that none have involved PREA allegations.

TCF provided an Allegation Category Report dated 6/7/2019 which corroborated that there were zero (0) substantiated prisoner on prisoner abusive sexual acts as well as zero (0) prisoner on prisoner non-consensual sexual acts.

TCF provided a memo from the Warden to this auditor regarding 115.78 (a-c) dated June 7, 2019. It indicated that in the past 12-months, there have not been any administrative findings of inmate on inmate sexual abuse nor any criminal findings of guilt for inmate on inmate sexual abuse that have occurred at TCF. Additionally, if there had been a finding of either of the aforementioned, the aggressor would be written a misconduct for sexual assault (abusive sexual contact) and sanctioned with disciplinary action commensurate with the nature and circumstances of the abuse committed, the inmate's discipline history, and the sanctions imposed for comparable offenses by other inmates with similar histories. Within the MDOC, during the disciplinary process, an inmate's mental disabilities or mental illness, which could have contributed to behavior, is always considered when determining what type of sanction, if any, should be imposed.

The auditor finds that based on pre-audit materials reviewed, reviews of policy and documentation, and staff interviews, the facility meets the requirements of provision (a).

115.78 (b) The above policies were reviewed.

During the onsite phase of the audit, the Warden was interviewed and responded that after the hearing process, sanctions for an inmate found to have engaged in inmate on inmate sexual abuse includes loss of privileges; criminal proceedings would occur and possible additional sentencing after criminal prosecution. He responded positively that sanctions are proportionate to the nature and circumstances for the abuses committed, the inmates' disciplinary histories, and the sanctions imposed for similar offenses by other inmates with similar histories. Further, mental disability or mental illness is considered when determining sanctions.

A Hearings Investigator was interviewed informally and related that he conducts investigations of misconducts that staff have written and ensures that the infractions meet the threshold for the rule violation. He added that none have involved PREA allegations.

TCF provided a memo from the Warden to this auditor regarding 115.78 (a-c) dated June 7, 2019. It indicated that in the past 12-months, there have not been any administrative findings of inmate on inmate sexual abuse nor any criminal findings of guilt for inmate on inmate sexual abuse that have occurred at TCF. Additionally, if there had been a finding of either of the aforementioned, the aggressor would be written a misconduct for sexual assault (abusive sexual contact) and sanctioned with disciplinary action commensurate with the nature and circumstances of the abuse committed, the inmate's discipline history, and the sanctions imposed for comparable offenses by other inmates with similar histories. Within the MDOC, during the disciplinary process, an inmate's mental disabilities or mental illness, which could have contributed to behavior, is always considered when determining what type of sanction, if any, should be imposed.

TCF provided an Allegation Category Report dated 6/7/2019 which corroborated that there were zero (0) substantiated prisoner on prisoner abusive sexual acts as well as zero (0) prisoner on prisoner non-consensual sexual acts.

Previously, this auditor received "Prison and Jail Standards Documentation Requirements" from the NPRC by The Moss Group, Inc. which identifies standards and provisions which explicitly require documentation of agency or facility activities through policy or other forms of documentation. Neither this provision, nor this standard, require policy or documentation to demonstrate compliance.

The auditor finds that based on pre-audit materials reviewed, reviews of policy and documentation, and staff interviews, the facility meets the requirements of provision (b).

115.78 (c) The above policies were reviewed.

During the onsite phase of the audit, the Warden was interviewed and responded that after the hearing process, sanctions for an inmate found to have engaged in inmate on inmate sexual abuse includes loss of privileges; criminal proceedings would occur and possible additional sentencing after criminal prosecution. He responded positively that sanctions are proportionate to the nature and circumstances for the abuses committed, the inmates' disciplinary histories, and the sanctions imposed for similar offenses by other inmates with similar histories. Further, mental disability or mental illness is considered when determining sanctions.

A Hearings Investigator was interviewed informally and related that he conducts investigations of misconducts that staff have written and ensures that the infractions meet the threshold for the rule violation. He added that none have involved PREA allegations.

TCF provided a memo from the Warden to this auditor regarding 115.78 (a-c) dated June 7, 2019. It indicated that in the past 12-months, there have not been any administrative findings of inmate on inmate sexual abuse nor any criminal findings of guilt for inmate on inmate sexual abuse that have occurred at TCF. Additionally, if there had been a finding of either of the aforementioned, the aggressor would be written a misconduct for sexual assault (abusive sexual contact) and sanctioned with disciplinary action commensurate with the nature and circumstances of the abuse committed, the inmate's discipline history, and the sanctions imposed for comparable offenses by other inmates with similar histories. Within the MDOC, during the disciplinary process,

an inmate's mental disabilities or mental illness, which could have contributed to behavior, is always considered when determining what type of sanction, if any, should be imposed.

TCF provided an Allegation Category Report dated 6/7/2019 which corroborated that there were zero (0) substantiated prisoner on prisoner abusive sexual acts as well as zero (0) prisoner on prisoner non-consensual sexual acts.

Previously, this auditor received "Prison and Jail Standards Documentation Requirements" from the NPRC by The Moss Group, Inc. which identifies standards and provisions which explicitly require documentation of agency or facility activities through policy or other forms of documentation. Neither this provision, nor this standard, require policy or documentation to demonstrate compliance.

The auditor finds that based on pre-audit materials reviewed, reviews of policy and documentation, and staff interviews, the facility meets the requirements of provision (c).

115.78 (d) The above policies were reviewed including the PREA Manual which indicates if the facility offers therapy, counseling or other interventions designed to address the underlying reasons or motivations for the abuse, the facility mental health care staff shall consider whether to require the offending prisoner to participate in such interventions as a condition of access to programming, etc.

PD 03.03.140 was reviewed which indicates Prisoners with a history of sexually aggressive behavior, or who are found guilty of sexually aggressive behavior while incarcerated, shall be referred to BHCS mental health services staff for assessment, counseling, and other necessary mental health services, as appropriate, consistent with the requirements set forth in PD 04.06.180 "Mental Health Services." Prisoners who are reasonably believed to be at risk of sexual victimization while incarcerated, or who have been sexually assaulted while incarcerated, shall similarly be referred.

Pre-audit, the facility responded positively in the questionnaire that it offers therapy, counseling or other interventions designed to address and correct the underlying reasons or motivations for abuse. Additionally, the facility considers whether to require the offender inmate to participate in such interventions as a condition of access to programming or other benefits.

During the onsite phase of the audit, 2-medical and mental health staff were interviewed. Both responded positively that the facility offers therapy, counseling, or other intervention services designed to address and correct the underlying reasons or motivations for sexual abuse. When providing these services, neither the medical provider nor the mental health provider requires an inmate's participation as a condition of access to programming or other benefits. Levels of care for their specialties were discussed as well as referrals to other providers.

TCF provided a memo from the Warden to this auditor regarding 115.78 (d) dated June 10, 2019. It indicated that in the past 12-months, there have not been any administrative findings of inmate on inmate sexual abuse nor any criminal findings of guilt for inmate on inmate sexual abuse that have occurred at TCF. Additionally, if there had been a finding of either of the aforementioned, TCF would offer therapy, counseling or other interventions designed to address and correct underlying reasons or motivations for the abuse and mental health professionals would consider whether to require the offending inmate to participate in such interventions as a condition of access to programming or other benefits.

The auditor finds that based on pre-audit materials reviewed, reviews of policy and documentation, and staff interviews, the facility meets the requirements of provision (d).



115.78 (e) The above policies were reviewed including the PREA Manual which indicates that in accordance with MCL 750.520c prisoners are unable to consent to sexual contact with MDOC employees, volunteers, or contractors. Therefore, a prisoner may be disciplined for sexual contact with MDOC employees, volunteers, or contractors only after it is determined the employee, volunteer or contractor did not consent to the contact.

PD 03.03.140 was reviewed which indicates that allegations of prisoner sexual assaults against staff shall be reported to the Michigan State Police (MSP) or other appropriate law enforcement agency for investigation. A prisoner in a Correctional Facilities Administration (CFA) facility also shall be subject to discipline in accordance with PD 03.03.105 "Prisoner Discipline," and as appropriate, reclassification to a higher security level, including segregation, in accordance with PD 05.01.130 "Prisoner Security Classification" and PD 04.05.120 "Segregation Standards."

PD 03.03.105 Attachment A was reviewed which indicates that regarding Class I Misconducts which includes sections 013 (prisoner victim, sexual acts), 051 (prisoner victim, abusive sexual contact), 052 (staff victim) and 053 (other victim). Sexual assault is defined as Non-consensual sexual acts, meaning sexual penetration of, or sexual contact with, another person without that person's consent or with a person who is unable to consent or refuse; abusive sexual contact, meaning physical contact with another person for sexual purposes without that person's consent or with a person who is unable to consent or refuse. Rape is defined as intentional touching of sexual area (e.g. buttocks, breasts, genitals) without consent; kissing or embracing without consent of one who is kissed or embraced. Attachment D of 03.03.150 was reviewed which indicates the Sanctions for Class I, II, and III Misconducts. For all sanctions, the maximum sanctions are reserved for only the most serious or persistent violators. Policy is consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that the agency disciplines inmates for sexual conduct with staff only upon finding that the staff member did not consent to such contact.

TCF provided an Allegation Category Report dated 6/11/2019 which indicated that there were zero (0) substantiated over-familiar or unauthorized contact/sexual relationship allegations since 05/01/2018. There were also zero (0) findings for the same category for cases with insufficient evidence, no evidence, or no finding (IA only).

TCF provided a memo from the Warden to this auditor regarding 115.78 (e) dated June 8, 2019. It indicated that in the past 12-months, there have not been any instances of prisoner/staff sexual contact. However, if this were to occur, the inmate would only be disciplined for sexual contact with staff if it was found that the staff member did not consent to such contact.

The auditor finds that based on pre-audit materials reviewed, and reviews of policy and documentation, the facility meets the requirements of provision (e).

115.78 (f) The above policies were reviewed including the PREA Manual which indicates for the purpose of prisoner disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying even if an investigation does not establish evidence sufficient to substantiate the allegation.

Pre-audit, the facility responded positively in the questionnaire that the agency prohibits disciplinary action for a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred, even if an investigation does not establish evidence sufficient to substantiate the allegation.

