PREA AUDIT: AUDITOR'S SUMMARY REPORT
ADULT PRISONS & JAILS

Name of facility: Minnesota Correctional Facility – Oak Park Heights

Physical address: 5329 Osgood Avenue North, Stillwater, MN 55082

Date report submitted: August 25, 2014

Auditor Information Peter Plant

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Tel. no.: 813-784-4478

Date of facility visit 07/14-16/2014

Facility Information

Facility mailing address: *(if different from above)*

Telephone number: 651-779-1400

The facility is:	■ Military	■ County	■ Federal
	■ Private for profit	■ Municipal	■ **State**
	■ Private not for profit		
Facility Type:	■ Jail	■ **XX Prison**	

Name of PREA Compliance Manager: David Reishus **Title: Associate Warden of Operations**

Email address: david.reishus@state.mn.us **Telephone number: 651-779-1488**

Agency Information

Name of agency: Minnesota Department of Corrections

Governing authority or parent agency: *(if applicable)*

Physical address: 1450 Energy Park Drive, Suite 200, St. Paul, MN 55108

Mailing address: *(if different from above)*

Telephone number: 651-361-7200

Agency Chief Executive Officer

Name: Tom Roy **Title: Commissioner**

Email address: tom.roy@state.mn.us
Telephone: 651-361-7226

Agency-Wide PREA Coordinator

Name: Debra Wienand **Title: PREA Coordinator**

Email address: debra.wienand@state.mn.us
Telephone: 651-361-7780

AUDIT FINDINGS

NARRATIVE:

The Minnesota Correctional Facility-Oak Park Heights was audited on July 14-17, 2014. A review of the pre-audit documents had been conducted prior to the on-site visit. Present during the entrance was Warden Kent Grandlieard, PREA Coordinator Deb Wienand, PREA Compliance Manager David Reishus and other members of the facility staff. The entire PREA audit process was discussed. An initial review of the Pre-Audit findings was also discussed. Staff and offender interview schedules were developed.

During the entrance tour, all areas of the facility were toured, including the administration building, offender housing, a religious resource room, gymnasium, security control center, staffed training fitness area, industry and warehouse areas, and education classrooms. The facility is modern and uniquely designed. It was noted that throughout the tour the auditor observed that PREA related material, as well as the PREA audit notice, in English and Spanish, was posted in each housing unit and in other areas where offenders work or attend education classes. The contact information for the PREA Victim Advocate was also posted. All areas of the facility are surveiled 24/7 by over 900 cameras. The auditor also observed female staff consistently announcing their entrance to the various housing units. Youthful offenders are not housed in this facility.

During the three days, specific information was reviewed for compliance with PREA. This included various incident reports, grievances, staff backgrounds, staff orientation and training records, inmate screening tools, and inmate orientation documents. Interviews were conducted with the PREA Compliance Manager, facility investigator, medical and screening staff, behavioral health staff, human relations staff, incident review staff, first responders, intake staff, security officers, and offenders (inmates).

DESCRIPTION OF FACILITY CHARACTERISTICS:

Located in Stillwater, MN, the facility is Minnesota's only Level Five maximum security prison housing male offenders. Constructed in 1981 and opened in 1982 the facility handles the state's highest risk offenders, all housed in single cells. The prison is architecturally designed into the side of a hill to accommodate 422 offenders on a 160-acre site, which is connected by two corridors on separate levels. One of the Corridors is used only for the staff, while the other corridor is used primarily for offenders and staff traffic. The entire facility is securely fenced with a large courtyard and athletic fields in the center.

The prison is composed of nine self-sustaining living units, referred to as complexes. The first six complexes each house 52 offenders and include shower facilities and a common area used for recreation and meals. Offenders in these complexes range from those serving segregation time, to those who are in education toward a GED, or working full-time in the facility as cooks, janitors, painters, or workers in the institution's industry units. MCF-OPH is home to the Minnesota Department of Corrections Commissary program. Inmates who qualify for these work programs

are employed to process and package commissary orders from the other state correctional facilities.

Two of the three remaining complexes house the Mental Health Unit (MHU) and the Transitional Care Unit (TCU). The MHU and TCU both handle inmates from the entire Minnesota DOC who require the unique services of those units. The TCU serves inmates who need intensive nursing care, such as post surgical care, and also serves as a hospice. The MHU works with individuals who are in a mental health crisis or individuals who have been civilly committed as mentally ill in addition to their criminal commitment.

