

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

PREA AUDIT REPORT     Interim     Final

Date of report: May 20, 2016

<b>Auditor Information</b>			
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<b>Date of facility visit:</b> May 4 – 6, 2016			
<b>Facility Information</b>			
<b>Facility name:</b> Women's Eastern, Reception Diagnostic and Correctional Center			
<b>Facility physical address:</b> 1101 East Highway 54, Vandalia, MO 63382			
<b>Facility mailing address:</b> <i>(if different from above)</i> <a href="#">Click here to enter text.</a>			
<b>Facility telephone number:</b> 573-594-6686			
<b>The facility is:</b>	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> State	<input type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
<b>Facility type:</b>	<input checked="" type="checkbox"/> Prison	<input type="checkbox"/> Jail	
<b>Name of facility's Chief Executive Officer:</b> Angela Mesmer, Warden			
<b>Number of staff assigned to the facility in the last 12 months:</b> 469			
<b>Designed facility capacity:</b> 1560			
<b>Current population of facility:</b> 1767			
<b>Facility security levels/inmate custody levels:</b> C-5 Maximum			
<b>Age range of the population:</b> 18 - 72			
<b>Name of PREA Compliance Manager:</b> Tom Dunn		<b>Title:</b> Deputy Warden of Operations	
<b>Email address:</b> Tom.Dunn@doc.mo.gov		<b>Telephone number:</b> 573-594-6686	
<b>Agency Information</b>			
<b>Name of agency:</b> Missouri Department of Corrections			
<b>Governing authority or parent agency:</b> <i>(if applicable)</i> <a href="#">Click here to enter text.</a>			
<b>Physical address:</b> 2729 Plaza Drive, Jefferson City, MO 65102			
<b>Mailing address:</b> <i>(if different from above)</i> <a href="#">Click here to enter text.</a>			
<b>Telephone number:</b> 573-526-6607			
<b>Agency Chief Executive Officer</b>			
<b>Name:</b> George Lombardi		<b>Title:</b> Director	
<b>Email address:</b> George.Lombardi@doc.mo.gov		<b>Telephone number:</b> 573-526-6607	
<b>Agency-Wide PREA Coordinator</b>			
<b>Name:</b> Vevia Sturm		<b>Title:</b> PREA Coordinator	
<b>Email address:</b> Vevia.Sturm@doc.mo.gov		<b>Telephone number:</b> 573-522-1634	

## AUDIT FINDINGS

### NARRATIVE

#### PRE-AUDIT

A Notice of PREA Audit was sent to the Women's Eastern Reception Diagnostic and Correctional Center (WERDCC) on March 14, 2016 via the Missouri Department of Corrections Statewide PREA Coordinator, Vevia Sturm. Notices were to be posted in all living units, program areas, recreation areas and any other areas that offenders would gather. The notice also contained contact information of the auditor and advised staff and offenders that the onsite portion of the PREA audit will be conducted on April 27 -29, 2016. At this time this auditor requested that the pre-audit questionnaire (PAQ) be sent to me no later than April 13, 2016. It should be noted that this audit is being conducted as part of five-state circular audit consortium consisting of Nebraska, Kansas, Missouri, Kentucky and Louisiana. Ms. Sturm forwarded the Notice of PREA Auditor to the Site Coordinator of WERDCC.

On March 22, 2016, this auditor contacted Vevia Sturm to reschedule the onsite portion of the audit to May 4 – 6, 2016 due to a scheduling conflict. On March 23, 2016, this auditor was informed that new audit dates would work for the facility. A new due date for WERDCC's PAQ was set for April 21, 2016.

On April 18, 2016, this auditor notified WERDCC that a flash drive containing WERDCC's Pre-Audit Questionnaire was received. The flash drive contained department and agency policies, curriculum and other supporting documentation. The files were divided up by standard and were easy to read and navigate.

The auditor reviewed the provided documentation and began completing the Auditor's Compliance Tool to determine a baseline for compliance and to formulate questions for the onsite portion of the audit.

On April 26, a tentative agenda for the PREA audit was sent the Site Coordinator. This agenda outlined the when the auditing would be on site, the types of staff and inmates that would be interviewed and when the audit would conclude. The Site Coordinator was advised of which specialized staff would be interviewed as well as which specialized inmate populations would be interviewed.

#### ONSITE

The auditor was accompanied on the site visit by a member of the Kansas PREA team, Joni Foster-Webster. The team was greeted and given a history of the facility by Warden Angela Mesmer and Deputy Warden I(Site Coordinator) Tom Dunn as well as other Executive Team members. The agency PREA Coordinator Vevia Sturm and Assistant PREA Coordinator Adam Albach were also in attendance throughout the audit process. After the initial meeting, a detailed tour was provided to the auditing team.

Warden Angela Mesmer and Site Coordinator Tom Dunn lead the onsite tour. The tour began with the housing units, one which contains the Substance Abuse Treatment program. The auditor viewed camera placements, showers/restrooms and observed cross-gendered announcements being made to offenders. PREA reporting information was clearly marked on bulletin boards in each living unit. It was noted that emotional support service information was missing throughout the facility. In all living units, with the exception of the segregation unit, toilets and shower stalls all had appropriate coverings.

In the segregation and crisis level units, the auditor found that cross-gender viewing was occurring as the toilets were located in each cell and were clearly visible when security checks are being made. Since male staff work in these units, this situation was discussed with the administrative staff and the statewide coordinator. After interviewing several inmates housed in the unit and male staff, it was determined that viewing of the toilets was only done as part of the security checks. Inmates stated they did not feel uncomfortable with male staff working the floor and they were always respectful of their privacy. The showers were located in an area outside of the cells and behind curtains.

While touring the Diagnostic Unit the team viewed the intake room and was viewed orientation packets. These packets included information on PREA. The intake officer was also able to show the orientation packets were available in various languages and in large print. The auditor also viewed the strip out room located behind a door and operated by female staff only. During this portion of the tour, the auditor was able to observe the video educating new intakes on PREA being played.

In addition to the living units, medical area, outside recreation, inside recreation, dining areas, library, programs, and control posts were also toured. PREA reporting information in English and Spanish were found on every bulletin board and were clearly marked. Camera placements were also viewed and views were checked in the kitchen and in the segregation/crisis level units. WERDCC has only female staff monitoring the cameras.

After the tour, interviews were conducted with staff and inmates.

Immediately after the tour, the Site Coordinator provided the auditing team with staff rosters from all three shifts and provided a list of specialized staff. The auditor then randomly selected three staff from each shift, as well as established times to interview specialized staff.

The Site Coordinator provided the auditor with housing unit rosters. In reviewing the housing rosters the auditor randomly selected five inmates from each unit for a total of 40 inmates to be interviewed. The auditor then assigned four housing units to Joni Foster-Webster to interview and the remaining four were to be done by the auditor. Only three inmates refused to participate in the audit process.

WERDCC provided appropriate accommodations for the auditors to conduct inmate and staff interviews. The auditor was given access to staff files, inmate files and any documentation that was requested. Facility staff was great to work with and were very accommodating. The Site Coordinator and Warden were readily available to answer any questions and assist in any way. Staff at WERDCC was extremely helpful and polite throughout the entire process.

Auditors interviewed a total of 37 inmates that had various lengths of stay. The auditors interviewed a total of 21 staff to include the Warden, Site Coordinator, Investigator, Mental Health Staff, Human Resources staff, Intake Staff, as well as random staff from all three shifts.

Prior to the exit interview, the auditor reviewed onsite documentation and discussed results of interviews conducted by Joni Foster-Webster. We compared notes and reviewed standards. There was an exit interview conducted at the end of the site visit.

#### POST AUDIT

After the onsite portion of the PREA audit, this auditor reviewed the notes from the tour; all interviews conducted and did another review of the supporting documentation. Work on the final audit report began.