TCF provided a memo from the Warden to this auditor regarding 115.78 (f) dated June 11, 2019. It indicated that in the past 12-months, there have not been any instances where an inmate who reported alleged sexual abuse was disciplined for falsely reporting the alleged incident. No report of sexual abuse made in good faith will constitute an inmate falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

Previously, this auditor received "Prison and Jail Standards Documentation Requirements" from the NPRC by The Moss Group, Inc. which identifies standards and provisions which explicitly require documentation of agency or facility activities through policy or other forms of documentation. Neither this provision, nor this standard, require policy or documentation to demonstrate compliance.

The auditor finds that based on pre-audit materials reviewed, and reviews of policy and documentation, the facility meets the requirements of provision (f).

115.78 (g) The above policies were reviewed including the PREA Manual which indicates that regarding prisoner discipline, prisoners are prohibited from having any sexual contact with another prisoner. Additionally, voluntary sexual contact does not fall under the requirement of PREA unless there is evidence to support that the sexual contact is a result of coerced consent or protective pairing defined in this manual.

PD 03.03.140 was reviewed which indicates that prisoners are prohibited from having any sexual contact with another prisoner in a CFA facility who willingly engages in such behavior is subject to discipline in accordance with PD 03.03.105 "Prisoner Discipline" and, as appropriate, reclassification to a higher security level, including segregation, in accordance with PD 05.01.130 "Prisoner Security Classification" and PD 04.05.120 "Segregation Standards."

PD 03.03.105 was reviewed which indicates that alleged violations of written rules are classified as Class I, Class II, or Class III misconduct and are further defined in Attachments A, B, and C of this policy. Misconduct reports may be written only for violations identified in these attachments. Offenses on Attachment A were reviewed and included prisoner on prisoner sexual misconduct offenses.

The MDOC Prisoner Guidebook was also reviewed which mirrors language found in PD 03.03.105 Attachment A, above, for the related misconducts.

Pre-audit, the facility responded positively in the questionnaire that the agency prohibits all sexual activity between inmates. Additionally, the agency deems such activity to constitute sexual abuse only if it determines that the activity is coerced.

TCF provided a memo from the Hearing Investigator to this auditor regarding 115.78 (g) dated June 11, 2019. It indicated that in the past 12-months, there have not been any misconducts heard relating to prisoner/prisoner sexual misconduct/contact which was consensual. Absolutely no sexual activity is allowed and if discovered, will result in discipline. However sexual misconduct between inmates which is determined to be consensual does not constitute sexual abuse if it is determined that the activity was not coerced.

The auditor finds that based on pre-audit materials reviewed, and reviews of policy and documentation, the facility meets the requirements of provision (g) and is overall compliant with the standard.

## **MEDICAL AND MENTAL CARE**

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

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

#### 115.81 (a)

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

#### 115.81 (b)

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

#### 115.81 (c)

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

#### 115.81 (d)

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

#### 115.81 (e)

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

### Auditor Overall Compliance Determination

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

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - c. PD 03.04.100 Health Services
  - d. PD 04.01.105 Reception Facility Services
  - e. PD 04.06.180 Mental Health Services
  - f. TCF email samples for Offer of Referral and Case Note Entries
  - g. TCF email samples for Offer of Referral and Case Note Entries During Risk Assessments
  - h. PD 03.04.108 Prisoner Health Information
  - i. TCF Memo NextGen Access dated June 3, 2019
  - j. CAJ-1028 Authorization for Release of Information sample form
  - k. Informed Consent Poster
  - l. Photo of Displayed Informed Consent Poster
2. Interviews:
  - a. Inmates who Disclosed Sexual Victimization at Risk Screening
  - b. Staff Responsible for Risk Screening
  - c. Medical and Mental Health Staff
  - d. Health Unit Manager
3. Sight Review Observations:
  - a. Signage in Building #200
  - b. NextGen Health Records System

115.81 (a) The above policies were reviewed including the PREA Manual which indicates that regarding medical/mental health screening, if a PREA Risk Assessment or PREA Risk Assessment Review indicates a prisoner has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure the prisoner is referred for a follow-up meeting with a medical or mental health practitioner within 14 calendar days of the intake screening.

PD 03.03.140 was reviewed which indicates that prisoners identified as having a history of physical or sexual abuse, or who pose a reasonable concern that they may be sexually victimized while incarcerated due to age, physical stature, history, or physical or mental disabilities shall be similarly referred as set forth in PD 04.01.105.

Additionally, prisoners who are reasonably believed to be at risk of sexual victimization while incarcerated, or who have been sexually assaulted while incarcerated, shall similarly, be referred.

PD 03.04.100 was reviewed which indicates that All prisoners in Correctional Facilities Administration (CFA) institutions shall have access to health services as described in this policy, regardless of custody level or security. Additionally, a comprehensive assessment shall be conducted by custody staff to determine whether a prisoner has experienced prior sexual victimization or has previously perpetrated sexual abuse and whether it occurred in an institutional setting or in the community. If the assessment determines a prisoner has such a history, the prisoner shall be offered a follow-up meeting with a QMHP within 14 calendar days of the assessment.

PD 04.01.105 was reviewed which indicates that a prisoner identified as having a history of physical or sexual abuse, or who poses a reasonable concern that s/he may be sexually victimized while incarcerated due to age, physical stature, history, or physical or mental disabilities shall be referred to BHCS psychological services staff; the Intake Screening for History of Sexual or Physical Abuse form (CHJ-464) shall be completed by BHCS staff as part of this screening process.

PD 04.06.180 was reviewed which indicates that Qualified Mental Health Professionals (QMHP's) shall be available to provide mental health services. Prisoners in need of mental health services shall be identified in a timely manner, have reasonable access to care, and be afforded continuity of care, including aftercare planning and follow-up as indicated. Additionally, the following institutional services are provided by QMHP's to prisoners as clinically indicated: 1. Mental health intake evaluations; and 2. Crisis intervention. Policy is consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that all inmates at TCF who have disclosed any prior sexual victimization during a screening pursuant to 115.41 are offered a follow-up meeting with a medical or mental health practitioner. The follow up meeting is offered within 14-days of the intake screening. In the past 12-months, 100% of inmates who disclosed prior victimization during screening were offered a follow meeting with a medical or mental health practitioner. Medical and mental health staff maintain secondary materials documenting compliance with the above required services.

During the onsite phase of the audit, 4-inmates who disclosed sexual victimization at risk screening were interviewed; 2-inmates responded that they were asked if they wanted to meet with a medical or mental health practitioner. 1-elaborated that they started to see a practitioner within a few weeks' time; the other did not elaborate a time frame. The 2-remaining inmates denied being asked.

Two (2) staff who perform screening for risk of victimization and abusiveness were interviewed and both responded positively that if a screening indicates that an inmate has experienced prior sexual victimization, whether in an institutional setting or in the community, they are offered a follow-up meeting with a medical and/or mental health practitioner. Both elaborated that such meetings are offered the same day as the screening; and the meeting occurs within 14-days of the screening.

TCF provided email samples of 3-inmates being offered a follow up meeting with a medical or mental health practitioner after disclosing prior sexual victimization during a screening. These samples included initial notification emails that included the PCM, screen images of the automated PREA risk score activity; screen images of PREA Progress Notes, and Bureau of Health Care Services notes. In all 3-instances, follow up services were offered to the inmates on the same date as the screening. These instances occurred on 4/25/2019, 7/30/2018, and 8/17/2018, respectively. Documents indicated that all-3 inmates declined follow-up services.

The auditor finds that based on pre-audit materials reviewed, reviews of policy and documentation, and interviews, the facility meets the requirements of provision (a).

115.81 (b) The above policies were reviewed including the PREA Manual which indicates that if a PREA Risk Assessment or PREA Risk Assessment Review indicates a prisoner has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure the prisoner is referred for a follow-up meeting with a mental health practitioner within 14 calendar days of the intake screening. If the prisoner accepts the follow-up meeting, staff shall complete a Mental Health Services Referral (CHX-212).

PD 03.03.140 was reviewed which indicates that Prisoners received at a reception facility who have been convicted of or identified as having a history of a predatory or assaultive sexual offense shall be interviewed by a Qualified Mental Health Professional or other appropriate staff as set forth in PD 04.01.105 "Reception Facility Services." Prisoners identified as having a history of physical or sexual abuse, or who pose a reasonable concern that they may be sexually victimized while incarcerated due to age, physical stature, history, or physical or mental disabilities shall be similarly referred as set forth in PD 04.01.105. Prisoners with a history of sexually aggressive behavior, or who are found guilty of sexually aggressive behavior while incarcerated, shall be referred to BHCS mental health services staff for assessment, counseling, and other necessary mental health services, as appropriate, consistent with the requirements set forth in PD 04.06.180 "Mental Health Services."

PD 03.04.100 was reviewed which indicates that A comprehensive assessment shall be conducted by custody staff to determine whether a prisoner has experienced prior sexual victimization or has previously perpetrated sexual abuse and whether it occurred in an institutional setting or in the community. If the assessment determines a prisoner has such a history, the prisoner shall be offered a follow-up meeting with a QMHP within 14 calendar days of the assessment.

PD 04.01.105 was reviewed which indicates that A prisoner identified as having a history of physical or sexual abuse, or who poses a reasonable concern that s/he may be sexually victimized while incarcerated due to age, physical stature, history, or physical or mental disabilities shall be referred to BHCS psychological services staff; the Intake Screening for History of Sexual or Physical Abuse form (CHJ-464) shall be completed by BHCS staff as part of this screening process.

PD 04.06.180 was reviewed which indicates that Qualified Mental Health Professionals (QMHP's) shall be available to provide mental health services. Prisoners in need of mental health services shall be identified in a timely manner, have reasonable access to care, and be afforded continuity of care, including aftercare planning and follow-up as indicated. Policy is consistent with the requirements of the provision.

Pre-audit, the facility responded positively that all prison inmates who have previously perpetrated sexual abuse, as indicated during a screening pursuant to 115.41 are offered a follow up meeting with a mental health practitioner and that the follow-up meeting was offered within 14-days of the intake screening. In the past 12-months, 100% of inmates who previously perpetrated sexual abuse, as indicated during the screening, were offered a follow-up meeting with a mental health practitioner. Mental health staff maintain secondary materials documenting compliance with the above required services.

During the onsite phase of the audit, 2-staff who perform screening for risk of victimization and abusiveness were interviewed and both responded positively that if a screening indicates that an inmate previously perpetrated sexual abuse, they are offered a follow-up meeting with a mental health practitioner. Both elaborated that the offer is made immediately, or the same day. 1-staff further elaborated that the offer is made again at the time of the 30-day screening.