The ninth unit, completed in 2001, is the state's Administrative Control Unit. The ACU is sometimes referred to as "Super-Seg" and houses the most violent offenders in an environment nearly completely free of physical contact with staff. Many of the offenders in the ACU have attempted to assault prison staff or have engaged in a deadly assault on another inmate. Each cell is a self-contained living unit that includes sink, toilet, and shower. Each cell is accessed through two sets of doors, creating a sally port for each cell. Offenders are typically given access to an exercise room that is open to outside air for one hour each day.

SUMMARY OF AUDIT FINDINGS:

Number of standards exceeded:	4
Number of standards met:	36
Number of standards not applicable:	3
Number of standards not met:	0

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

Overall Determination:
☐Exceeds Standard (substantially exceeds requirements of standard)
X Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
☐Does Not Meet Standard (requires corrective action)

Auditor Comments (including corrective actions needed if it does not meet standard)
Policy 202.057 clearly states the agency's zero tolerance toward sexual abuse and sexual harassment. This policy defines prohibited behaviors and mirrors the Prison Rape Elimination Act definitions and outlines the implementation of the agency's approach to the preventing, detecting, and responding to sexual abuse and harassment. Policy 103.225 addresses the rules of conduct between employees and inmates and states that "Any individual who violates agency sexual abuse or sexual harassment policies may be subject to discipline up to and including discharge."

Debra Wienand, the state agency PREA coordinator, is in a dedicated position in the agency's Office of Special Investigations and reports she has sufficient time and authority with respect to the development, implementation , and monitoring of agency efforts in PREA compliance. Ms. Wienand is also a U.S. DOJ Certified PREA Auditor.

David Reishus, the facility PREA manager, is an Associate Warden, who also reports that he has sufficient time and authority to coordinate the facility's PREA compliance activities.

An interview with Ms Terry Carlson, Deputy Commissioner of the Minnesota Department of Corrections, confirmed the Department's stand on sexual abuse and sexual harassment and their commitment to enforcing the zero tolerance policy.

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

Overall Determination:
☐Exceeds Standard (substantially exceeds requirements of standard)
X Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
☐Does Not Meet Standard (requires corrective action)

Auditor Comments (including corrective actions needed if it does not meet standard)
The DOC currently has 17 contracts with local units of government to house state offenders. All 17 contain a provision requiring of the entity's obligation to adopt, comply with, and monitor compliance with PREA standards, as well as agree for DOC agency contract monitoring to be conducted.

Standard
§115.13 – Supervision and monitoring

Overall Determination:
X Exceeds Standard (substantially exceeds requirements of standard)
☐Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
☐Does Not Meet Standard (requires corrective action)

Auditor Comments (including corrective actions needed if it does not meet standard)
The most recent Staffing Plan meets the requirements of the standard. No deviations were discovered. There are over 900 cameras throughout the facility that are monitored 24/7.

Policy 301.055 addresses the requirement of the intermediate and higher level staff to conduct and document unannounced rounds intermittently during the month. The policy also addresses staff are prohibited from alerting other staff of supervisory rounds. A review of the logbook entries found that these rounds are conducted at random on all shifts. Staff interviews confirmed the practice.

Standard
§115.14 – Youthful Inmates

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Youthful inmates are not held at this facility.

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

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 301.010 addresses cross-gender strip searches which are prohibited except in exigent circumstances. Staff and offender interviews confirmed the policy. This policy also notes medically trained professionals are permitted to conduct body cavity searches, but only in exigent circumstances. All cross-gender searches are required to be documented.

Policies 301.055 and 202.105 state that offenders are allowed 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. Offender interviews confirmed that the policy is implemented. All exceptions reported occurred during routine cell checks. The policy also requires staff, contractors, and visitors of the opposite gender to announce their presence when entering an offender housing unit. The auditor observed that this is consistently done, and staff interviews confirmed the practice. In order to ensure that the announcement is made known to all offenders the department has installed a “door bell” type gong that is sounded whenever a female enters the unit. This can be heard throughout the housing unit.