On June 8, 2016 the PREA audit report was submitted to the PREA Resource Center for feedback as a requirement of certification for this auditor.

## **DESCRIPTION OF FACILITY CHARACTERISTICS**

### **OVERVIEW:**

The Women's Eastern Reception, Diagnostic and Correctional Center (WERDCC) is located in Vandalia, Missouri and officially opened January 5, 1998. It was built to replace the Renz Correctional Center that was destroyed by the Missouri River flood in the summer of 1993. WERDCC complex covers approximately 47 acres of the 117 acre site.

WERDCC receives offenders from all Missouri counties to begin their sentence to the Department of Corrections. WERDCC also houses probation/parole returns as well as those offenders sentenced to treatment.

The current population at WERDCC is 1,767 adult female offenders. During the past 12 months 3,329 offenders have been admitted to this facility. Of this number, 3,133 admitted had a length of stay longer than thirty days. The age range of the current offender populations is 18-72 with custody levels being from minimum to maximum custody.

WERDCC has 469 employees who have contact with the offender population. This staff is responsible for the security of ten buildings, which include seven multiple occupancy housing units, two single cell housing units, one open bay/dorm housing unit and a segregation unit. Currently, there are 56 cells (92 beds) used for segregation.

In addition to its 469 employees, WERDCC also has 351 volunteers and individual contractors who are currently authorized to enter the facility.

There are 41 investigators across the State of Missouri with two investigators beings housed at WERDCC.

As mentioned above, the current complex covers approximately 47 acres (which is located within a secure perimeter) of the 117 acre site. The facility has the official capacity to house 1,560 offenders.

WERDCC consists of the following major components:

#### **1. RECEPTION AND DIAGNOSTIC**

When offenders are received at WERDCC they are photographed, fingerprinted, and DNA tested. Offenders receive dental and medical screening, and are given educational and vocational tests. Case management staff interview and evaluate the offenders, who are subsequently assigned a custody level and permanent facility based on the structure of their sentence, history, and individual needs.

#### **2. GENERAL POPULATION**

Once an offender is permanently assigned to WERDCC, she may be placed in a General Population Unit. The units are divided into four wings with four or five offenders assigned to each room. The wings are controlled by a central control unit. There is a dayroom with a television in each wing where the offenders are allowed to visit other offenders within their assigned wings.

Each wing has an upper and lower dayroom, three telephones, two laundry areas, a multi-purpose room that may be used a quiet room, TV room or a classroom. Corrections Officers supervise the offenders and provide for the security and safety of the housing unit.

#### **3. CLASSIFICATION**

Each housing unit is supervised by a Functional Unit Manager (FUM) who supervised the staff and offenders in his/her housing unit. A clerical staff member assists the classification staff in each housing unit.

Each house has at least three Case Managers, some specialty units may have more. Classification staff maintains the offender's classification files to include filing documents and making appropriate chronological entries. They also complete regular Reclassification Analysis (RCA's) and update these as changes occur and process visiting applications.

Two Classification Assistants are assigned to the institution. CCA's are in part responsible for offender job assignments, room changes, custody relief during staff shortages, necessary data entry in offender classification files, notary services to offenders, and creating offender identification cards.

#### **4. SUBSTANCE ABUSE TREATMENT**

The Gateway Treatment Corporation is contracted to provide substance abuse treatment to WERDCC's population through group and individual therapy. The program provides substance abuse treatment services to both long-term and short-term Court and Board-ordered offenders. The program serves a maximum of 240 offenders, with no more than 90 day long-term and 150 short-term offenders at any one time.

The program requires 30 hours of services to clients each week which include re-entry, relapse, prevention, Living in Balance, Pathway to Change and others. One-hour, one-on-one, session is also provided monthly for program review purposes to evaluate offender progress.

Each offender is expected to take an active role in her treatment.

#### **5. TRANSITIONAL HOUSING UNIT**

Housing Unit Four is the "transition home" to offenders who are within six months of their release date. While in the Transitional Housing Unit (T.H.U.), each offender receives intense programming to assist with such areas as life skills, money management, and cognitive skills. During the last thirty days, a Pre-Release class addresses many issues a woman may face within a community. Plans are made with external sources to ensure continuity of care upon release.

The T.H.U. offers Pathway to Change, Anger Management and MOSOP has a class with Mental Health. Pre-release has resume writing, interviewing, social services, domestic violence, sex education, child support services, Parents as Teachers and Work Force Development.

#### **6. MEDICAL**

WERDCC has an onsite medical facility that provides most medical services with a 24 hour infirmary care. The Missouri Department of Corrections contracts with Corizon to provide medical care to the offender population. For WERDCC, medical services encompass Nursing, Doctors' Sick Call, Dental, Optometry, X-rays, and infirmary care. They are responsible for all medical requests the offenders need on a daily basis.

The medical unit is accredited by the National Commission on Correctional Health Care; however, it does not provide forensic sexual assault medical exams. All sexual assault medical exams are done at the Lincoln County Medical Center, 1000 E. Cherry Street, Troy, MO 63379.

## SUMMARY OF AUDIT FINDINGS

It's clear that WERDCC believes that incarcerated individuals have the right to be free from sexual abuse and sexual harassment. This zero-tolerance culture is evident in the policies of the agency, the actions of WERDCC leadership as well as the knowledge the staff demonstrated of PREA. WERDCC leadership was quick to respond to the lack of posted information on emotional support services and asked great questions when it came to the cross-gender viewing of the toilets in the segregation and crises level units. They were very open with the auditing team and wanted team's input. Staff was able to articulate the agencies coordinated response to sexual abuse and harassment.

The overall theme of the interviews with inmates included feeling safe at the facility and the belief that staff takes reports of sexual abuse seriously. The inmates were able to explain how to report incidents of sexual abuse and harassment and were able to discuss how they were exposed to PREA education upon intake. They were also very adamant that male staff do not conduct pat searches or strip searches of the women at the facility. While some stated they could not remember the PREA video, they did state that their case managers discussed PREA reporting with them. They reported that retaliation when making an allegation was not tolerated. All inmates reported they knew that opposite gender staff announced themselves at the beginning of each shift and felt they had privacy when using the restroom, changing clothes and using the shower.

Staff knew their responsibilities to prevent, detect, and respond to incidents of sexual abuse and harassment. Staff was also very cognizant of how to appropriately work with female offenders. Staff was able to articulate the coordinated response to sexual abuse and harassment. They knew to separate the victim from the alleged perpetrator, secure the scene and to contact their supervisor. They stated that all reports would be documented by the end of shift. They also stated that if they received knowledge of someone being in imminent danger they would immediately secure the safety of that individual. It is clear that there is a zero –tolerance culture at WERDCC.

Interviews with specialized staff were completed and the results were positive and supported the zero-tolerance culture. Each knew their role and responsibilities as it pertains to PREA compliance and documentation. They articulated the coordinated response and the expectations that staff would follow all policies. Administrative staff was very open to any suggestions the auditors had when concerns were found on the tour.

Documentation provided in the pre-audit questionnaire was well organized and easy to read. WERDCC was found to be in compliance with forty-three PREA standards and exceeded one standard.

Number of standards exceeded: 1

Number of standards met: 43

Number of standards not met: 0

Number of standards not applicable: 0

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

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

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

**115.11(a)** WERDCC has a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment. (See D1-8.13 Offender Sexual Abuse and Harassment, Section III (A)(2), page 6: "The department has zero tolerance for all forms of offender sexual abuse, harassment, and retaliation." In this same policy the agency outlines how they will implement the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment. This outline can be found starting on page 6 and ends on page 27.