TCF provided email samples of 3-inmates being offered a follow up meeting with a mental health practitioner after screening disclosed, they previously perpetrated sexual abuse. These samples included initial notification emails that included the PCM, screen images of the automated PREA risk score activity; screen images of PREA Progress Notes, and Bureau of Health Care Services notes. In all 3-instances, follow up services were offered to the inmates on the same date as the screening. These instances occurred on 7/20/2018, 2/15/2019, and 8/3/2018, respectively. Documents indicated that the second inmate declined services. The first and third inmate accepted services and were seen 7/24/2018 and 8/9/2018, respectively. Documentation is consistent with the requirements of the provision.

The auditor finds that based on pre-audit materials reviewed, reviews of policy and documentation, and interviews, the facility meets the requirements of provision (b).

115.81 (c) The above policies were reviewed including the PREA Manual which indicates that regarding medical/mental health screening, if a PREA Risk Assessment or PREA Risk Assessment Review indicates a prisoner has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure the prisoner is referred for a follow-up meeting with a medical or mental health practitioner within 14 calendar days of the intake screening.

PD 03.03.140 was reviewed which indicates that prisoners identified as having a history of physical or sexual abuse, or who pose a reasonable concern that they may be sexually victimized while incarcerated due to age, physical stature, history, or physical or mental disabilities shall be similarly referred as set forth in PD 04.01.105. Additionally, prisoners who are reasonably believed to be at risk of sexual victimization while incarcerated, or who have been sexually assaulted while incarcerated, shall similarly, be referred.

PD 03.04.100 was reviewed which indicates that All prisoners in Correctional Facilities Administration (CFA) institutions shall have access to health services as described in this policy, regardless of custody level or security. Additionally, a comprehensive assessment shall be conducted by custody staff to determine whether a prisoner has experienced prior sexual victimization or has previously perpetrated sexual abuse and whether it occurred in an institutional setting or in the community. If the assessment determines a prisoner has such a history, the prisoner shall be offered a follow-up meeting with a QMHP within 14 calendar days of the assessment.

PD 04.01.105 was reviewed which indicates that a prisoner identified as having a history of physical or sexual abuse, or who poses a reasonable concern that s/he may be sexually victimized while incarcerated due to age, physical stature, history, or physical or mental disabilities shall be referred to BHCS psychological services staff; the Intake Screening for History of Sexual or Physical Abuse form (CHJ-464) shall be completed by BHCS staff as part of this screening process.

PD 04.06.180 was reviewed which indicates that Qualified Mental Health Professionals (QMHP's) shall be available to provide mental health services. Prisoners in need of mental health services shall be identified in a timely manner, have reasonable access to care, and be afforded continuity of care, including aftercare planning and follow-up as indicated. Additionally, the following institutional services are provided by QMHP's to prisoners as clinically indicated: 1. Mental health intake evaluations; and 2. Crisis intervention. Policy is consistent with the requirements of the provision.

Pre-audit, the facility responded positively in the questionnaire that all inmates at TCF who have disclosed any prior sexual victimization during a screening pursuant to 115.41 are offered a follow-up meeting with a medical or mental health practitioner. The follow up meeting is offered within 14-days of the intake screening. In the past 12-months, 100% of inmates who disclosed prior victimization during screening were offered a follow

meeting with a medical or mental health practitioner. Medical and mental health staff maintain secondary materials documenting compliance with the above required services.

During the onsite phase of the audit, 4-inmates who disclosed sexual victimization at risk screening were interviewed; 2-inmates responded that they were asked if they wanted to meet with a medical or mental health practitioner. 1-elaborated that they started to see a practitioner within a few weeks' time; the other did not elaborate a time frame. The 2-remaining inmates denied being asked.

Two (2) staff who perform screening for risk of victimization and abusiveness were interviewed and both responded positively that if a screening indicates that an inmate has experienced prior sexual victimization, whether in an institutional setting or in the community, they are offered a follow-up meeting with a medical and/or mental health practitioner. Both elaborated that such meetings are offered the same day as the screening; and the meeting occurs within 14-days of the screening.

TCF provided email samples of 3-inmates being offered a follow up meeting with a medical or mental health practitioner after disclosing prior sexual victimization during a screening. These samples included initial notification emails that included the PCM, screen images of the automated PREA risk score activity; screen images of PREA Progress Notes, and Bureau of Health Care Services notes. In all 3-instances, follow up services were offered to the inmates on the same date as the screening. These instances occurred on 4/25/2019, 7/30/2018, and 8/17/2018, respectively. Documents indicated that all-3 inmates declined follow-up services.

The auditor finds that based on pre-audit materials reviewed, reviews of policy and documentation, and interviews, the facility meets the requirements of provision (c).

115.81 (d) The above policies were reviewed including the PREA Manual which indicates that any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other designated staff as necessary to inform treatment plans and security and management decisions including housing, bed, work, education and program assignments, or as otherwise required by federal, state, or local law.

PD 03.04.108 was reviewed which indicates that the prisoner health record shall be maintained as a confidential document and stored securely. All employees, including contractual employees, shall be responsible for maintaining the confidentiality of all health information regarding a prisoner. Maintaining confidentiality applies to both the release of documents from a prisoner's health record and providing information regarding a prisoner's diagnosis, health care, and treatment, whether in writing, electronically, or verbally. Q. Health Information Managers shall control access to and release of information contained in prisoner health records, except as set forth in Paragraph M. Access shall be in accordance with federal and state laws and Department policy. R. Health information shall be released only upon the prisoner's written authorization or a court order, except as follows: 1. A court-appointed executor, personal representative or heirs at law of a deceased prisoner's estate may authorize release of health information regarding the deceased prisoner. Legal questions shall be referred to the Office of Legal Affairs (OLA). 2. A court-appointed guardian of a prisoner or the parent of a minor prisoner who is not emancipated may authorize release of health information for the prisoner. This does not include a person who has a power of attorney for the prisoner's legal affairs. 3. Health information may be released to those who must provide emergency medical care. 4. Health information required for clearance for transfers or assignments, and as required for proper care or management of the prisoner while incarcerated or on parole, shall be released to appropriate staff. 5. Health information shall be released to the Warden upon his/her written request if the Warden considers it necessary for the safety and security of the facility. The written request shall be retained in the prisoner health record. If there is a disagreement concerning the release of health information, the Warden shall make the final decision. The decision shall be in writing and retained in



the prisoner health record. 6. Health information shall be released for parole eligibility report preparation as set forth in PD 06.05.103 "Parole Eligibility/Lifer Review Reports." 7. All information on prisoner injuries inflicted by a knife, firearm, or other deadly weapon, or by other means of violence shall be immediately reported to the Warden, who shall report the information consistent with PD 01.05.120 "Critical Incident Reporting." It also shall be reported to local law enforcement officials, as appropriate. 8. Health information related to legally reportable conditions, including communicable diseases, or legally reportable circumstances shall be released to the appropriate agency or authority. 9. A prisoner's HIV, Hepatitis B, and Hepatitis C status shall be released to an employee exposed to the blood or body fluids of the prisoner subject to the provisions set forth in PD 03.04.120. 10. Health information may be released for research and education provided prisoners are not identified by name or prisoner number in reports or papers or verbal communications. 11. Health information may be released for use by the BHCS during clinical audits and for peer review activities. 12. Health information shall be released to the Department of the Attorney General or to designated staff in the Office of Legal Affairs as necessary for litigation purposes, and to other staff as necessary to monitor compliance with court orders. 13. Health information shall be released to the State Auditor General and other state or federal agencies for review as provided for in state or federal law. 14. Upon request and without the requirement of any release, the Ombudsman shall be given access to all information, records, and documents in the possession of the Department which the Ombudsman deems necessary in an investigation, including, but not limited to, prisoner health information and prisoner mortality and morbidity records. Pursuant to Public Act 287 of 2010, a signed release is not required in order to provide this information. 15. Health information shall be released to other Department staff as authorized by the BHCS Administrator or designee.

Pre-audit, the facility responded negatively in the questionnaire that information related to sexual victimization or abusiveness that occurred in an institutional setting is strictly limited to medical and mental health practitioners. The facility responded positively that information shared with other staff is strictly limited to informing security and management decisions, including treatment plans, housing, bed, work, education, and program assignments, or as otherwise require by federal, state or local law.

During the facility tour, this auditor met informally with the Health Unit Manager (HUM) and discussed the impact of PREA on healthcare services. This discussion included an overview of the NextGen electronic health record system. The HUM demonstrated in NextGen the information associated with 1-sexual abuse allegation that occurred on 4/8/2019 and was seen by medical. The application had restricted access however information pertaining to such incidents was and is shared with mental health, the PCM, Inspector, and the Shift Commander; this information is used by others for treatment plans, security, housing assignments, etc.

TCF provided a memo regarding NextGen Access from the Inspector to 2-medical staff dated June 3, 2019. It indicated that NextGen is the designated software program used by TCF healthcare and mental health staff to document health information and case notes. The only staff with access to NextGen are healthcare and mental health staff. It is only accessible with a user name and password.

The auditor finds that based on pre-audit materials reviewed, reviews of policy and documentation, tour observations and interviews, the facility meets the requirements of provision (d).

115.81 (e) The above policies were reviewed including the PREA Manual which indicates that medical and mental health care staff shall obtain informed consent from prisoners before reporting information about prior sexual victimization that did not occur in an institutional setting. A copy of the prisoner's informed consent shall be maintained for the PREA audit.

PD 03.03.140 was also reviewed which indicates that Medical and mental health staff shall obtain informed consent from prisoners before reporting information about prior sexual victimization that did not occur in an

institutional setting. A PREA Authorization for Release of Information Form (CAJ-1028) shall be used for this purpose. A copy of the CAJ-1028 shall be retained for auditing purposes.

Pre-audit, the facility responded positively that medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18.

During the onsite phase of the audit, 2-medical and mental health staff were interviewed regarding obtaining informed consent from inmates before reporting about prior sexual victimization that did not occur in an institutional setting. 1-staff responded positively, that informed consent is obtained verbally, and is documented. It is also documented in the NextGen system. The other staff noted being a mandated reporter of such incidents. Regarding having a separate informed consent process for inmates under the age of 18, both responded positively.