Policy 301.010 states that an unclothed body search is not conducted for the sole purpose of determining an offender’s gender. Staff interviews confirmed that the agency trains security staff in how to conduct cross-gender pat-down searches and searches of transgender and intersex offenders in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

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

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 202.057 states that the facility maintains multiple ways for offenders and staff to report allegations of sexual abuse/harassment/staff sexual misconduct perpetrated by other offenders, staff, contractors or volunteers. A qualified interpreter is provided for an offender who has a disability that impacts his/her ability to communicate (such as a hearing or vision impairment). Offenders who do not speak and understand English are provided language interpretive services. Offender interpreters are not used unless a delay could cause immediate safety or security issues. Offenders who falsely report information are reviewed for a violation of the offender discipline regulations and/or criminal statutes.

Policy 203.250 further describes additional steps taken to provide assistance to offenders with disabilities. The agency makes available a language line telephone service to all facilities. The auditor utilized this service on several occasions when interviewing offenders who were not English proficient.

Signage, orientation, and inmate handbooks are provided in both English and Spanish. The agency would, if necessary, have these documents interpreted into other languages, through the language line, as the need arose.

Offender interviews confirmed that agency policies in this regard are being followed.

Standard

§115.17 – Hiring and promotion decisions

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 103.014 states that the DOC does not hire or promote anyone who:

A. 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);

B. 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: or

C. Has been civilly or administratively adjudicated to have 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).

The policy also states that the department conducts criminal history and employment history checks, including incidents of sexual harassment, on a finalist for hire or promotion with the DOC. The application for employment contains the inquiry questions required by the standard. A provision of material misinformation is grounds for termination. Background screenings are conducted every five years.

The agency's Human Relations office confirmed that DOC does provide the information on substantiated allegations of sexual abuse or harassment involving a former employee upon receiving a request from an institutional employer considering that former employment for employment.

Contractors never have contact with inmates. This was confirmed in both staff and offender interviews.

Standard

§115.18 – Upgrades to facilities and technology

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

This standard is not applicable for this facility.

Standard

§115.21 – Evidence protocol and forensic medical examinations

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 107.007 states that the Office of Special Investigations (OSI) investigates allegations of felony level criminal activity by offenders and assists law enforcement agencies with conducting criminal investigations involving employees, volunteers, contractors, and visitors within the department. Completed investigations are forwarded to the appropriate assistant or deputy commissioner for referral to the appropriate county attorney's office for criminal prosecution. Any investigative data revealing criminal activity outside of the department is referred to the appropriate law enforcement agency.

Policy 500.100 clearly states that no co-payment is required for health services provided subsequent to allegations of sexual assault, abuse, or harassment. No forensic exams were conducted during the prior 12 months.

The DOC met with the Minnesota State Sexual Assault Coalition to develop protocols for utilizing outside sexual assault advocacy services for incarcerated victims of sexual assault. In this regard the DOC worked with the advocacy agency that serves the Stillwater area, but was unable to conclude an agreement. As a result, Lydia Newlin, Minnesota DOC Victim Services and Restorative Justice Program Director, serves as the qualified agency victim advocate for this facility. Ms. Newlin has extensive experience and training in victim advocacy. Her contact information is posted in all housing units.

Standard

§115.22 – Policies to ensure referrals of allegations for investigation

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 107.007 states that the Office of Special Investigations (OSI) investigates allegations of felony level criminal activity by offenders and assists law enforcement agencies with conducting criminal investigations involving employees, volunteers, contractors, and visitors within the department. Completed investigations are forwarded to the appropriate assistant or deputy commissioner for referral to the appropriate county attorney's office for criminal prosecution. Any investigative data revealing criminal activity outside of the department is referred to the appropriate law enforcement agency. This was confirmed in an interview with the on-site Investigator. During the previous 12 months 7 allegations were investigated, with one being referred for criminal investigation.

All agency policies are openly available on the DOC's website.

Standard

§115.31 – Employee training

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 202.057 states that offenders, staff, contractors, volunteers, and others deemed necessary by administration must

receive training on sexual abuse/harassment/staff sexual misconduct prevention, detection, and the DOC's response plan. In the past 12 months over 300 staff have received training in these PREA Modules. The three Modules are thorough and gender and age responsive. The agency is in the process of reviewing and enhancing these modules, including updating their approach to the searching of transgender and intersex offenders. They are also developing a new Refresher Module.

Training is documented on the agency's Training Management System. Staff interviews confirmed that all staff receive the required training.