This same policy also includes specific definitions of offender-on-offender sexual abuse as well as offender-on-offender sexual harassment. Definitions in this policy also define staff-on-offender sexual abuse and staff-on-offender sexual harassment.

WERDCC also has an additional policy that addresses zero tolerance towards all forms of sexual abuse and sexual harassment. (See D1-8.6 Offender Physical Abuse, Section III (A)(3), page 3: "The department has zero tolerance for all forms of offender abuse and retaliation." In III (B)(1) page 3 it further states, "Failure to report that an offender has been abused is a class A misdemeanor."

In addition to this policy, IS19-1.1, "Conduct Rules and Sanctions," Section II (N) Rules of Conduct (7), page 3, defines Forcible Sexual Misconduct: 7.1 Using force, coercion or threats of force to obtain the compliance of another in any type of sexual activity. On page 9 of this same policy, it states, "The first 9 conduct violations rules (1-9.4) shall be considered major conduct violations. Major conduct violations shall normally result in more severe sanctions than other violations. Any conduct violations, under unusual or extreme conditions, may be considered a major violation if so recommended by the adjustment board and approved by the warden/designee."

The auditor also reviewed the employee handbook. On page 20, "Offender Abuse and Sexual Contact with an Offender," it states, "...A person commits the crime of offender abuse by knowingly injuring the physical well-being of an offender by beating, striking, wounding or by having sexual contact with an offender. Offender abuse is a class C felony, which carries a maximum sentence of incarceration of seven years." It goes on to state "When any employee of the Department has reason to believe that an offender has been abused, the employee must immediately report all pertinent details in writing to the Department Director. Failure to report offender abuse is a class A misdemeanor."

During the interviews with offenders at WERDCC, the auditor asked, "Do you feel that staff takes reports of sexual abuse and sexual harassment seriously?" The response from the offenders ranged from a simple "yes" to "they take it almost too seriously." When asked to explain what they meant by "they take it almost too seriously," the inmates explained that once a report is made staff is quick to "snatch" up everyone involved. They stated they are removed from the housing unit and talked to by investigators."

Through the tour of the facility, the auditor noticed signage in every living unit, recreation areas, dining halls, education building that stated sexual abuse is not tolerated at WERDCC. Signage also included ways offenders could report such abuse.

**115.11(b)** Missouri Department of Corrections (MDOC) has designated an upper-level, agency wide PREA Coordinator. The position of the PREA Coordinator is listed in the MDOC's organizational chart and is under the department's General Counsel. In addition, WERDCC has also designated the Deputy Warden of Operations as the PREA compliance manager. This position is also listed in the facility's organizational chart dated June 4, 2016 and reports directly to the Warden of WERDCC. Both positions are required per policy D1-1.13, Offender Sexual Abuse and Harassment, Section III (A)(4) and (5), page 6.

The site coordinator (PREA Compliance Manager) states, "Being the site coordinator is a huge responsibility. It's all new. I communicate compliance information to staff and make sure that I keep up with any revisions in the standards. I am active in committees and generating new policy when needed. I also teach core training to staff. I am busy. I support PREA and am behind it 100 percent."

The statewide PREA coordinator has worked closely with the state’s facilities in preparing them for their upcoming audits. The site coordinator states, “She (the statewide coordinator) has been of great help and has worked hard to make sure we are aware of the standards and compliance requirements.”

During this interview, the site coordinator was able to walk this auditor through WERDCC’s coordinated response and gave several examples of how this response has come into play at this facility.

**115.11(c)** N/A WERDCC only operates one facility.

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

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

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**115.12(a)** N/A WERDCC does not contract with private agencies or other entities for the confinement of inmates.

**115.12(b)** N/A WERCCC does not contract with private agencies or other entities for the confinement of inmates.

**NOTE:**

It should be that WERDCC’s parent agency, Missouri Department of Corrections (MDOC) does contract with private agencies and other entities for the placement of inmates.

The requirement of the parent agency to require any new contract or contract renewals with private agencies or other entities the obligation of that party to adopt and comply with the PREA Standards.

This language can be found in MDOC’s policy D1-8.13, Offender Sexual Abuse and Harassment, Section III (9), page 7, states, “All residential contractors shall adopt and comply with PREA standards as outlined in their contract with the department...” The policy also states that Chief Administrative Officer or designee shall regularly audit residential contractors to ensure compliance with the PREA standards and the department may enter into contracts with an entity that fails to comply with PREA standards only in emergency circumstances.

WERDCC provided an example of what MDOC sends out in their request for proposals (RFP) for residential placement. On page 11 of the RFP, “The state agency has a zero tolerance for any form of sexual misconduct to include staff/contractor/volunteer on offender or offender on offender sexual harassment, sexual assault, sexual abusive contact and consensual sex. Any contractor or contractor’s employee or agent who witnesses sexual abuse or sexual harassment must immediately report it to the Chief Operating Office of the residential facility. A contractor or contractor’s employee or agent who engages in, fails to report, or knowingly condones sexual harassment or sexual contact with or between offenders shall be grounds for canceling the contract and may subject the contractor or contractor’s employee or agent to criminal prosecution. Any contractor, contractor’s employee or agent who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution shall be denied access into the institution.”

On page 12, the RFP also discusses PREA audit requirements, PREA reviews by MDOC, required staffing patterns as well as the requirements for specific PREA policies.

**Standard 115.13 Supervision and monitoring**

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

relevant review period)

- Does Not Meet Standard (requires corrective action)

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**115.13(a)** MDOC requires each facility it operates to develop, document, and make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against abuse. Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (10)(11), page 7 states, "The department shall maintain staffing plans for each facility that provides adequate levels of staffing to protect offenders against sexual abuse. The staffing plan shall consider the facility's physical plant to include but not limited to blind spots or areas where staff members or offenders may be isolated, the composition of the offender populations, and the prevalence of substantiated and unsubstantiated offender sexual allegations. Each facility shall comply with the staffing plan on a regular basis, deviations from the staffing plan shall be documented and justification for deviations noted."

In 2009, the MDOC Division of Adult Institutions established Correctional Officer staffing patterns for all facilities noting minimum staffing for all posts. The Division of Adult Institutions operates with an overall ration of one officer to six offenders, (1:6). MDOC follows National Institute of Corrections suggested methods of calculating staff needs per post. The ratios of supervisory staff to corrections officer and other staff is as follows: One to seven (1:7) Sergeants to Corrections Office I and a one to three (1:3) Lieutenant to Sergeants.

In regards to checking compliance with the staffing plan the warden states, "We review all overtime and why it happened. In addition we review staffing assignments, post orders, and our video monitoring. This is ongoing. We also check to see if documentation was made if there were changes."

The site coordinator states, "Our overall staffing levels are determined by Central Office. At the facility we are constantly reviewing cameras and DVRs for blindspots. We discuss whether more camera locations are needed and include that information in our annual report." The site coordinator also reports there have been no judgments or legal findings made against the facility.

**115.13(b)** N/A WERDCC has had no circumstances where there were deviations from the staffing plan.

**115.13(c)** WERDCC provided a copy of a memo from Dave Dormire, Director of Division of Adult Institutions to the statewide PREA Coordinator with WERDCC's Chief of Custody being carbon copied. The memo, dated July 24, 2015, reads, "This is in response to the Division's compliance to PREA Standard – 115.13 Supervision and monitoring. In regard to our staffing, the division continually reviews our staff planning to provide adequate staffing levels and we currently have no significant changes. If any one of the below eleven components would change, it would trigger a review of our staffing plan. Thank you."

Policy D4-4.8, Security Camera Operations, page 5, states, "To assist in the prevention, detection and prosecution of offender sexual abuse and overall security of the facility, the CAO or designee will monitor the feasibility of placement and the need for new or additional requirements equipment. The CAO or designee will maintain a current document reflecting existing video equipment, requests for new purchases, and identified areas needing video surveillance. When debriefing critical incidents consideration shall be given as to whether security camera equipment or monitoring should be augmented to supplement supervision by staff in accordance with department procedures regarding serious incident reporting and debriefing."