TCF provided a blank sample of CAJ-1028 PREA Authorization to Release Information. Instructions on the form indicate that it is used exclusively for victims of sexual abuse that occurred in the community. TCF also provided a sample of an informed consent poster in both English and Spanish. This dual-purpose poster supports requirements of 115.61 and 115.81. Regarding this standard, the poster indicates that all medical and mental health staff shall obtain informed consent from offenders prior to reporting information regarding prior sexual victimization that did not occur in an institutional setting. TCF also provided a photo of the poster displayed inside the facility. This poster was observed by the audit team during the facility tour.

The auditor finds that based on pre-audit materials reviewed, reviews of policy and documentation, tour observations and interviews, the facility meets the requirements of provision (e) and is overall compliant for the standard.

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

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

#### **115.82 (a)**

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

#### **115.82 (b)**

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

#### **115.82 (c)**

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

#### 115.82 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 03.03.140 PREA and Prohibited Sexual Conduct Involving Prisoners
  - c. PD 03.04.125 Medical Emergencies
  - d. TCF Samples of Referrals to Mental Health and Health Care, Case Notes of Care
  - e. TCF Memo 115.82 (b) dated June 12, 2019
  - f. PD 03.04.100 Health Services
  - g. PD 03.04.120 Control of Communicable Bloodborne Diseases
  - h. MDOC Health Brochures - various
  - i. TCF Health Care Note Samples
2. Interviews:
  - a. Medical and Mental Health Staff
  - b. Inmates Who Reported Sexual Abuse
  - c. First Responders
  - d. Health Unit Manager (HUM)
3. Sight Review Observations:
  - a. Medical Waiting Room/Lobby

115.82 (a) The above policies were reviewed including the PREA Manual which indicates Initial Victim Services in accordance with PD 03.04.125 "Medical Emergencies" and PD 04.06.180 "Mental Health Services," prisoner victims of sexual abuse shall receive timely emergency medical treatment and crisis intervention services, the nature and scope of which will be determined by medical and mental health staff.

PD 03.03.140 was reviewed which indicates that Prisoners in a CFA facility who report that they have been the victim of a prisoner-on-prisoner sexual abuse or staff sexual misconduct shall be referred to the Bureau of Health Care Services (BHCS) for examination, evidence collection, and treatment. They also shall be referred to BHCS mental health services staff for assessment, counseling, and other necessary mental health services consistent with the requirements set forth in PD 04.06.180 "Mental Health Services."

PD 03.04.125 was reviewed which indicates that employees shall provide appropriate and timely response to medical emergencies consistent with the employee's training and the use of standard (i.e., universal) precautions. Additionally, whenever a person in a CFA or an FOA facility is determined to be in need of emergency medical attention, initial staff response to that emergency shall begin immediately but no later than four minutes after discovery. Staff first upon the scene shall ensure emergency medical assistance is summoned. They also shall initiate emergency first aid as they are qualified to provide as soon as possible, unless the victim is clearly deceased. Emergency first aid shall include the appropriate resuscitation technique if the victim has no pulse or is not breathing. Once initiated, emergency first aid shall continue until relief is provided by an emergency medical response team or until a physician, registered nurse, physician's assistant, or nurse practitioner determines emergency first aid may be discontinued or a physician or registered nurse has pronounced the victim dead.

Pre-audit, the facility responded positively in the questionnaire that inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services. Additionally, the nature and scope of such services are determined by medical and mental health practitioners according to their professional judgment. Further, medical and mental health staff maintain secondary materials documenting the timeliness of emergency medical treatment and crisis intervention services that were provided; the appropriate response by non-health staff in the event health staff are not present at the time the incident is reported; and the provision of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis.

During the onsite phase of the audit, 2-medical and mental health staff were interviewed and responded positively that inmate victims of sexual abuse receive timely and unimpeded access to emergency medical treatment and crisis intervention services. 1-staff responded that it occurs within 24-hours and the other staff indicated that nurses are on shift 24/7 and psych assistance is available Monday through Friday as well as on call. There is a single cell observation cell in the segregation unit of building #200 for medical/psych observation if needed. If needed, they can also be transported to the Hurley Medical Center. Both affirmed that the nature and scope of these services is determined according to the practitioners' professional judgement. 5-inmates who reported sexual abuse indicated seeing medical and/or mental health at different times: 1-inmate saw them within 1-hour; 2-inmates saw them the next day; 1-inmate reported not seeing them timely and that it took a couple months; 1-inmate could not recall when he saw them.

During the facility tour, this auditor met informally with the Health Unit Manager (HUM) and discussed the impact of PREA on healthcare services. This discussion included an overview of the NextGen electronic health record system. The HUM demonstrated in NextGen the information associated with 1-sexual abuse allegation that occurred on 4/8/2019 and was seen by medical. All subsequent medical and mental health appointments for this inmate victim were scheduled and completed timely as required by the standard.

TCF provided 5-examples of referrals to mental health and healthcare along with case note entries. These examples included email notifications and BHCS PREA Progress Notes. Requests to be seen were initiated and the inmates were seen with a few days at the most: appointments were requested and the inmates were seen in 2019 on the following dates: 5/29 and 5/30, 5/17 and 5/23, 5/2 and 5/6, and 2/20 and 2/21.

The auditor finds that based on pre-audit materials reviewed, reviews of policy and documentation, tour observations and interviews, the facility meets the requirements of provision (a).

115.82 (b) The above policies were reviewed including the PREA Manual which indicates that if no qualified medical or mental health staff are on duty at the time an allegation of recent abuse is made, custody staff first responders shall take preliminary steps to protect the victim in accordance with the Protective Custody section of this manual and shall immediately provide notification to the appropriate medical and mental health staff.

PD 03.04.125 was reviewed and indicated that employees shall provide appropriate and timely response to medical emergencies consistent with the employee's training and the use of standard (i.e., universal) precautions. Additionally, whenever a person in a CFA or an FOA facility is determined to be in need of emergency medical attention, initial staff response to that emergency shall begin immediately but no later than four minutes after discovery. Staff first upon the scene shall ensure emergency medical assistance is summoned. They also shall initiate emergency first aid as they are qualified to provide as soon as possible, unless the victim is clearly deceased. Emergency first aid shall include the appropriate resuscitation technique if the victim has no pulse or is not breathing. Once initiated, emergency first aid shall continue until relief is provided by an emergency medical response team or until a physician, registered nurse, physician's assistant, or nurse practitioner determines emergency first aid may be discontinued or a physician or registered nurse has pronounced the victim dead.

During the onsite phase of the audit, a Security Staff First Responder was interviewed and responded by describing the actions taken as a first responder in response to an allegation of sexual abuse. This included 1. Separating the alleged victim and abuser; 2. Preserving and protecting the crime scene; 3. Requesting that the victim not take any actions that could destroy physical evidence; 4. Ensuring that the alleged abuser does not take any actions that could destroy physical evidence; and 5. Immediately notifying medical and mental health along with their supervisor. The staff further elaborated by sharing the details of the incident for which he was the first responder.

TCF provided a memo for 115.82 (b) from the PCM to the PREA Analyst dated June 12, 2019. It indicated that if no qualified TCF medical or mental health personnel were on duty at the time of a report of sexual abuse, TCF staff would take appropriate measures to protect the prisoner, and qualified custody transportation staff would transport the prisoner to McLaren Lapeer Region Hospital for appropriate medical care.

Previously, this auditor received "Prison and Jail Standards Documentation Requirements" from the NPRC by The Moss Group, Inc. which identifies standards and provisions which explicitly require documentation of agency or facility activities through policy or other forms of documentation. Neither this provision, nor this standard, require policy or documentation to demonstrate compliance.

The auditor finds that based on pre-audit materials reviewed, reviews of policy and documentation, tour observations and interviews, the facility meets the requirements of provision (b).

115.82 (c) The above policies were reviewed including the PREA Manual which indicates that Prisoner victims of sexual abuse while incarcerated shall be offered information about and access to emergency contraception and

sexually transmitted infections prophylaxis, in accordance with Department OP 03.04.100H "Health Care Management of Reported Sexual Assaults of Prisoners in CFA Facilities" as noted in the Ongoing Victim Services section of this manual.

PD 03.04.100 was reviewed which indicates that Facilities shall offer medical and mental health evaluations and treatment that is determined medically necessary to prisoners who have been victimized by sexual abuse. Female prisoner victims of sexual abuse shall be offered a pregnancy test. Prisoner victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted diseases as deemed medically appropriate. Treatment for services shall be provided to the victim without financial cost regardless of whether the victim names the abuser or cooperates with any investigation.

PD 03.04.120 was reviewed which indicates that There shall be comprehensive communicable bloodborne infection educational programs for staff and prisoners. The programs shall be coordinated and monitored by the Infectious Disease Coordinator in BHCS in collaboration with the Department of Community Health and the Training Division, Operations Support Administration, and the Operations Division, Correctional Facilities Administration (CFA). The Infectious Disease Coordinator shall work with the Department of Community Health to assure full utilization of that Department's expertise and education materials. Additionally, Educational programs for prisoners shall include, at a minimum, a multi-media program for use in reception facilities and as part of each institution's orientation program. The education program shall include a general explanation of communicable bloodborne infections as well as information on modes of transmission and risk reduction. This information also shall be provided to prisoners both verbally and in writing at the time of the prisoner's annual health care screening and prior to discharge or release on parole. Further, an exposed offender shall be immediately referred to an appropriate health care clinic.

PD 03.04.125 was reviewed which indicates that whenever a person in a CFA or an FOA facility is determined to be in need of emergency medical attention, initial staff response to that emergency shall begin immediately but no later than four minutes after discovery.

Pre-audit, the facility responded positively in the questionnaire that inmate victims of sexual abuse while incarcerated are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.

During the onsite phase of the audit, 2-medical and mental health staff were interviewed and both responded positively that victims of sexual abuse are offered timely information about access to emergency contraception and STI prophylaxis. 1-staff further elaborated that she follows a PREA binder and victims vet tested for Hepatitis C, HIV and Herpes at the hospital. Results are faxed within 48-hours. The doctor may call for additional testing in 6-months to 1-year.

5-inmates who reported sexual abuse were interviewed and responded differently to if they were provided information about and access to, emergency contraception and/or STI prophylaxis: 1-yes; 2-no, 1-not discussed; and 1-not needed.

TCF provided samples of health brochures available inmates which included a hepatitis brochure and an HIV brochure. During the facility tour including the medical waiting room/lobby area of the health clinic, this auditor observed a display rack of multiple health brochures for inmates including the aforementioned.