Standard

§115.32 – Volunteer and contractor training

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 202.057 states that offenders, staff, contractors, volunteers, and others deemed necessary by administration must receive training on sexual abuse/harassment/staff sexual misconduct prevention, detection, and the DOC's response plan. Volunteers and contractors are required to complete the same training – Modules 1, 2 and 3 – as staff complete. This training is documented in the agency's Training Management System.

Standard

§115.33 – Inmate education

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policies 202.057 and 202.050 require that newly committed offenders receive orientation regarding sexual abuse/harassment and reporting. Offenders receive written and verbal information in a language easily understood by the offender, regarding:

a) The DOC zero-tolerance policy on sexual abuse/harassment;
b) How to avoid sexual contact in prison;
c) The risks and potential consequences of engaging in any type of sexual activity while incarcerated, which may include criminal sanctions and/or offender discipline;
d) How to identify and report an incident of sexual abuse/harassment or staff sexual misconduct;
e) What defines a false accusation and the consequences for making a false accusation; and
f) How to obtain counseling services and/or medical assistance if victimized.

Inmate interviews confirmed that offenders receive both initial and follow-up orientation and education, primarily in the form of video and written materials. All offenders reported they understood the orientation and education, even though several stated the issue was of no interest to them. All offenders confirmed they read and signed forms, documenting the education they received.

Standard

§115.34 – Specialized training: Investigations

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)
Policy 107.005 requires all OSI investigators receive specialized training in conducting sexual abuse investigations and limits sexual assault and harassment investigations to only those investigators who have completed that training. The Investigator assigned to this facility is an experienced and highly trained staff who also serves as an investigation trainer for the agency. He confirmed that he has received training in all the areas required by the standard. Documentation of training is maintained in the agency's Training Management System.

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

Overall Determination:
☐Exceeds Standard (substantially exceeds requirements of standard)
X Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
☐Does Not Meet Standard (requires corrective action)

Auditor Comments (including corrective actions needed if it does not meet standard)
Policy 500.030 requires all full and part-time medical and mental health practitioners receive specialized training on:

a) How to detect and assess signs sexual abuse and harassment;
b) How to preserve physical evidence of sexual abuse;
c) How to respond effectively and professionally to victims of sexual abuse and harassment; and
d) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment;

Interviews with both medical and mental health staff received the required specialized training in addition to the base PREA training all staff receive. Documentation of this specialized training is maintained in the agency's Training Management System.

Medical staff at the facility do not conduct forensic exams.

Standard
§115.41 – Screening for risk of victimization and abusiveness

Overall Determination:
X Exceeds Standard (substantially exceeds requirements of standard)
☐Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
☐Does Not Meet Standard (requires corrective action)

Auditor Comments (including corrective actions needed if it does not meet standard)
Policy 202.040 addresses Offender Intake Screening and Processing. All facilities in Minnesota utilize the objective Sexual Violence Prevention (PREA) Checklist to screen all offenders admitted or transferred for their risk of being sexually abused by other offenders or sexually abusive toward other offenders. Policy requires that this screening be conducted within 24 hours of admission. All offenders reported that they received this screening. Health services staff responsible for both initial and any follow-up screening stated that it rare that they receive any additional information, requiring a follow-up, but are prepared to do so, if needed, using the Sexual Violence Prevention (PREA) Checklist 30 Day Follow-up form.

Policy 202.040 states that offenders must not be disciplined for refusing to answer, or for not disclosing complete information, when screened by health services staff completing the Sexual Violence Prevention (PREA) Checklist. None of the offenders interviewed stated that they had been disciplined for refusing to answer any screening information.

Policy 202.057 states that staff must conduct a sexual abuse risk re-assessment upon being informed that an offender-on-offender perpetrator has been identified and the allegation has been substantiated. As deemed appropriate, this assessment includes psychological testing, scoring of actuarial tools, and information regarding possible interventions, including the appropriateness of sex abuse specific mental health treatment, as available at that facility.

Screening data are entered into an internal agency database. The Associate Warden controls which staff receive permissions to access different security levels of the data based, based on their need to know.