Auditor reviewed WERDCC's "Security Camera PREA Report." WERDCC currently has 673 cameras throughout the institution.

Auditor reviewed WERDCC's calendar year 2014 annual report. This report incorporates the review PREA cases, overview of the facility's handling of PREA cases (to include any corrective action the facility implemented), evaluation of monitoring systems as well as the staff plan. The evaluation of camera and monitoring systems was completed on March 10, 2014 and the evaluation of the staff plan was completed on March 19, 2014.

**115.13(d)** Policy D1-8.13, Offender Sexual Abuse and Harassment, page 6, states, "Each facility shall ensure the intermediate-level or higher supervisors conduct and document unscheduled and unannounced rounds to identify and deter offender sexual abuse and sexual harassment. Each facility shall ensure that rounds occur periodically in all areas of the facility. Staff members shall be prohibited from alerting other staff members that these rounds are occurring. The rounds will be documented and readily accessible during audits as outlines in the facilities standard operating procedure."

WERDCC also provided copies of post orders for shift commander, lieutenant assistant shift commander, zone 1 lieutenant, administrative segregation lieutenant and central services lieutenant. All post orders include the following statement, "Unannounced supervisor rounds shall occur periodically on each shift in all areas of the facility. You will record each round on the staff sign in form on each unit."

Auditor reviewed 36 Shift Summary reports from various shifts. These reports document any significant events, changes in housing assignments, incidents of use of force, any special security orders, if staff overtime occurred as well as unannounced rounds completed by captains and lieutenants. These reports ranged from January 2015 to December 2015.

During the tour of WERDCC, the auditor stopped and talked to random staff in the housing units. At least one staff member from every housing unit was asked if supervisors conducted unannounced rounds. The overwhelming response from staff was "yes." They stated that management "is always walking around and going into the units to talk to staff and the inmates." The overall impression from staff is that management is approachable and they do not worry "when one comes on to the unit."

The auditor also interviewed the major in regards to unannounced rounds. He states, "I make unannounced rounds once a week while other supervisors make daily unannounced rounds. All rounds are documented in housing logs." When asked how they prevent staff from alerting other staff he replied, "There is really no way to prevent it. However, we don't have that issue here. Staff knows it is going to happen."

### Standard 115.14 Youthful inmates

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

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**115.14(a)** In the past 12 months, only one youthful offender has been housed at WERDCC. She was admitted August 26, 2015 and was released December 25, 2015. On the day of the audit no youthful offenders were housed at this facility. Housing Unit 9 has been designated as the "Youthful Offender Housing Unit."

**115.14(b)** NA WERDCC has not had a youthful offender since December 2015.

**115.14(c)** NA WERDCE has not had a youthful offender since December 2015.

#### NOTE:

If a youthful offender is placed at WERDCC, the facility has policies in place that prohibit placing youthful offenders in a housing unit in which they will have sight, sound, or physical contact with any adult inmate through use of a shared dayroom or other common, space, shower area, or sleeping quarters.

WERDCC policy IS & SOP 5-1.1 Diagnostic Center Reception and Orientation, Section III (7), page 6 outlines the steps that must be taken when a records officer determines an offender is a youthful offender. The policy also states, "youthful female offenders will remain at the Women's Eastern Reception, Diagnostic and Correctional Center separated from offenders who are 18 years of age or older. Youthful female offenders will only be transported with other youthful female offenders. If housing is necessary the youthful female offender will only be celled with another youthful female offender or alone."

Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III, (C)(4), page 11 states, "A youthful offender shall not be placed in a housing unit which he shall have sight, sound, or physical contact with any adult offender through use of a shared dayroom or other common space, shower area, or sleeping quarters..."

This is also required by Missouri law: Chapter 217, Department of Corrections, Section 217.345, dated August 28, 2013

WERDCC policy IS & SOP 5-3.1 Offender Housing Assignments, Section III (2)(f), page 2, states, “Youthful offenders will only be housed with other youthful offenders (standard operating procedures (SOP) will be developed to specify how such housing assignments will be made.”

This auditor reviewed the Youthful Offenders Post Orders. A part of the post orders state, “Do not allow youthful offenders to come into direct contact with or communicate with adult offenders for any reason. Ensure the outer gates and outer doors of the youthful offender unit remain secured at all times. Check the unit log book and bulletin board daily for any policy memos, orders, information, or instructions. The officers assigned to the youthful offender unit will be responsible for contacting Control Center via telephone every 30 minutes for safety and security purposes.”

WERDCC also provided a copy of a memo dated August 28, 2015 which outlines recreation for Housing Unit 9 Youthful Offender(s). It states, “Recreation for the youthful offender in Housing Unit 9 will take place at 3 p.m. shift change. The offender should be escorted to the Visiting Room lobby to meet third shift staff. Third shift staff should then escort her to Recreation. Recreation should take place from 3:00 p.m. – 3:30 p.m. She should be afforded inside and outside recreation unless otherwise specified by Recreation Officers.”

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

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

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

**115.15(a)** WERDCC is a female only facility and does not conduct cross-gender strip or cross-gender visual body cavity searches of inmates. In the past twelve months there has been no cross-gender strip or cross-gender visual body cavity searches of inmates.

Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (C) (7), page 12 – 13 states, “Cross-gender strip searches are not allowed except in exigent circumstances. All cross-gender strip searches shall be documented as outlined in the institutional services procedure...Offenders shall be allowed to shower, perform bodily functions, and change clothing without non-medical staff of opposite gender viewing their breast, buttock, or genitalia, except in exigent circumstances, or when such viewing is incidental to routine cell checks...Staff of the opposite gender shall announce their presence prior to entering an offender housing unit...Announcements shall be recorded...If a staff member of the opposite gender is required to venture past privacy barriers, and no exigent circumstances exist, the staff shall verbally announce their presence to the offenders and allow the offenders to seek privacy from the staff...”

Policy IS20-1.3, “Searches”, page 8, states, “To the extent possible, strip searches will be conducted in an area to allow privacy to the offender. Strip searches will be conducted by staff members of the same gender, except in exigent circumstances. Exigent circumstances include: time delaying a search could allow for the destruction of evidence, escape of an offender, endangerment of life, health or property of staff members, offenders, or the public, emergency movement situations (i.e., crime scene where evacuation of offenders needs to occur immediately and/or a check for weapons.”

In the past 12 months there have been no cross-gender strip searches or cross-gender visual body cavity search. The facility did provide an example of the log that would be used if this would occur.

**115.15(b)** N/A This is WERDCC’s initial PREA Audit.

**116.15(c)** Policy IS20-1.3, “Searches,” also states, “Staff members will document a cross gender strip search on the cross gender search form. The shift supervisor will make all applicable notifications in accordance with standard operating procedures and forward the cross gender search form to the PREA site coordinator and include a copy to the use of force packet if applicable. The PREA site coordinator shall review the cross gender search form. If it is determined the search was conducted under non-exigent circumstances, it will be referred for review and action as deemed appropriate. The PREA site coordinator will maintain the cross gender search form and supporting documentation as deemed appropriate.”

This same policy also states, “Cross gender thorough pat searches of female offenders will only occur during exigent circumstances. These cross gender thorough pat searches will be immediately reported to the shift supervisor and the searching staff member will document the search on the cross gender search form. The shift supervisor will make all applicable notifications in accordance with SOP and forward the cross gender search form to the Prison Rape Elimination Act (PREA) site coordinator. The PREA site coordinator shall review the cross gender search form. If it is determined the search was conducted under non-exigent circumstances, it will be referred for review and action as deemed appropriate. The PREA site coordinate will maintain the cross gender search form and supporting documents for tracking purposes. At the diagnostic center, if the gender of the offenders is unknown, a female staff member will be assigned to perform the thorough pat search.”