TCF also provided examples of timely access to healthcare for 3-inmates of alleged sexual abuse. 3- of the 3-inmates had health record information indicating timely testing and treatment for STI's: incident of 4/8/17 and

testing/prophylaxis treatment on 4/18/2017; incident of 5/7/18 and testing/prophylaxis treatment of 5/19/18. The third inmate was seen on 6/11/18 and testing/prophylaxis treatment of 6/11/2018.

The auditor finds that based on pre-audit materials reviewed including policy, document reviews, and interviews, the facility meets the requirements of provision (c). This auditor found that the information provided by the facility regarding its practices compellingly outweighed interview responses by the inmates.

115.82 (d) The above policies were reviewed including the PREA Manual which indicates that treatment services shall be provided to the victim without financial cost regardless of whether the victim names the abuser or cooperates with any investigation of the incident.

PD 03.04.100 was reviewed which indicates prisoner victims of sexual abuse shall be provided treatment services without financial cost to the prisoner. Additionally, treatment for services shall be provided to the victim without financial cost regardless of whether the victim names the abuser or cooperates with any investigation.

Pre-audit, the facility responded positively in the questionnaire that treatment services are provided to every victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

Previously, this auditor received "Prison and Jail Standards Documentation Requirements" from the NPRC by The Moss Group, Inc. which identifies standards and provisions which explicitly require documentation of agency or facility activities through policy or other forms of documentation. Neither this provision, nor this standard, require policy or documentation to demonstrate compliance.

The auditor finds that based on pre-audit materials reviewed including policy, the facility meets the requirements of provision (d) and is overall compliant for the standard.

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

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

#### **115.83 (a)**

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

#### **115.83 (b)**

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

#### **115.83 (c)**

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

#### 115.83 (d)

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

#### 115.83 (e)

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

#### 115.83 (f)

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

#### 115.83 (g)

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

#### 115.83 (h)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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



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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. PD 03.04.100 Health Services
  - c. TCF Samples of Mental Health/Health Care Referrals
  - d. PD 04.06.180 Mental Health Services
  - e. TCF Samples of Ongoing Care
  - f. MDOC / TCF Website Image
  - g. TCF Samples of STI Testing
  - h. TCF Memo 115.83 (b) dated June 7, 2019
2. Interviews:
  - a. Medical and Mental Health Staff
  - b. Inmates Who Reported Sexual Abuse
  - c. Health Unit Manager
3. Sight Review Observations:
  - a. Healthcare Services (Building #200)

115.83 (a) The above policies were reviewed including the PREA Manual facility shall offer medical and mental health evaluation and, as appropriate, all treatment that is determined to be medically necessary and consistent with the community level of care, to prisoners who have been victimized by sexual abuse in any prison, jail, lockup or juvenile facility. PD 03.04.100 was reviewed which indicates that Facilities shall offer medical and mental health evaluations and treatment that is determined medically necessary to prisoners who have been victimized by sexual abuse. Policy is consistent with the requirements of the provision.

Pre-audit, the facility responded positively that it offers medical and mental health evaluation and as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.

During the facility tour, this auditor met informally with the Health Unit Manager (HUM) and discussed the impact of PREA on healthcare services. This discussion included an overview of the NextGen electronic health record system. The HUM demonstrated in NextGen the information associated with 1-sexual abuse allegation that occurred on 4/8/2019 and was seen by medical. This was and is shared with mental health, the PCM, Inspector, and the Shift Commander; this information is used by others for treatment plans, security, housing assignments, etc. All subsequent appointments for the aforementioned alleged victim were scheduled and completed timely according to the standards.

TCF provided sample email notifications of the facility offering medical and mental health evaluations for 6-alleged victims. These spanned 06/11/2018 to 2/28/2019.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, and staff interviews, the facility meets the requirements of provision (a).

115.83 (b) The above policies were reviewed including the PREA Manual which indicates that the evaluation and treatment shall include as deemed medically appropriate follow-up services, treatment plans, and when necessary referrals for continued care following their transfer, placement in other facilities, or release from custody.

PD 03.04.100 was reviewed which indicates that facilities shall offer medical and mental health evaluations and treatment that is determined medically necessary to prisoners who have been victimized by sexual abuse. A prisoner who has been treated off-site for an urgent or emergent condition shall be seen by an RN for follow-up no later than the next business day or, if hospitalized, no later than the business day following his/her return to the facility. The RN shall consult with the on-call or on-site medical provider as necessary to ensure that the prisoner's health care needs are met. If follow-up is not necessary, the RN shall direct the prisoner to request follow-up as the need arises. If follow-up is required, the RN shall respond by taking one of the following actions, as deemed appropriate: 1. Schedule the prisoner for an appointment no later than the next business day with a medical provider. 2. Schedule a chart review by a medical provider to be completed within five business days after the prisoner's return to the facility. Additionally, Prior to a prisoner paroling or discharging, health care staff shall provide the prisoner with HCV health education/disease prevention information. Prior to discharge, the prisoner shall be tested for HIV and Hepatitis C as set forth in PD 03.04.120 "Control of Communicable Bloodborne Diseases." Further, mentally ill prisoners who may require continuing institutional care or other mental health service upon discharge shall be referred by the Assistant Health Services Administrator to the Bureau of Forensic Mental Health Services, Department of Community Health, as set forth in PD 03.01.135 "Discharge/Termination of Sentence."

PD 04.06.180 was reviewed which indicates that the following institutional services are provided by QMHP's to prisoners as clinically indicated: 1. Mental health intake evaluations; 2. Crisis intervention; 3. Monitoring psychological status of prisoners confined in segregation units; 4. Suicide prevention services including screening, assessment, and treatment; 5. Specialized group therapies; 6. Parole Board psychological evaluations, as requested; 7. Integrated treatment for co-occurring disorders; 8. Aftercare planning including relapse prevention and transition/discharge planning; 9. Behaviorally based treatment for prisoners under 17 years of age. Additionally, all QMHP mental health evaluations shall be based on a review of the prisoner's mental health records and a face-to-face evaluation, which may be conducted through teleconferencing. Evaluations shall be completed in accordance with clinical standards developed by the Administrator of Mental Health Services. If the prisoner is referred for psychotherapy, an individualized treatment plan shall be developed and entered in the integrated health record. The QMHP shall refer the prisoner for a comprehensive psychiatric evaluation if clinically indicated. An individualized treatment plan shall be developed and entered in the integrated health record for each prisoner. Further, the treatment plan shall identify the problems, goals, and objectives of treatment, interventions and treatment modalities; and amount of time, frequency, and responsible person for each aspect of care. The recommended treatment modalities shall be indicated in the prisoner's treatment plan and may include, but are not limited to, the following: 1. Pharmacotherapy; 2. Individual and/or group psychotherapy; 3. Adjunctive therapies (e.g., recreational, occupational, educational, planning for discharge and aftercare).

During the onsite phase of the audit, 2-medical and mental health staff were interviewed and responded that the evaluation and treatment of inmates who have been victimized begins at the hospital. TCF's doctor reevaluates the labs, victims receive a mental health consult, they may be reclassified to a higher security level for protective reasons. 1-staff further elaborated that the goal is to get them back to normal and provide additional treatment as needed.

Five (5) inmate who reported sexual abuse were interviewed and 2-responded that a medical or mental health doctor/nurse discussed follow up services or treatment; 3-inmates reported not having these discussions.

TCF provided samples of health records for 2-inmate victims receiving ongoing care after alleged incidents of sexual abuse. These contained emails, BHCS medical records, etc. Both records contained initial healthcare notes and subsequent, ongoing healthcare notes. Records spanned 5/17/17 to 12/13/17; and 4/9/19 to 4/26/19, respectively.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, and staff interviews, the facility meets the requirements of provision (b).

115.83 (c) The above policies were reviewed including the PREA Manual which indicates that the facility shall offer medical and mental health evaluation and, as appropriate, all treatment that is determined to be medically necessary and consistent with the community level of care. PD 03.04.100 was also reviewed which indicates that prisoners shall be provided with a continuum of medically necessary health care services that are supported by evidence based medical research. A. Medical Provider: A qualified health professional who is a licensed physician, physician assistant, or nurse practitioner in the State of Michigan. B. Qualified Health Professional (QHP): A health care professional licensed by the State of Michigan or registered/certified to practice within the scope of his/her training. C. Qualified Mental Health Professional (QMHP): A physician, psychiatrist, nurse practitioner, physician's assistant, psychologist, social worker, or registered nurse who meets the requirements set forth in MCL 330.1001b and is trained and experienced in the areas of mental illness or mental disabilities. Policy is consistent with the requirements of the provision.

During the onsite phase of the audit, 2-medical and mental health staff were interviewed and both responded positively. 1-elaborated that the mental health services were above par with the services available in the community.

TCF provided samples of health records for 2-inmate victims receiving ongoing care after alleged incidents of sexual abuse. These contained emails, BHCS medical records, etc. Both records contained initial healthcare notes and subsequent, ongoing healthcare notes. Records spanned 5/17/17 to 12/13/17; and 4/9/19 to 4/26/19, respectively. All care received appears to be consistent with the community level of care.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, and staff interviews, the facility meets the requirements of provision (c).

Provision (d) and (e) are N/A due to being an all-male facility. Pre-audit, the facility responded N/A that victims receive pregnancy tests. Additionally, TCF responded N/A that if pregnancy results from sexual abuse while incarcerated, that victims receive timely and comprehensive information about, and timely access to, all lawful pregnancy-related medical services.

115.83 (f) The above policies were reviewed including the PREA Manual which indicates that prisoner victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections/diseases as deemed medically appropriate. Treatment services shall be provided to the victim without financial cost regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

PD 03.04.100 was reviewed which indicates that Prisoner victims of sexual abuse shall be provided treatment services without financial cost to the prisoner. Additionally, prisoner victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted diseases as deemed medically appropriate. Treatment for services shall be provided to the victim without financial cost regardless of whether the victim names the abuser or cooperates with any investigation.

Pre-audit, the facility responded positively in the questionnaire that inmate victims of sexual abuse while incarcerated are offered tests for sexually transmitted infections as medically appropriate.

During the onsite phase of the audit, 5-inmates who reported sexual abuse were interviewed regarding being offered tests for STI's and responded: 1-yes, 1-no, and 3-service not needed.