Standard

§115.42 – Use of screening information

Overall Determination:

☐Exceeds Standard (substantially exceeds requirements of standard)

X Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

☐ Does Not Meet Standard (requires corrective action)

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 202.057 states that PREA screening information is used to determine housing, bed assignment, work assignment, and the need for further referral based on the information. None of the offenders interviewed stated that their housing or work assignment placed them at risk.

Policy 202.120 addresses the offender incompatibility developed by the agency. Offenders are required to immediately inform staff of potential threats to their safety. All reported threats are investigated, and if founded could result in any number of options such as transferring the offender to another housing unit or even to another facility.

Policy 202.045 addresses the evaluation and placement of transgender and intersex offenders. In deciding whether to assign a transgender or intersex offender to a facility for male or female offenders, and in making other housing and programming assignments, the agency considers on a case-by-case basis whether a placement would ensure the offender's health and safety, and whether the placement would present management or security problems. The DOC does not place lesbian, bisexual, transgender, gender variant, or intersex offenders in dedicated facilities, units, or wings solely on the basis of such identification or status. The DOC evaluates and places offenders who claim to be undergoing transgender or transsexual-related treatment, offenders who appear to be gender-variant, or offenders having other clinical conditions in which the gender assignment is unclear in a similar manner. The offender's own views regarding his or her own safety are given serious consideration.

All offenders interviewed confirmed that they shower separately from other inmates. This would not change, if the offender were transsexual or intersex.

Standard

§115.43 – Protective Custody

Overall Determination:

☐Exceeds Standard (substantially exceeds requirements of standard)

X Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

☐Does Not Meet Standard (requires corrective action)

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 301.085 addresses administrative segregation. Interviews with facility administrators indicate that such segregation is rarely used. The facility has sufficient alternative housing and work options that can be used in lieu of segregation. If utilized, the policy meets the requirements of the standard.

Standard

§115.51 – Inmate reporting

Overall Determination:

☐Exceeds Standard (substantially exceeds requirements of standard)

X Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

☐ Does Not Meet Standard (requires corrective action)

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 202.057 affords offenders multiple ways to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for making a report, and staff neglect or violation of responsibilities that may have contributed to such incidents. All of the offenders interviewed confirmed their understanding of this. The most common means was the submission of a written kite, followed by the making of a verbal report to staff. With respect to the latter offenders generally expressed a high level of trust in staff to follow-up on any verbal report. Most offenders interviewed stated that they could call the DOC Sexual Assault Hotline. Staff interviews reflected a similar understanding of the means allowed, including an understanding that offenders can make reports verbally, as well as in writing, and all staff indicated that their first responsibility was to protect offenders who make such reports.

All staff interviewed clearly understood that they can privately report sexual abuse and sexual harassment of offenders without fear of agency disciplinary action.

Inmates have unimpeded access to telephones and can call the Minnesota Coalition Against Sexual Assault Hotline or any law enforcement agency of their choosing. They can also report to a third party, who can make the report for them.

The facility does not hold individuals for civil immigration purposes.

Standard

§115.52 – Exhaustion of administrative remedies

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

During the course of the on-site audit the auditor expressed to the PREA Coordinator that Policy 303.100, regarding the offender grievance system, that the Policy could be interpreted as requiring an offender to exhaust this administrative remedy, given the way the policy was worded (although it was clear from interviews with DOC and facility administrators that this was not the intent). The PREA Coordinator stated that she would inform agency Legal Counsel of this, and shortly thereafter, a revised Policy was issued, making it clear that offenders did not have to go through the facility grievance system prior to making a report of sexual abuse or harassment.

Standard

§115.53 – Inmate access to outside confidential support services

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 107.007 requires the facility to offer offenders with outside confidential support services provided through the victim advocate, whose contact information is posted in all housing units. Offender interviews confirmed a general understanding of this. Offenders also expressed an understanding that their phone calls were being monitored, the limits of confidentiality, and mandatory reporting duty of staff.

The agency provided documentation of its attempt to develop an MOU with local community service providers, which in this instance, was not successful.

Standard

§115.54 – Third-party reporting

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Any party can call the agency Sexual Assault Helpline or write a letter on behalf of an offender to make a report of sexual abuse and harassment. This information can be found on the agency website.

Standard

§115.61 – Staff and agency reporting duties

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policies 202.057 and 103.300 require all staff, contractors, and volunteers must immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse/harassment or staff sexual misconduct or retaliation that occurred in a facility or community services area.