Staff was emphatic that no cross gender pat or strip searches are allowed at this facility. All female inmates interviewed stated they have never had a male staff member pat or strip search them. They each verified that this was not allowed as there was plenty of female staff at the facility.

**115.15(d)** Policy D4-4.8 Security Camera Operations, Section III (B), page 4 states “As authorized by the CAO, stationary security cameras should be positioned where placement will enhance security operations as to view live monitoring of visual images in areas where offenders may be located...Security cameras may be placed in restroom/shower areas when barriers or camera positioning prevents the capture of images of genitals, buttocks, or female breasts.” On page 5 of this same policy it states, “The CAO will designate authorized staff to review visual images at the original source as it relates to their assigned job duties as outlined in standard operating procedures. Access to visual images and recordings should be limited in order to maintain integrity and security. Custody posts designated for the specific purpose of viewing offender confinement within living environments where use of restroom, showers, strip cells, etc., occur shall be designated as same gender posts with the approval from the appropriate deputy division director.”

WERDCC has also implemented additional policies that allow inmates to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their genitals. IS & SOP version of 6-1.3 Offender Personal Appearance and Grooming, Section III (A)(1) states, “Offenders must be dressed at all times as nudity is not permitted at any time other than when taking a shower or to address hygienic and bodily functions. Offenders should use privacy barriers provided when using the restroom and when changing clothes.”

During the tour of the facility, auditor observed the PREA barriers in some of the living units. These are wooden barriers that inmates can pull in front the toilet and shower that would prevent staff from viewing their genitals. Staff can observe the inmate’s feet and shoulder areas.

All showers and toilet areas, with the exception of Housing Unit 5 (Segregation Unit and Crises Unit) are single person areas covered with appropriate curtains. Many of the shower area had double curtain coverage. Both staff and inmates stated that changing of clothes can occur behind the first curtain and showers will occur behind the second curtain.

In the segregation and crises level units located in Housing Unit 5, each cell had a toilet in open view when staff members physically looked through the cell window. This was a concern to the auditor as no privacy barriers were available in the cells. In discussing this with the facility administration and the Statewide PREA Coordinator, their stance was any viewing by male staff was “incidental to routine cell checks” which is allowed by standards. This auditor had her partner go into an empty cell and stand in front of the toilet while I stood outside the cell. The toilet could not be viewed while walking by the cell. The only time the auditor could see the toilet in its entirety is when I had my face to the window and looked into the cell and to the left.

After interviewing inmates and staff assigned to these units, the following was learned:

- Count time is the only time male staff would be on the wing and looking into the cells
- Inmates stated they hear when count is going to be conducted make sure they are not using the toilet at this time
- Each female inmate interviewed in this housing unit stated even though the toilet was in the open they felt they had privacy to use it; and if they were using the toilet when count was announced male staff did not linger in the window and stare at them

It should be noted this facility had 36 PREA allegations received in the past twelve months. None of the allegations received were from Housing Unit 5.

The showers in the segregation and crises level units located in Housing Unit 5 consist of a single stall located outside the cells. This stall had adequate covering for privacy including shower curtains that blocked the view from staff. For showers, each inmate is escorted from her cell to the shower and she showers alone.

After interviewing administration, staff and inmates in this housing unit, the auditor found this situation not to be a compliance issue.

**RECOMMENDATION:** If a substantiated PREA case does occur in this housing unit, it is recommended that this facility consider making this unit a gender specific post. This would eliminate any question regarding cross-gender viewing and allow for more direct cell checks.

Auditor reviewed multiple housing logs from all housing units and all shifts and verified that each log contained a cross gender announcement. Examples of cross gender documentation included the following language, "...made announcement on all four wings, there will be male staff working in or viewing your living areas. You are to utilize privacy barriers when necessary."

This auditor also reviewed post orders from WERDCC. The post orders include this statement, "At the beginning of every shift, you will announce MALE STAFF WORKING IN OR VIEWING YOUR LIVING AREAS. YOU ARE TO UTILIZE PRIVACY BARRIERS WHEN NECESSARY. This announcement and the time it was made will be logged in the chronological log."

Auditor reviewed a memo dated February 18, 2016 addressed to all wardens in Missouri from Dave Domire, Director, Division of Adult Institutions. The subject of this memo was "PREA Announcement – Revision." The memo reads, "When a cross gender staff member is assigned to the living quarters for the duration of the shift, the cross gender announcement shall be made at the beginning of the shift. If no cross gender staff members are assigned to a living quarters, an announcement shall be made every time a cross gender staff member enters the area. All announcements must be logged on the chronological log by the person making the announcement." This memo further reads, "If a circumstance arises to where a cross gender announcement could comprise the safety, security, and good order of the facility, then the shift supervisor may declare the circumstance to be exigent and grant the authority to wave the announcement. All exigent circumstances shall be documented by the shift supervisor. When immediate assistance is needed such as a 10-49 or a 10-5, prior approval is not necessary from the shift supervisor...To notify hearing impaired offenders of cross gender staff in the housing unit; all housing units should display a sign indicating when a cross gender staff member is present."

WERDCC provided a copy of an email dated February 22, 2016 from the PREA site coordinator to all staff notifying all staff of the revision to the cross gender announcements.

WERDCC currently has a gender specific post located in the Intake/Reception Area. This area is well supervised with the shower area closed off from the general intake. The shower area is closed off by a door and each individual shower inside is covered by a shower curtain. In the waiting area (where inmates can begin watching the PREA education video) is a restroom. Although toilet faces the door, it is adequately covered by a curtain. There is full privacy allowed for every offender. Even though this is a female only post, there may be male staff from other facilities transporting female inmates to WERDCC. Because of this fact, cross-gender announcements are still made in this area along with signs stating that male staff may be in the area. It should be noted that male staff are not allowed in the property/area.

Auditor also observed several control centers where video monitoring occurred. Any camera that was positioned to a single cell had the toilet areas blocked from viewing.

Control centers in the segregation unit and the crises level units are monitored by female staff only.

**115.15(e)** The facility has a policy prohibiting staff from searching or physically examining transgender or intersex inmate for the sole purpose of determining the inmate's genital status. The policy SOP D1-8.13, Offender Sexual Abuse and Harassment, Section III, (C) (7c) states, "Staff members shall not perform strip – or pat-down searches or conduct physical examination for the sole purpose of determining an offender's genital status in accordance with the institutional services procedures regarding searches, reception and orientation, and receiving screening intake center."

This is also prohibited in policy IS & SOP 11-34.1 Health Assessment and/or Physical Examination at Reception, page 5 and in IS & SOP 20-1.3 Searches, page 16. This policy reads, "The facility shall not search or physically examine a transgender or intersex offender for the sole purpose of determining the offender's genital status. If the offender's genital status is unknown, it may be determined during conversations with the offender, by reviewing medical records, or, if necessary, by learning the information as part of a broader medical examination conducted in private by the responsible physician."

Currently WERDCC has no transgender or intersex offenders housed at the facility. In interviewing, both male and female staff stated male staff members were not allowed to pat search female inmates. Staff also stated they were not allowed to pat search an inmate to determine their genitalia. Intake staff stated if there was a question on the genital status of an inmate, medical would conduct the physical search.

Also in policy IS & SOP 20-1.3 Searches, page 17, it reads, "Gender Unknown Through Pat Search: At the diagnostic center, if the gender of the offender is unknown, a female staff will be assigned to perform the pat search." On page 17 it also reads, "Transgender or Intersex

Thorough Pat Search: When thorough pat searching a transgender or intersex male offender's upper torso, male staff member will utilize the female offender search technique."