TCF provided samples of medical records indicating testing of STI's. 3- of the 3-inmates had health record information indicating timely testing and treatment for STI's: incident of 4/8/17 and testing/prophylaxis treatment on 4/18/2017; incident of 5/7/18 and testing/prophylaxis treatment of 5/19/18. The third inmate was seen on 6/11/18 and testing/prophylaxis treatment of 6/11/2018.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, and staff interviews, the facility meets the requirements of provision (f).

115.83 (g) The above policies were reviewed including the PREA Manual which indicates prisoner victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections/diseases as deemed medically appropriate. Additionally, treatment services shall be provided to the victim without financial cost regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. PD 03.04.100 was reviewed which indicates that Prisoner victims of sexual abuse shall be provided treatment services without financial cost to the prisoner. And, prisoner victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted diseases as deemed medically appropriate. Treatment for services shall be provided to the victim without financial cost regardless of whether the victim names the abuser or cooperates with any investigation.

Pre-audit, the facility responded positively previously that treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

During the onsite phase of the audit, 5-inmate who reported sexual abuse were interviewed paying for any treatment related to the incident of sexual abuse and responded: 4- "N/A"; 1-No.

Previously, this auditor received "Prison and Jail Standards Documentation Requirements" from the NPRC by The Moss Group, Inc. which identifies standards and provisions which explicitly require documentation of agency or facility activities through policy or other forms of documentation. Neither this provision, nor this standard, require policy or documentation to demonstrate compliance.

The auditor finds that based on pre-audit materials reviewed including policy, and interviews, the facility meets the requirements of provision (g).

115.83 (h) The above policies were reviewed including the PREA Manual which indicates within 60 calendar days of learning of a known prisoner-on-prisoner abuser, mental health staff shall attempt to conduct a mental health evaluation of the abuser's history and offer treatment as deemed appropriate.

PD 03.03.140 was reviewed which indicates that prisoners with a history of sexually aggressive behavior, or who are found guilty of sexually aggressive behavior while incarcerated, shall be referred to BHCS mental health services staff for assessment, counseling, and other necessary mental health services, as appropriate, consistent with the requirements set forth in PD 04.06.180 "Mental Health Services."

Pre-audit, the facility responded positively in the questionnaire that it attempts to conduct a mental health evaluation of all known inmate on inmate abusers within 60-days of learning of such abuse history and offers treatment when deemed appropriate by mental health practitioners.

During the onsite phase of the audit, 2-medical and mental health staff were interviewed regarding mental health evaluations being conducted for all known inmate on inmate abusers and offers treatment, if appropriate. Both responded positively, and that these evaluations occur within 3-days after learning of the abuse history.

TCF provided a memo from the PCM to the PREA Analyst regarding 115.83(h) dated June 7, 2019. It indicated that TCF has had no substantiated cases of inmate on inmate sexual abuse since the implementation of PREA Standards and therefore no examples of prisoners being referred to mental health based on the above requirement. In the event that a TCF investigation substantiated an allegation of sexual abuse by an inmate on another inmate, the abuser would be referred to mental health services for evaluation and possible subsequent treatment as deemed appropriate by mental health staff.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, and interviews, the facility meets the requirements of provision (h) and is overall compliant with the standard.

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

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

##### 115.86 (a)

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

##### 115.86 (b)

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

##### 115.86 (c)

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

##### 115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse? ☒ Yes ☐ No

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

#### 115.86 (e)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. TCF Samples of Completed CAJ-1025 PREA SAIR Forms
2. Interviews:
  - a. Warden
  - b. PREA Compliance Manager

c. Incident Review Team

3. Sight Review Observations: None

115.86 (a) The above policies were reviewed including the PREA Manual which indicates the facility PREA Coordinator shall coordinate a sexual abuse incident review (SAIR) at the conclusion of every sexual abuse investigation unless the allegation was determined to be No Evidence/Unfounded.

Pre-audit, the facility responded positively in the questionnaire that it conducts a sexual abuse incident review at the conclusion of every criminal or administrative sexual abuse investigation, unless the allegation has been determined to be unfounded. In the past 12-months, the facility reported that there were 6-criminal and/or administrative investigations of alleged sexual abuse completed at the facility, excluding only unfounded incidents.

TCF provided samples of 3-SAIRs being conducted with completed CAJ-1025 PREA Sexual Abuse Incident Review forms for AIPAS #25257, 27460, and 27950. These reviews occurred 8/10/2018 to 2/25/2019, and 5/15/2019, respectively.

This auditor reviewed the PREA Investigations Tracker provided in the TCF welcome book and corroborated the information associated with the above SAIRs.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, the facility meets the requirements of provision (a).

115.86 (b) The above policies were reviewed including the PREA Manual which indicates that such review shall generally occur within 30 calendar days after the conclusion of the investigation.

Pre-audit, the facility responded positively in the questionnaire that TCF ordinarily conducts a criminal for administrative SAIR within 30-days of the conclusion of the sexual abuse investigation. In the past 12-months, there were 6-criminal and/or administrative SAIR within 30-days of the conclusion of the sexual abuse investigation.

TCF provided samples of 3-SAIRs being conducted with completed CAJ-1025 PREA Sexual Abuse Incident Review forms for AIPAS #25257, 27460, and 27950. These investigations closed 8/3/2018, 2/5/2019, and 5/6/2019, and the reviews occurred 8/10/2018 to 2/25/2019, and 5/15/2019, respectively.

This auditor reviewed the PREA Investigations Tracker provided in the TCF welcome book and corroborated the information associated with the above SAIRs.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, the facility meets the requirements of provision (b).

115.86 (c) The above policies were reviewed including the PREA Manual which indicates the review team shall include upper-level custody and administrative staff, with input from relevant supervisory staff, investigators, and medical or mental health practitioners or others as appropriate.

Pre-audit, the facility responded positively in the questionnaire that the SAIR team includes upper-level management officials and allows for input from line supervisors, investigators, and medical or mental health practitioners.

During the onsite phase of the audit, the Warden was interviewed and responded positively that the facility has a SAIR team. He added that the PCM holds these within 30-days of the investigation closing. A meeting is held that includes the Deputy Warden, Assistant Deputy Warden, mental health staff, prison counselor(s), investigators, the shift commander, etc. Other staff have an opportunity to provide input. All participants have as much input as possible.

TCF provided samples of 3-SAIRs being conducted with completed CAJ-1025 PREA Sexual Abuse Incident Review forms for AIPAS #25257, 27460, and 27950. These investigations closed 8/3/2018, 2/5/2019, and 5/6/2019, and the reviews occurred 8/10/2018 to 2/25/2019, and 5/15/2019, respectively. Team members included were PCM, Inspectors, ADW, Health Unit Manager, Unit Chief, Shift Commander, QHMP (mental health).

This auditor reviewed the PREA Investigations Tracker provided in the TCF welcome book and corroborated the information associated with the above SAIRs.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, the facility meets the requirements of provision (c).

115.86 (d) The above policies were reviewed including the PREA Manual which indicates that the SAIR review team 1) Consider whether the allegation or investigation indicates a need to change policy or practice to prevent, detect or respond to sexual abuse; (2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification, status, or perceived status; gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility; (3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; (4) Assess the adequacy of staffing levels in that area during different shifts; (5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and (6) Prepare a report of its findings including but not necessarily limited to determinations made pursuant to (1) through (5) and any recommendations for improvement and submit such report to the Warden or Administrator with a courtesy copy to the Department's PREA Section within Central Office and facility PREA Coordinator. The review shall be documented using the PREA Sexual Abuse Incident Review form (CAJ-1025). The form shall be maintained for the PREA Audit. The Warden shall review and forward through the chain of command to the Deputy Director (CFA) or designee for consideration of recommendations for improvement.

Pre-audit, the facility responded positively in the questionnaire that the facility prepares a report of its findings from SAIRS, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1) -(d)(5) of this section and any recommendations for improvement, and submits such report to the facility head and PREA Compliance Manager (PCM).

During the onsite phase of the audit, the Warden was interviewed and responded positively that the team uses the information from the SAIR to consider any changes to policy locally or department wide; impacts are shared. Recommendations are used to address issues locally. Regarding the 4-enumerated items of the provision, each are looked at. The PCM looks at the report and considers motivation factors, status of LGBTQI. It helps us to write policy, and be less gender-specific. Curricula concerning our population are considered as well.

The PCM was interviewed and responded that the facility does conduct the SIRs, and a report is provided of the findings, including any determinations of the 4-enumerated items of the provision. Usually a team of 6-staff



participate in the SAIR meeting and this includes custody staff, medical, mental health, Deputy, ADW, etc. The PCM and Warden signs the report and it goes higher. The PCM responded positively that he receives the SAIR reports; he also attends them. Actions taken after the report is submitted may include requesting additional resources, such as cameras; advise staff to be more attentive in areas where more cameras are needed. 2- Incident Review Team members were interviewed and both responded positively that the team considers all 4-items enumerated by the provision. They further elaborated that staffing plans are reviewed daily. Locations for additional cameras were discussed.

TCF provided 1-SAIR report for review on a completed CAJ-1025 for AIPAS #26168. The investigation closed 4/10/2019 and the SAIR was conducted 5/15/2019. A recommendation was made to add additional cameras to the back-dock food service area.

Post audit, this auditor inquired about the status of the above recommendation. The PCM reported back that it is in the procurement process. This auditor reviewed the PREA Investigations Tracker provided in the TCF welcome book and corroborated the information associated with the above SAIR.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, and staff interviews, the facility meets the requirements of provision (d).

115.86 (e) The above policies were reviewed including the PREA Manual which indicates that if the recommendations are not implemented, the rationale for not doing so shall be documented on the PREA Sexual Abuse Incident Review form.

Pre-audit, the facility responded positively in the questionnaire that the facility implements the recommendations for improvement or documents its reasons for not doing so. TCF did not provide information to support its practices. Corrective Action Required: For provision (e), the agency will need to demonstrate that recommendations for SAIRs have been implemented and if not, why not.

Post audit, TCF provided a memo from the Warden to this auditor regarding 115.86 (e), dated September 17, 2019. It indicated that in the past 12-months, all recommendations stemming from SAIRs have been implemented.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, staff interviews, and corrective action, the facility meets the requirements of provision (e) and is overall compliant for the standard.