Policy 202.057 classifies all information related to a sexual abuse as confidential and only allows access to that information on a need to know basis to inform treatment, investigation, and other security and management decisions. All staff interviewed stated an understanding of this policy and their duty to keep such information confidential.

All offenders are informed by medical and mental health staff of all reporting requirements and the limits of confidentiality. All offenders interviewed confirmed they had received such notices.

Policy 202.057 requires that all allegations of sexual abuse and harassment, including third-party and anonymous reports are reported through the respective chain of command, and ultimately to the agency Office of Special Investigations.

Standard

§115.62 – Agency protection duties

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policies 202.057 and 202.105 clearly state that if the DOC learns that an offender is subject to a substantial risk of imminent sexual abuse, it must take immediate action to protect the offender. This understanding was strongly stated and supported by all staff who were interviewed. Most stated that the protection of offenders was their highest priority. Most of the offenders interviewed that they had a great deal of trust in the staff to keep them safe. Several offenders who had been incarcerated in other states expressed the opinion that this was the safest facility they have ever been in.

Standard
§115.63 – Reporting to other confinement facilities

Overall Determination:

☐Exceeds Standard (substantially exceeds requirements of standard)

X Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

☐Does Not Meet Standard (requires corrective action)

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 107.007 mirrors the requirement of this standard. There were seven allegations of sexual abuse that occurred in another facility. All were properly notified and investigated by the agency Office of Special Investigations.

Standard
§115.64 – Staff first responder duties

Overall Determination:

☐Exceeds Standard (substantially exceeds requirements of standard)

X Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

☐Does Not Meet Standard (requires corrective action)

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 202.057 addresses staff first responder responsibilities to include the following:

(1) Separate the alleged perpetrator and victim so that neither can hear nor see the other.
(2) Remain with the victim to provide safety and support, and to ensure that the victim does not wash, shower, change clothes, or otherwise compromise physical evidence on his/her body prior to examination.
(3) With the exception of health services staff and the watch commander, the staff receiving the report must initiate the First Responder Sexual Abuse Response Checklist.
(4) Inform the watch commander/designee of the alleged sexual abuse.
(5) Secure the crime scene. Take photographs as needed.
(6) Complete a confidential incident report.
(7) Forward the First Responder Sexual Abuse Response Checklist and confidential incident report to the watch commander.

All security and non-security staff clearly articulated their understanding of these responsibilities during interviews.

Standard
§115.65 – Coordinated response

Overall Determination:

☐Exceeds Standard (substantially exceeds requirements of standard)

X Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

☐Does Not Meet Standard (requires corrective action)

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 202.057 establishes a facility coordinated response team, the Sexual Abuse Response Team (SART), which includes administrative, investigation, security, medical, and mental health staff. The policy is highly detailed with respect to procedures and responsibilities of the SART.

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

Overall Determination:

☐Exceeds Standard (substantially exceeds requirements of standard)

X Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

☐Does Not Meet Standard (requires corrective action)

Auditor Comments (including corrective actions needed if it does not meet standard)

The agency's master contract with AFSCME contains a provision allowing the agency to reassign any staff for up to twelve months pending the outcome of an investigation.

Standard

§115.67 – Agency protection against retaliation

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policies 203.057 and 103.220 prohibit retaliation by staff, and that all sexual abuse reporters and individuals who cooperate with investigations are to be protected against retaliation by offenders and staff. The Assistant Warden for Operations has been charged with the responsibility to monitor retaliation. Offenders and staff who were interviewed did not report any instances of retaliation against themselves or others.

The facility has a variety of options available to protect offender victims of sexual abuse, including housing changes and transfers to other facilities within the DOC, if needed.

Policy 203.057 requires the SART leader/designee to follow up with staff/offender reporters and witnesses at 30 days, 60 days, and 90 days from the date of the sexual abuse/harassment or sexual misconduct to ensure there is no retaliation as a result of the reporting. Follow-up may increase, if needed. Anyone who cooperates with an investigation is protected from retaliation. If the allegation is determined to be unfounded, the obligation to follow-up ends.

Standard

§115.68 – Post-allegation protective custody

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 202.057 states that involuntary (administrative) segregation should only be assigned when another alternative cannot be found and must not exceed 30 days; however, there were no such placements during the previous 12 months.