**115.15(f)** Training requirements for cross-gender pat down searches of transgender and intersex offenders can also be found in SOP D1-8.13 Offender Sexual Abuse and Harassment, page 13. This policy states, "Staff members shall be trained in how to conduct cross-gender pat-down searches of transgender and intersex offenders in a professional and respectful manner and in the least intrusive manner possible as consistent with security needs."

Auditor reviewed MDOC statewide lesson plan titled Institutional Searches dated May 2014. Instructions from cross-gender searches can be found on pages 13-14; the lesson plan reads, "As stated before, pat searches are preferable if conducted by same gender staff, but that is not always practical and a cross-gender search must be conducted. The cross gender search is comparable to a same gender pat search but when performed the officer will utilize the back of the hand to search the following areas: 1) chest or breast area, 2) sides, 3) armpits, 4) lower abdomen, and 5) buttocks. Please note a male officer search a female offender will only occur during an exigent circumstance. Policy IS20-1.3 states that an exigent circumstance is any set of temporary unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility." At this point of the lesson plan, participants watch two training videos: "Thorough Female on Male" (7:40 minutes) and "Thorough Male on Female" (7:58 minutes).

Transcript for the Thorough Male on Female Pat Searches can be found on pages 16-17; the lesson plan reads, "Have the offender face you and have them open their mouth while examine it for contraband. Have the offender show you the front and back of their hands. Have the offender remove any loose braids or bunched hair and have the offender lean forward, as they run their hands/fingers through their hair for visual inspection. If the offender does not provide you with an acceptable inspection you may, with the use of protective gloves, search the offender's hair. Have the offender show you the front and backs of their hands again; this will help prevent the movement of contraband between these areas. Have the offender turn around and approach the offender from behind, positioning yourself in a defensive stance at approximately 45 degrees angle. Instruct the offender to place their feet shoulder width or wider apart. Before you begin your search you must also remember to keep a visual on the offender and be mindful of your safety. Whenever searching an offender, no matter the gender, it is important to always be in a defensive stance and keep one hand placed on the back, shoulder or lower back of the offender. By keeping your hand on the offender you have a quicker reaction time to any sudden movements and the possibility of the offender becoming violent. Begin your search at the collar sliding the hand over the material. Using the palm of the hand, search the shoulder area and proceed along the top of the arm to the end of the shirt sleeve. Upon reaching the end of the sleeve use the back of the hand to search the underside of the arm. Slide the back of the hand along the under arm to the armpit. Using the back of the hand, slide it down to the offender's waist. From the armpit, use the back of your hand and search down the offender's side to the waistband. At the waistband, rotate the hand while simultaneously sliding it along the offender's waistband until the fingers come to rest in the center of the back just above the waistband."

Transcript for the Thorough Female on Male Pat Search can be found on pages 14 -16 and the Transcript for Transgender, Intersex or Gender Unknown Searches can be found on pages 20 -21 of the curriculum. The lesson plan reads, "Another unique search is a search involving a transgender, intersex or gender unknown offender. PREA requires the Missouri have a standard in place for pat search of transgendered and intersex offenders. Policy IS20-1.3 states that when pat searching a transgender male offender, male staff will utilize the female search technique when searching the offender's upper torso. If the gender of the offender is unknown, a female staff member will be assigned to perform the pat search."

WERDCC provided training records showing that 455 participants were trained in this curriculum from January 1, 2012 – December 31, 2015.

Staff interviewed remembered watching videos during training on pat searches and reiterated that male staff were not allowed to pat search female inmates.

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

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

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

WERDCC has established procedures to provide disabled inmates and inmates with limited English proficiency equal opportunities to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

**115.16(a)(b)** Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (C) 6, pages 10 - 11 state "The department shall provide PREA related education in formats accessible to all offenders including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to offenders who have limited reading skills in accordance with the department's procedures regarding deaf and hard of hearing offenders, disabled offenders, and blind and visually impaired offenders. Offenders who have limited English proficiency shall be provided a copy of the video transcript and the PREA offender brochure in their native language. If these documents are not already translated as a recognized language by the department, the department shall make reasonable accommodations to provide these documents in the offender's native language. If the documents are unable to be translated as a recognized language the departments PREA site coordinator or designee shall utilize an interpreter to assist the offender in understanding the information provided. The PREA site coordinator shall make key information readily available or visible to all offenders through the PREA posters, the offender rulebook, and the offender brochure on sexual abuse and harassment."

WERDCC provided examples of PREA Brochures and Acknowledgement Forms in the following languages: English, Japanese, Servo Croatian, Spanish, Vietnamese, Russian, Simplified Chinese, Traditional Chinese, Large Print and Braille. PREA posters were in English and Spanish.

Transcripts of the video, "Speaking Up," from the National Institute of Corrections are available for the hearing impaired. They are available in English and Spanish.

Policy D5-5.1, "Offenders who are deaf or hard of hearing shall have access to teletypewriters and/or free access to roll free numbers for telephone relay systems." **NOTE:** WERDCC has one telecommunications device located in Housing Unit 4 (D-Wing, lower level). This policy also reads, "The functional unit manager/caseworker shall take appropriate steps to ensure that all employees having contact with an offender who deaf and hard of hearing are made aware of the person's need for effective communication and how to achieve it."

Auditor viewed various intake packets in the Reception Diagnostic Center in different languages. PREA posters were located throughout the facility in English and Spanish.

WERDCC currently has five staff members that can interpret Spanish, Tagalog, Thai and Sign Language. These staff members have agreed to act as interpreters if needed by the facility.

Auditor reviewed the following contracts: Sign Language Interpretive Services (3/31/2015), Language Interpreter – Verbal (6/30/2015), Written Language Translation Services (4/30/2017), and Telephone Based Interpretive Services (6/30/2015).

Random staff interviews indicated that staff was aware of other staff member that could be used as interpreters. The overall consensus on using offenders as interpreters can be summed up by this quote, "Only if the safety and security of the facility was a factor."

On the day of the onsite portion of the audit there were no inmates with limited English proficiency or were hearing or visually impaired housed at WERDCC.

It should also be noted that as part of all institutional basic training, staff receive a two hour course on special needs offenders. This course focuses on comparing and contrasting individuals with mild or moderate intellectual disabilities, learning disabilities, and emotional problems. Staff will assess potential problems from these impairments, predict how staff might be affected and learn techniques that facilitate learning and effective communication.

**115.16(c)** Policy D5-5.1, Deaf and Hard of Hearing Offenders, reads, "The deaf or hard of hearing offender shall be offered the assistance of qualified interpreters and have other auxiliary aids expressed to them during the diagnostic process. The methods for requesting accommodations or modifications shall be reviewed with the offender. Deaf or hard of hearing offenders shall be advised of the request for reasonable accommodation from and how to obtain it. The waiver of certified and licensed interpreter will be reviewed with the offender. Medical staff shall complete the medical verification section of the request for reasonable accommodation form and consult with the caseworker and the Americans with Disabilities Act site coordinator to determine the appropriate accommodations for the offender."

The policy defines a qualified interpreter as a person certified and licensed by the Missouri Interpreter Certification System or deemed competent by the Missouri Commission for the Deaf. This policy does allow for inmates to obtain this certification. "The offender interpreters shall be educated and shall agree to keep all matters and information learned while performing interpretive services confidential. During medical and mental health evaluations, communication between patient and medical personnel is critical to the effectiveness of treatment, safety and security of the offender. Due the need to maintain confidence in medical and mental health evaluations, offenders will not normally act as sign language interpreters. As determined by attending medical staff, in cases of emergency where failure to communication would result in serious injury, illness or death, offender interpreters will be permitted."