## **Standard 115.87: Data collection**

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

#### **115.87 (a)**

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

#### **115.87 (b)**

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

#### 115.87 (c)

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

#### 115.87 (d)

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

#### 115.87 (e)

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

#### 115.87 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - c. PREA Manual (April 2017)
  - d. TCF Samples of Completed CAJ-1025 PREA SAIR Forms
  - e. MDOC post interim report corrective action emails

2. Interviews:
  - d. Warden
  - e. PREA Compliance Manager
  - f. Incident Review Team
3. Sight Review Observations:
  - a. MDOC Public Website [https://www.michigan.gov/corrections/0,4551,7-119-68854\\_70096---,00.html](https://www.michigan.gov/corrections/0,4551,7-119-68854_70096---,00.html)

115.87 (a), (c) The above policies were reviewed including the PREA Manual which indicates regarding data collection, that each allegation of sexual abuse reported to have occurred within Department facilities shall be entered into the appropriate MDOC computerized database. The Department PREA Manager (PREA Coordinator) gathers data on each reported incident to aggregate an annual incident report. The report will include, at a minimum, the data necessary to complete the annual Department of Justice Survey on Sexual Violence.

PD 03.03.140 was reviewed which indicates Wardens and the LCRRP Manager shall ensure that information on all allegations of prisoner-on-prisoner sexual abuse, staff sexual misconduct/sexual harassment, and staff overfamiliarity are entered into the MDOC computerized database at their respective facilities and investigated. For each investigation which sustains an allegation of prisoner-on-prisoner sexual abuse, and for each investigation which results in sustained disciplinary charges for staff sexual misconduct/sexual harassment, staff designated by the Warden shall ensure that a completed United States Department of Justice Survey on Sexual Violence Form (SSV-IA) is sent to the PREA Manager along with any other documentation as requested by the PREA Manager.

Pre-audit, the facility responded positively in the questionnaire that the agency collects accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. The standardized instrument includes, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence (SSV) conducted by the Department of Justice.

TCF provided completed SSV-2 forms for 2014, 2015, and 2016. These were reviewed and found to be thorough, standardized, and based on a set of definitions. Data is collected in a uniform manner for the completion and submission of such.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, the facility meets the requirements of provisions (a) and (c).

115.87 (b) The above policies were reviewed including the PREA Manual which indicates that the Department PREA Manager gathers data on each reported incident to aggregate an annual incident report.

Pre-audit, the facility responded positively that the agency aggregates the incident-based sexual abuse data at least annually.

TCF provided samples of annually aggregated data with agency reports for 2015 and 2016. Each of these reports represents an aggregation of data from similar facilities across the MDOC and compare statistics for allegations from the previous year. Categories include Sexual Violence/Non-consensual Sexual Acts, Sexual Violence/Abusive Sexual Contacts, Sexual Harassment (prisoner/prisoner), Sexual Conduct with Offender, and Sexual Harassment of Offender). Results are broken down among the allegation findings of Sufficient Evidence, Insufficient Evidence, No Evidence, and Pending Investigation. Completed sample DOJ SSV-2 reports were

provided for 2015, and 2016. These were reviewed and found to be thorough, standardized, and based on a set of definitions. Data is collected in a uniform manner for the completion and submission of such.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, the facility meets the requirements of provisions (b).

115.87 (d) The above policies were reviewed including the PREA Manual which indicates that regarding data collection, each allegation of sexual abuse reported to have occurred within Department facilities shall be entered into the appropriate MDOC computerized database. The Department PREA Manager gathers data on each reported incident to aggregate an annual incident report. The department PREA Manager also shall request data on each reported incident from every private facility contracted for the confinement of offenders when applicable.

Pre-audit, the facility responded positively in the questionnaire that the agency obtains incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates.

This auditor reviewed the agency's public website and located the PREA Annual report for 2017. This 11-page report includes a Background of PREA; PREA Definitions; a MDOC Correctional Facilities Map; Review and Results of the correctional facilities audited during 2017, with audit findings reviewed and the corrective actions implemented discussed; 2017 Allegations and Findings by Type; the 2017 Allegation Statistics reported to the Bureau of Justice Statistics; and comparison with the 2016 PREA Statistics; and Summary. Also posted is the Survey of Sexual Violence 2017. It was reviewed to confirm that the data collected is uniformly sufficient to complete the annual Survey of Sexual Violence.

According to the agency's public website, annual reports only exist since 2014. SSV-2 reports only exist since 2013. The annual report is published to the agency's website prior to June 30th each year and is available to the Department of Justice if needed.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, the facility meets the requirements of provisions (d).

115.87 (e) The above policies were reviewed including the PREA Manual which indicates the department PREA Manager also shall request data on each reported incident from every private facility contracted for the confinement of offenders when applicable.

Pre-audit, the facility responded positively in the questionnaire that the agency obtains incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates. The facility did not respond if the data from the private facilities complies with SSV reporting regarding content. It is unknown if the annual aggregated data of the contracted facilities is included in the agency's annual reports or in the SSV-2 reports.

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

During the evaluation of 115.12, it was determined that there is insufficient evidence that the agency completes contract monitoring required by 115.12. Without established contract monitoring, it also appears that the

agency does not have documented evidence of collecting data required by 115.87(e); evidenced by the exclusion of such data in its 2017 annual report. Based upon the absence of evidence of data collection for each of its contracted entities; there is insufficient evidence to support compliance with provision (e) of the standard.

Insomuch as 115.87 (e) is also impacted by 115.12 (b), regarding contract monitoring at contracted facilities, this auditor is unable to determine compliance for this provision. Corrective action is required.

115.87 (f) The above policies were reviewed including the PREA Manual which indicates that the Department shall provide all data to the U.S. Department of Justice from the previous calendar year upon request no later than June 30.

Pre-audit, the facility responded positively that the agency provided the Department of Justice with data from the previous calendar year upon request.

This auditor reviewed the agency's public website and located the PREA Annual report for 2017. This 11-page report includes a Background of PREA; PREA Definitions; a MDOC Correctional Facilities Map; Review and Results of the correctional facilities audited during 2017, with audit findings reviewed and the corrective actions implemented discussed; 2017 Allegations and Findings by Type; the 2017 Allegation Statistics reported to the Bureau of Justice Statistics; and comparison with the 2016 PREA Statistics; and Summary. Also posted is the Survey of Sexual Violence 2017. It was reviewed to confirm that the data collected is uniformly sufficient to complete the annual Survey of Sexual Violence.

TCF provided completed samples of 2015 and 2016 SSV-2 reports.

According to the agency's public website, annual reports only exist since 2014. SSV-2 reports only exist since 2013. The annual report is published to the agency's website prior to June 30th each year and is available to the Department of Justice if needed.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, the facility meets the requirements of provision (f) and is not overall compliant for the standard.

#### Corrective Action Required:

For provision (e), the agency will need to demonstrate that relevant annual data is included in annual reporting for contracted facilities housing MDOC prisoners including parole violators, specifically, the agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates. This is related to the corrective action required for 115.12 (b).

#### Post Interim Report Corrective Actions Taken:

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

monitoring FAQs, the contracting agency will not be held in non-compliance, so long as the contracting agency is documenting the contracted agency's progress towards achieving compliance, which would include the development of procedures to collect data consistent with the standard.

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

The auditor now finds the facility/agency compliant for provision (e) and overall compliant with the standard.

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

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

#### **115.88 (a)**

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

#### **115.88 (b)**

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

#### **115.88 (c)**

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

#### **115.88 (d)**

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

### **Auditor Overall Compliance Determination**

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

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. 2017 Annual PREA Reports
  - c. 2016 Annual PREA Reports
  - d. 2015 Annual PREA Reports
  - e. 2014 Annual PREA Reports
  - f. MDOC Public Website
2. Interviews:
  - a. Agency Head
  - b. PREA Coordinator
  - c. PREA Compliance Manager (PCM)
3. Sight Review Observations:
  - a. MDOC Public Website [https://www.michigan.gov/corrections/0,4551,7-119-68854\\_70096---,00.html](https://www.michigan.gov/corrections/0,4551,7-119-68854_70096---,00.html)

115.88 (a) The above policies were reviewed including the PREA Manual which indicates that the Department's PREA Section will review data regarding reported sexual abuse within Department facilities in order to assess and improve the effectiveness of sexual abuse prevention, detection and response and pertinent policies, practices and training.

Pre-audit, the facility responded positively in the questionnaire that the agency reviews data collected and aggregated pursuant to 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, response policies and training, including: identifying problem areas; taking corrective action on an ongoing basis; and preparing an annual report of its findings from its data review and any corrective actions for each facility, as well as the agency as a whole.

During the onsite phase of the audit, the Agency Head Designee was interviewed and responded that incident-based sexual abuse data is used to assess and improve sexual abuse prevention, detection, and response

policies, practices and training. He further elaborated that data that contributes to the annual reports, on a smaller scale, is derived by the PREA unit and with upper administration, influences change and raises awareness for compliance. The PREA Coordinator was interviewed and related that the Administrative Investigation Management tool (AIM) program is used to collect data for review pursuant to 115.87 in order to assess and improve sexual abuse prevention, detection, and response policies, practices and training. This system is password protected and only employees of a certain level can access the data. He further elaborated that the agency takes correction action on an ongoing basis based on the data and each facility is taken into consideration for its type of population, location, etc. Corrective actions are shared statewide including what not to do. The PCM was interviewed and responded that similarly, the agency level review is used to improve training, by the HR Development Team, as a result of data collected and aggregated pursuant to 115.87.

TCF provided MDOC PREA webpage samples depicting its posted annual PREA reports and SSV-2 reports. TCF provided samples of the 2014 and 2015 PREA Annual Reports.

This auditor reviewed the agency's public website and located the PREA Annual report for 2017. This 11-page report includes a Background of PREA; PREA Definitions; a MDOC Correctional Facilities Map; Review and Results of the correctional facilities audited during 2017, with audit findings reviewed and the corrective actions implemented discussed; 2017 Allegations and Findings by Type; the 2017 Allegation Statistics reported to the Bureau of Justice Statistics; and comparison with the 2016 PREA Statistics; and Summary. Also posted is the Survey of Sexual Violence 2017. It was reviewed to confirm that the data collected is uniformly sufficient to complete the annual Survey of Sexual Violence.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, and staff interviews, the facility meets the requirements of provision (a).

115.88 (b) The above policies were reviewed including the PREA Manual.

Pre-audit, the facility responded positively in the questionnaire that the annual report includes a comparison of the current year's data and corrective actions with those from prior years. Additionally, the annual report provides an assessment of the agency's progress in addressing sexual abuse.