Standard

§115.71 – Criminal and administrative agency investigations

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policies 107.005 and 107.007 address all of the elements of this standard. The Office of Special Investigations (OSI) investigates allegations of felony level criminal activity by offenders and assists law enforcement agencies with conducting criminal investigations involving employees, volunteers, contractors, and visitors within the department. OSI investigators, who have received specialized training in conducting sexual abuse investigations in confinement settings, must conduct sexual assault and harassment investigations. Completed investigations are forwarded to the appropriate assistant or deputy commissioner for referral to the appropriate county attorney's office for criminal prosecution. Any investigative data revealing criminal activity outside of the department is referred to the appropriate law enforcement agency. OSI investigators receive ongoing specialized training every year.

The investigator secures all evidence with chain of custody documentation and maintains the integrity of the evidence until needed by the prosecuting authority. If the investigation is of a sexual assault and had taken place within 120 hours of the report, the special investigator informs the victim of the need for a sexual assault exam.

Standard

§115.72 – Evidentiary standards for administrative investigations

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 202.057 establishes an evidentiary standard of a preponderance of the credible evidence for administrative investigations. This was confirmed in the interview with the assigned facility investigator.

Standard

§115.73 – Reporting to inmate

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 202.057 requires OSI to inform the offender of the findings of the investigation. If the finding of an allegation against staff is not unfounded, the OSI or Associate Warden of Operations must inform the offender whether the staff member is no longer posted on the unit or employed by the agency, or the outcome of any criminal prosecution. Similar information is provided to the offender victim, if the offender abuser is indicted and/or convicted of the charge related to the allegation of sexual abuse.

Standard

§115.76 – Disciplinary sanctions for staff

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 103.225 states that any individual who violates agency sexual abuse or sexual harassment policies may be subject to discipline up to and including discharge. Termination is the presumptive disciplinary sanction for staff who have engaged in sexual abuse. Policy 107.100 requires all allegations of criminal conduct to be reported to law enforcement.

Standard

§115.77 – Corrective action for contractors and volunteers

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 300.045 states that any contractor or volunteer who engages in sexual abuse is prohibited from contact with offenders and must be reported to appropriate law enforcement agencies, unless the activity was clearly not criminal, and relevant licensing bodies. In general it was reported that the facility prohibits any contact between contractors and

offenders, regardless of whether there have been allegations of sexual abuse or harassment.

Standard

§115.78 – Disciplinary sanctions for inmates

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 303.010 addresses offender discipline, one of the purposes of which is to establish and maintain fair disciplinary procedures and practices consistent with applicable legal precedent. The hearing officer's findings are based on information obtained in the investigation and the hearing process. The hearing officer uses the preponderance standard for determining whether or not the offender violated the disciplinary regulation. The disposition of each charge must be entered in the hearing findings. The hearing officer determines what penalty, if any, will be imposed on the completion of the hearing. The penalty is based on the seriousness of the violation, the presence of aggravating or mitigating factors, and the offender's disciplinary record. The findings and penalty imposed are announced to the offender at the conclusion of the hearing and a hearing findings report is sent to the offender no later than two working days following the hearing. The offender may appeal the decision of the hearing officer to the warden/designee within 15 working days from the receipt of the hearing findings report. The warden may remand the case for a new hearing, if he determines that the sanction was not proportionate to the violation.

Policy 303.0101 states that no offender shall knowingly make a false written or oral statement about a staff member. If an offender makes a complaint in good faith that is protected under state of federal law about a staff member, the facility must possess evidence corroborating the staff member's report in order to charge the offender under this rule. This policy also requires that a charge of assault against any person does not include physical contact where the person consented to the contact.

Standard

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

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 202.057 states that if through the screening process or a subsequent disclosure, staff learns information that indicates that an offender has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff must ensure that the offender is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening. Once OSI is contacted, OSI meets with the victim within 72 hours and explains the investigation options.

The policy also states that any information related to prior sexual victimization or abuse that occurred in an institutional setting must be limited to medical and mental health practitioners, OSI, and other staff, as necessary, to inform treatment plans, security, and management decisions, including such examples as housing, bed, work, education, and program assignments. The evaluation and treatment of a victim of prior sexual abuse/harassment or sexual misconduct includes follow-up services, a treatment plan, and referral for continued care following transfer to/placement in another facility. Referrals may also be provided when the offender is released from custody. When appropriate, staff refers the offender to appropriate community services such as a crisis center, support groups, mental health treatment, victim advocate services, and area law enforcement.