When addressing counseling hearings the policy reads, “When either the offender or counselor seeks to discuss information that is confidential in nature, the offender may choose whether or not to use an offender interpreter.”

The policy continues to read, “Qualified interpreters shall be made available for offenders who are deaf or hard of hearing and use sign language under the following circumstances...formal investigations conducted by the department staff to include PREA related claims...” In addition, it reads, “Staff shall work with the deaf and hard of hearing offender to determine the best means of communication that will be most effective in gathering accurate information.”

It should also be noted that listed in the WERDCC’s Coordinated Response is the following statement, “If an offender interpreter is utilized during this exigent circumstance, the shift commander will note such on the Notification Checklist. NOTE: No inmate interpreters have been used in this type of circumstance.

### Standard 115.17 Hiring and promotion decisions

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

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

WERDCC has several policies in place that prohibits hiring or promoting anyone who may have contact with inmates and prohibits enlisting the services of any contractor, volunteer, or intern who has engaged in sexual abuse of an inmate.

**115.17(a)** Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (B), pages 7 – 8 states, “Department staff members shall not hire or promote any person, employee, or enlist the services of any contractor that may have contact with an offender when it is known that he has engaged in sexual abuse with an offender...”

WERDCC provided a copy of an email from the State HR Director dated 12/1/2014 to all facility Human Resources divisions outlining ineligibility of applicants with substantiated allegations or resigned during an investigation.

Another email from MDOC administration dated 5/16/2015 was to all contractors advising them that if a potential applicant has a substantiated case or resigned during an investigation for such, they are ineligible to be inside MDOC facilities.

Prior to conducting an interview with facility’s human resources director, a random selection five employee files was conducted to determine whether a criminal background check was conducted. In all five files, the audit team was able to find documentation that criminal background checks were conducted. In addition, the auditor reviewed random yearly background checks on nine contracted staff and three volunteers.

During the human resources director’s interview, she stated the facility asks all applicants/employees about any previous misconduct. She advised question is on all applications. NOTE: A blank copy of the application for employment for WERDCC was provided to the audit team. The audit team was able to locate these three questions:

- While working or volunteering at this facility, were you terminated or otherwise disciplined or counseled for sexual contact with or sexual harassment of an inmate, detainee or resident of the facility?
- Have you pled guilty to or been found guilty of engaging in sexual activity or attempting sexual activity involving force or inflicted upon a person unable to give consent?
- Have you been found to have engaged in sexual activity or attempted sexual activity involving force or inflicted upon a person unable to consent, by a civil or administrative body? This includes actions taken upon a professional license or a professional registry and any internal administrative investigation results.

**115.17(b)** Policy D1-8.13 Offender Sexual Abuse and Harassment further states, “Department staff members shall consider any incidents of sexual harassment in determining whether to hire or promote any person or enlist the services of any contractor...”

The human resource director indicated that questions asking if applicants have ever worked in a facility governed by PREA include questions on sexual harassment. If they indicate “yes” on the application, it is investigated.

On the copy of the blank application (appendix 1) given to the audit team it reads, “Effective August 2013, the Department of Corrections must be compliance with final standards implementing the Prison Rape Elimination Act (PREA), issued by the U. S. Department of Justice. The following questions are being asked of all applicants who may have contact with offenders as part of their regular job or volunteer duties.” (The questions listed are sited under documentation for 115.17(a).)

**115.17(c)** Policy D1-8.13, Offender Sexual Abuse and Harassment, also states, “Before hiring new employees the human resources staff members or designee shall perform a criminal background records check and contact all prior institutional employers when possible, for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse...”

The following hiring policies also have a PREA component: D2-2.1, Selection Procedure – Merit Appointments, page 8; D2-2.2 Background Investigations, pages 2, 4, 5; D2-2.8 Promotional Appointment, page 3; D2-2.10 Re-Employment Appointment, page 3; D2-13.1 Volunteers, page 6; D2-13.2 Student Interns, page 4. Each of these policies has the following statement, “A background investigation shall be conducted in accordance with the department procedure regarding background investigations.”

The human resource director at WERDCC states that criminal background checks are done for all newly hired and returning employees.

**115.17(d)** D2-2.2, Background Investigations, defines a staff person as any person who is employed by the department on a classified or unclassified basis (permanent, temporary, part-time, hourly, per diem) and are paid by the State of Missouri’s payroll system; contracted to perform services on a recurring basis within a department facility (such as medical services, mental health services, education services, vocational services, substance abuse services, etc.) pursuant to a contractual agreement and has been issued a permanent department identification card; a volunteer in corrections; a student intern; or issued a permanent departmental identification or special access card or special access in accordance with department procedure regarding staff identification.”

A memo dated 4/24/2015 to the HSH of Corizon Health was reviewed by the audit team. This memo advised Corizon Health to run a background check on all applicants before setting up an interview.

The facility’s director of human resources reported background checks are done for newly hired and returning employees, contractors. She states the facility uses the Highway Patrol’s System as well as MULES to conduct criminal record checks. She also states that employees have a duty to report any arrests. When it comes to reporting information on former employees who apply to work at other institutions, she states, “This is done through Central Office. They can look in the COIN system to see if this information exists.”

**115.17(e)** D2-11.14 Annual Employment Requirements reads, “Each calendar year, in the month following each staff member’s birth month, specific employment requirements verifications should be conducted; a criminal history check shall be conducted to include outstanding warrants...” The policy goes on to read, “Criminal history checks will be conducted and will consist of a query through the Missouri Uniform Law Enforcement System (MULES), and the National Criminal Information Center (NCIC) system. Staff members conducting the Missouri Uniform Law Enforcement System and National Criminal Information Center checks will document the name and title of the requestor and the reason for the request on the criminal history record log/printout. When adverse findings are not, the CAO will be notified and copied on the criminal history printout.”

Policy D2-2.2 Background Investigations reads, “A check will be conducted on the active employee through Central Office Human Resources to inquire if there has been any formal discipline for substantiated allegation(s) of sexual abuse and/or harassment of an offender or resident. All sustained allegations will be considered by the department before an employee is considered for other appointments.”

The auditor reviewed seven contracted employees, three permanent employees and three volunteer employee files and found yearly background checks in each.

**115.17(f)** The auditor also reviewed the employee handbook. On page 18, “Employee Conduct – Reporting Criminal Misconduct (Arrest)” states, “Employees who are arrested or charged with a criminal offense must immediately notify the chief administrative officer or highest ranking staff member available. In this context, immediate means as soon as possible but no later than the beginning of the next shift worked by the employee. Employees are required to report arrests and charges for all felonies and any misdemeanor, except a minor traffic violation.

The human resource director stated that it specifically listed on their applications that all arrests are to be reported to the facility.

**115.17(g)** On page 45 of the employee handbook, “Employee Discipline,” it states, “Appointing authorities of the Department are authorized by state law to discipline employees. Disciplinary action may consist of a written reprimand, suspension, demotion, or dismissal. The appointing authority may discipline an employee based upon unsatisfactory performance of job duties or misconduct...In addition to these actions while on duty, an appointing authority may discipline an employee for off duty misconduct, especially misconduct that is unprofessional or criminal. Employees who have been charged with a criminal offense may be suspended while the charge is pending.”

**115.17(h)** Policy D2-5.1 “Maintenance of Employee Records”, page 7, Section (III)(K)(3) states, “A verification of information, other than public information, will be made with a written authorization from the employee. Verification may include inquiries from prospective institutional employers pertaining to sustained allegations of sexual abuse and/or harassment of an offender or resident during employment by the department. Such information will be obtained by contracting central office human resources.”

**Standard 115.18 Upgrades to facilities and technologies**

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

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

**115.18(a)** N/A WERDCC has not acquired a new facility or made a substantial expansion to the existing facility since August 20, 2012. This is WERDCC’s first PREA audit.