TCF provided samples of the 2016 Annual PREA Report. It compares statistics from 2015 to 2016. Additionally, the 2016 Annual PREA Report provides an assessment of the agency's progress in addressing sexual abuse: "During the 2016 PREA audits, one MDOC facility was found compliant with no corrective action required. Three other MDOC facilities were found 100% compliant following a corrective action period (CAP). The corrective action included providing a staffing plan narrative, implementing additional processes into the PREA Risk Assessment process, and providing refresher information to staff regarding conduct of investigations and standards of proof for administrative investigations. The refresher information was provided immediately, the other corrective action required development of new agency policy and procedures for implementation in 2017. By the end of the corrective action periods for facilities audited in 2016, all were found compliant. Additional recommended corrective action from a 2015 audit was the impetus for creating a PREA-specific Grievance Procedure for the Michigan Department of Corrections. The PREA Grievance Procedure was implemented statewide in April of 2016. In November, a process was established to ensure that a victim advocate is available at all locations, Facility health care staff, mental health staff and other volunteer staff completed the NIC victim advocate training. An order of precedence was established to ensure a qualified staff victim advocate is available at all times at all facilities when one is not available through the hospital or community."

The auditor finds that based on pre-audit materials reviewed including policy and documentation, and staff interviews, the facility meets the requirements of provision (b).



115.88 (c) The above policies were reviewed including the PREA Manual which indicates that only with the Director's approval will the report be placed on the MDOC website. Prior to placing it on the website, information that would present a clear and present threat to the safety and security of any facility that would jeopardize any litigation or contains confidential information shall be redacted. If information is redacted, an explanation of the nature of the material redacted will be included.

Pre-audit, the facility responded positively in the questionnaire that the agency makes its annual report readily available to the public at least annually through its website. Additionally, the annual reports are approved by the agency head.

During the onsite phase of the audit, the Agency Head Designee was interviewed and responded that annual reports are written pursuant to 115.88 and are posted to the MDOC's public website annually.

TCF provided a sample of the MDOC's webpage, and a sample of the 2016 PREA Annual Report. Both were reviewed. The report depicts the signature of the MDOC PREA Manager and the MDOC Director.

This auditor reviewed the agency's public website and located the 2017 PREA Annual report. The report depicts the signature of the MDOC PREA Manager and the MDOC Director.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, and staff interviews, the facility meets the requirements of provision (c).

115.88 (d) The above policies were reviewed including the PREA Manual which indicates that only with the Director's approval will the report be placed on the MDOC website. Prior to placing it on the website, information that would present a clear and present threat to the safety and security of any facility that would jeopardize any litigation or contains confidential information shall be redacted. If information is redacted, an explanation of the nature of the material redacted will be included.

Pre-audit, the facility responded positively in the questionnaire that when the agency redacts material from an annual report for publication, the redactions are limited to specific materials where publication would present a clear and specific threat to the safety and security of the facility. Additionally, the agency indicates the nature of the material redacted.

During the onsite phase of the audit, the PREA Coordinator was interviewed and responded that the types of material that is typically redacted from an annual report would include Personal Identifying Information (PII) such as social security numbers, and the nature of the redacted information would be indicated by the agency.

TCF provided a sample of the MDOC's webpage, and a sample of the 2016 PREA Annual Report. Both were reviewed. The report depicts the signature of the MDOC PREA Manager and the MDOC Director. This auditor reviewed the agency's public website and located the 2017 PREA Annual report. The report depicts the signature of the MDOC PREA Manager and the MDOC Director. None were found to contain redacted information.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, and staff interviews, the facility meets the requirements of provision (d) and is overall compliant with the standard.

## Standard 115.89: Data storage, publication, and destruction

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

#### 115.89 (a)

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

#### 115.89 (b)

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

#### 115.89 (c)

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

#### 115.89 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The following evidence was analyzed in making the compliance determination.

1. Documents:
  - a. PREA Manual (April 2017)
  - b. MDOC PREA Webpage sample
  - c. 2016 PREA Annual Report

- d. 2017 PREA Annual Report
  - e. MDOC post interim report corrective action emails
2. Interviews:
- a. PREA Coordinator
3. Sight Review Observations:
- a. MDOC Public Website [https://www.michigan.gov/corrections/0,4551,7-119-68854\\_70096---\\_00.html](https://www.michigan.gov/corrections/0,4551,7-119-68854_70096---_00.html)

115.89 (a) The above policies were reviewed including the PREA Manual which indicates that regarding storage, publication and retention, the Department shall ensure that all sexual abuse and sexual harassment data collected is securely retained.

Pre-audit, the facility responded positively in the questionnaire that the agency ensure that incident-based and aggregated data are securely retained.

This auditor attempted contact with an agency IT staff and has not received a response as of this date. During the onsite portion of the audit, the PREA Coordinator was interviewed and responded that data collected pursuant to 115.87 is securely retained. The data is contained within the Administrative Investigations Management (AIM) tool which is password protected. Only employees of a certain level can access the data in the program.

The auditor finds that based on pre-audit materials reviewed including policy, and staff interviews, the facility meets the requirements of provision (a).

115.89 (b) The above policies were reviewed including the PREA Manual which indicates that the Department shall make all aggregated sexual abuse data as outlined in the data collection section of this manual readily available to the public at least annually through its website.

Pre-audit, the facility responded positively that the agency requires that aggregated sexual abuse data from facilities under its direct control and private facilities with which it contracts be made readily available to the public at least annual through its website.

TCF provided a screen image sample of the MDOC PREA Web page containing aggregated sexual abuse data.

This auditor reviewed the agency's public website and located the PREA Annual report for 2017. This 11-page report includes a Background of PREA; PREA Definitions; a MDOC Correctional Facilities Map; Review and Results of the correctional facilities audited during 2017, with audit findings reviewed and the corrective actions implemented discussed; 2017 Allegations and Findings by Type; the 2017 Allegation Statistics reported to the Bureau of Justice Statistics; and comparison with the 2016 PREA Statistics; and Summary. Also posted is the Survey of Sexual Violence 2017. It was reviewed to confirm that the data collected is uniformly sufficient to complete the annual Survey of Sexual Violence.

This auditor could not locate aggregated sexual abuse data for private facilities with which the MDOC contracts at least annually through its website. The agency contracts with the Ingham and Clinton County Jails for the housing of parole violators under the auspice of the Intensive Detention Program. The facilities' aggregate data was not included in the agency's 2017 annual report; despite the fact that the contracted entities were under

contract in 2017. Absent evidence that the agency collects and publishes aggregate data for its contracted facilities; the audit team does not find compliance with provision (b) of the standard. This is similarly associated with the deficiency identified at 115.87 (e), and 115.12 (b) regarding facilities contracted by the MDOC for the housing of its inmates, including its parole violators.

The auditor finds that based on pre-audit materials reviewed including policy and documentation reviews, the agency does not meet the requirements of provision (b). Corrective action is needed.

115.89 (c) The above policies were reviewed including the PREA Manual which indicates that before making aggregated sexual abuse data publicly available, all personal identifiers shall be removed.

Pre-audit, the facility responded positively in the questionnaire that before making aggregated sexual abuse data publicly available, the agency removes all personal identifiers. Additionally, the agency maintains sexual abuse data collected pursuant to 115.87 for at least 10-years after the date of initial collection, unless federal, state, or local law requires otherwise.

TCF provided a sample of the 2016 PREA Annual Report. This auditor reviewed it and was not able to observe any personal identifiers in the document.

The auditor finds that based on pre-audit materials reviewed including policy and documentation, the facility meets the requirements of provision (c).

115.89 (d) The above policies were reviewed including the PREA Manual which indicates that the Department shall maintain sexual abuse data collected pursuant to the data collection section of this manual for at least 10 years after the date of the initial collection.

Pre-audit, the facility responded positively in the questionnaire that the agency maintains sexual abuse data collected pursuant to 115.87 for at least 10-years after the date of initial collection, unless federal, state, or local law requires otherwise.

This auditor reviewed the MDOC public website and reviewed all available annual PREA reports and SSV-2 reports. The earliest report is the Survey of Sexual Victimization – 2013. All reports contained on the website are being retained within the requirements of records retention according to the provision.

#### Corrective Action Required:

For provision (b), the agency will need to demonstrate that relevant annual data is included in annual reporting for contracted facilities housing MDOC prisoners including parole violators, specifically, the agency shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website. This is related to the corrective action required for 115.12 (b).

#### Post Interim Report Corrective Actions Taken:

As described in 115.12, the agency's contracted entities have significant ground to cover in achieving PREA compliance. Therefore, the contracted entities did not have data collection procedures in place to capture the requisite data for the MDOC to aggregate in accordance with provision (e) of 115.87, therefore, such information is not included in the MDOC's annual report consistent with provision (b) of the standard. The MDOC issued a corrective action plan to its contracted entities to develop compliant policies and as part of its contract monitoring, the MDOC will be collecting incident based and aggregate data from the contracted entities

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

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

The auditor now finds the facility/agency compliant for provision (b) and overall compliant for the standard.

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

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

##### 115.401 (a)

- During the prior three-year audit period, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (*Note: The response here is purely informational. A "no" response does not impact overall compliance with this standard.*) ☒ Yes ☐ No

##### 115.401 (b)

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

##### 115.401 (h)

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

#### 115.401 (i)

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

#### 115.401 (m)

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

#### 115.401 (n)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

115.401 (a) During the prior three-year audit period, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? No

115.401 (b) Is this the first year of the current audit cycle? Yes

If this is the second year of the current audit cycle, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited during the first year of the current audit cycle? Yes

If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? Yes

115.401 (h) Did the auditor have access to, and the ability to observe, all areas of the audited facility? Yes

115.401 (i) Was the auditor permitted to request and receive copies of any relevant documents (including electronically stored information)? Yes

115.401 (m) Was the auditor permitted to conduct private interviews with inmates, residents, and detainees? Yes

115.401 (n) Were inmates permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel? Yes

The facility meets the standard for 115.401.

## Standard 115.403: Audit contents and findings

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

#### 115.403 (f)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

115.403 (f) The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. In the case of single facility agencies,

the auditor shall ensure that the facility's last audit report was published. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. Yes

The facility meets the standard for 115.403.



## AUDITOR CERTIFICATION

I certify that:

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

### Auditor Instructions:

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

Krista J. Callear  
**Auditor Signature**

October 23, 2019  
**Date**

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

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