Policy 500.309 states that medical and mental health practitioners must obtain informed consent from an offender before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the offender is under the age of 18.

Interviews with medical and mental health staff confirmed that these procedures are in place and complied with.

Standard

§115.82 – Access to emergency medical and mental health services

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Interviews with medical and mental health staff confirmed that they are authorized to offer unimpeded access to emergency medical treatment and crisis intervention services, including sexually transmitted infections prophylaxis.

Policy 202.057 states that if health services and mental health staff are not on duty, security staff or other first responders are required to first ensure the protection of the offender and then call the on-call medical provider, as soon as possible.

Policy 500.100 exempts offender victims of sexual abuse from the standard co-payment for medical services.

Standard

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

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 202.057 states that the evaluation and treatment of a victim of prior sexual abuse/harassment or sexual misconduct includes follow-up services, a treatment plan, and referral for continued care following transfer to/placement in another facility. Referrals may also be provided when the offender is released from custody. This was confirmed during interviews with medical and mental health staff.

Policy 500.100 exempts offender victims of sexual abuse from the standard co-payment for medical services.

Standard

§115.86 – Sexual abuse incident reviews

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 202.057 requires that an incident review team is conducted by the warden, AWO, OSI, captain, corrections program director, and health services administrator within 30 days of the conclusion of an investigation, unless the incident was unfounded. This review includes input from all those involved and is required to consider all of the following:

(1) Consider possible policy changes;
(2) Consider motives which may include such examples as: race, ethnicity, gender identity (lesbian, gay, bisexual, transgender, intersex, or perceived status), gang affiliation, or was motivated or otherwise cause by group dynamics;

(3) Assess the physical area in the facility where the abuse occurred;
(4) Assess staffing levels; and
(5) Assess the need for additional monitoring technology (i.e. cameras, etc.).

The facility must implement the recommendations from the review, or document the reason(s) for not making the recommended changes and compile this into a report.

Standard

§115.87 – Data collection

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 102.050 requires the DOC to collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument. The DOC also collects data provided by contracted community partners. The data is collected, as needed, from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews and is stored in the DOC central office communications unit.

The DOC aggregates the incident-based sexual abuse data annually. The incident-based data collected includes the data necessary to answer all of the questions from the Department of Justice - Survey of Sexual Violence. The DOC maintains sexual abuse data as established in the retention schedule.

Once approved by the commissioner, the annual report is electronically stored in the DOC central office communications unit, but is also made available to the public through the DOC's public website. The DOC may redact specific material from the report when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.

Upon request, the DOC provides data from the previous calendar year to the Department of Justice (no later than June 30).

Standard

§115.88 – Data review for corrective action

Overall Determination:

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

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 102.050 requires the sexual abuse response team (SART) chairs at each facility to review data and aggregate it in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response in policies, practices, and training throughout the department. The annual report includes a comparison of the current year's data and corrective actions that were reported by the SART with those from prior years and provides an assessment of the DOC's progress in addressing sexual abuse.

Once approved by the commissioner, the annual report is electronically stored in the DOC central office communications unit, but is also made available to the public through the DOC's public website. The DOC may redact specific material from the report when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.

Standard
§115.89 – Data storage, publication, and destruction

Overall Determination:

☐Exceeds Standard (substantially exceeds requirements of standard)

X Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

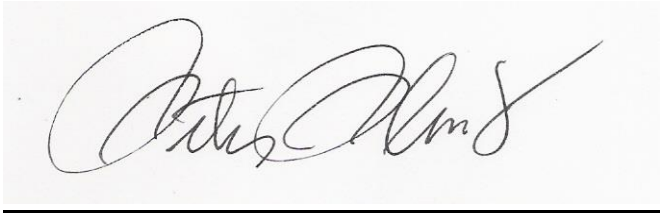
☐Does Not Meet Standard (requires corrective action)

Auditor Comments (including corrective actions needed if it does not meet standard)

Policy 102.050 mirrors all the requirements of this standard.

AUDITOR CERTIFICATION:

The auditor certifies that no conflict of interest exists with respect to his or her ability to conduct an audit of the agency under review.



Auditor Signature

08/25/2014

Date