**115.18(b)** WERDCC has installed and updated their video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012. This is WERDCC’s first PREA audit.

PREA Annual Report Protocol “At least once a year, the facility must evaluate their need for additional cameras and monitoring systems.”

Auditor reviewed the Security Camera PREA Report, it states: “We installed 29 ameba dvr systems and cameras thru out the institution in and around 2011 or sooner. We installed 16 cameras per ameba dvr system. Then in and around 2012 or 2013 we install several pelco dx 8100 dvr systems making the quality of the pictures and resolution five times better so you could detect the persons are objects in the picture frames. We also could manage the amount of data that was store on the hard drives to approximately thirty day. When we install the pelco dx8100 we could add 16 more cameras per dx8100 throughout the institution. This amounted to 32 cameras per dx8100 system. As of this day we have improved on our system by removing several ameba dvr systems and installing the pelco dssrv dvr systems that in able us to install 64 analog cameras and 64 ip cameras per dssrv in and around the institution. Which in turn lets us provide more viewing and more safely , securing of areas in the institution .We have 5 Pelco dssrv dvr systems now install in the institution with approximately 48 cameras on each of them. We are also installing more dssrv in the future and upgrading our system for viewing anywhere around the institution. In the future we hope to install 360 degree cameras thru out the institution and ip cameras for more reliability and covering more hidden areas in the institution. At this time we have approximately 673 cameras thru out the institution.”

Policy SOPD4-4.8 “Security Camera Operations,” page 6, states, “Custody posts designated for the specific purpose of viewing offender confinement within living environments where use of restroom, showers, strip cell, et., occur shall be designated as same gender posts with approval from the appropriate deputy division director. EXCEPTION: The WERDCC security camera monitor post is not to be gender specific; however, certain areas of known/anticipated nudity will be blocked from live electronic viewing if that post occupied by a male officer.”

The warden states, “We try to put the cameras where there may be blind spots. We are always checking the cameras for recording and labeling. Every year we look to see where new cameras should be located”

While touring the WERDCC it was noted that the facility had excellent camera coverage. Camera placement along with direct supervision of the staff reduced blind spots and enhanced the safety of the offenders housed at this facility.

## Standard 115.21 Evidence protocol and forensic medical examinations

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

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

WERDCC is responsible for conducting administrative and criminal sexual abuse investigations (including inmate-on-inmate sexual abuse or staff sexual misconduct). Investigations conducted at WERDCC follow a uniform evidence protocol. This protocol is also developmentally appropriate for youth.

Forensic medical exams are offered without financial cost to victims. All exams, where possible, are conducted by Sexual Assault Forensic Examiners or Sexual Assault Nurse Examiners. If they are not available qualified medical professionals conduct the exams.

Victim advocates are made available to all victims.

**115.21(a)** Auditor reviewed WERDCC's "Evidence Procedure Manual." Evidence collection is based on nationally recognized protocols for collection and preservation of evidence as discussed in the "A National Protocol for Sexual Assault Medical Forensic Examinations." The State PREA Coordinator reports, "We didn't use a specific source; we follow the national standards based on training received."

Corizon Health is responsible for providing all medical and mental health services to offenders placed in the custody of MDCO. They are responsible for conducting initial medical exams on all sexual abuse cases. Auditor reviewed the contractual requirements MDOC has with Corizon. On pages 42 and 43 of the contractual requirements, it reads "Corizon will comply with the Prison Rape Elimination Act of 2012 and will follow and enforce the MDOC's D1-8.14 Offender Sexual Abuse and Harassment policy with the assurance that access to medical and behavioral health care will be provided immediately, upon report or discovery, to victims of sexual misconduct. Corizon's medical and behavioral health care staff will contribute to a coordinated response to all allegations of sexual abuse by relaying, to the designated MDOC administrative staff, information pertinent to the well-being of the offender(s) of for investigative purposes. Offenders who report sexual assault will be treated for immediate stabilizing healthcare needs onsite and then transferred to an offsite hospital emergency room/SANE/SAFE provider for forensic evaluation and treatment. Corizon has contracts and access through HealthLink for accessing SANE/SAFE providers. Appropriate follow-up for prophylactic treatment and referral to mental health staff will be completed upon return from the crises center."

During the interviews of random staff all stated they would secure and separate the offenders. They explained they would not allow anyone to shower, get a drink or change clothes. They stated they would secure the scene and notify their supervisor. While some of the staff was not sure who was responsible for conducting the sexual abuse investigations, they all knew their role in preserving evidence.

**115.21(b)** Evidence collection is based on nationally recognized protocols for collection and preservation of evidence as discussed in the "A National Protocol for Sexual Assault Medical Forensic Examinations." The State PREA Coordinator reports, "We didn't use a specific source; we follow the national standards based on training received." The State Coordinator also reports this protocol is appropriate for youth.

**115.21(c)** Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (G) Health Services Care, pages 17 – 20, states "Victims of sexual abuse shall receive timely, unobstructed access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by health services practitioners according to their professional judgment. When conducting a medical assessment of any victim or alleged or suspected perpetrator of an incident of sexual abuse or sexual harassment health services staff members may not collect evidence but shall assist in the preservation of items related to the incident. Health services staff members should screen victims for obvious physical trauma, and at that time provide emergency medical care. If an allegation of offender sexual abuse is made within 72 hours of the event and consists of penetration of the mouth, anus, buttocks or vulva, of any kind, however, slight, by hand finger, object instrument or penis, the victim should be transported to the community emergency room with a sexual assault forensic examiner (SAFE) or sexual assault nurse examiner (SANE), when possible, for gathering of evidence. If it has been greater than 72 hours since the alleged abuse, and the alleged victim has not showered, they should be transported to the community emergency room with a sexual assault forensic examiner (SAFE) or sexual assault nurse examiner (SANE), when possible for gathering of evidence. Health services staff members should contact

the shift commander and the community emergency room to arrange transportation to the emergency room in accordance with institutional services procedures regarding offender transportation, hospital and specialized ambulatory care. If the victim has showered and it has been more than 72 hours since the reported assault, the physician should determine treatment and whether or not the victim will be sent off site for a forensic exam. For investigative purposes, the investigator may choose to have the victim sent out for a forensic exam.” WERDCC has a contract with Lincoln County Medical Center in Troy, Missouri to conduct all SANE/SAFE’s In the past 12 months, no exams have been performed.

**115.21(d)(e)** In addition, policy D1-8.13, “Offender Sexual Abuse and Harassment,” Section III (K) page 20, addresses Advocacy. It states, “Each facility shall offer victims of offender sexual abuse, not including sexual harassment, a victim advocate to provide emotional support services, crisis intervention and be available during the investigative process. Each facility shall attempt to enter into a memorandum of understanding with a rape crisis center to provide advocacy services in accordance with the department’s procedure regarding professional and general services contracts. If a facility is unable to enter into a memorandum of understanding with the advocacy center, the attempt shall be documented and advocacy services shall be sought from a community based organization qualified to provide such services. When the facility cannot successfully enter into a memorandum of understanding with an outside community service provider for offender victim advocacy services, a qualified staff victim advocate shall be provided. All staff members serving as a designated victim advocate for offenders shall receive victim advocacy training for sexual assault advocates. All services provided by staff victim advocates to offender victims shall be afforded a level of confidentiality consistent with the safety and security of the institution. The PREA site coordinator or designee shall serve as the liaison between the facility and the advocacy organization. The PREA site coordinator or designee shall ensure the continuity of advocacy services in the event the victim is transferred while receiving services.”

WERDCC has a contract with ACCIS to provide advocacy services. If an advocate is not available, Chaplains at the facility have been trained by the Missouri Coalition against Domestic and Sexual Violence to be qualified staff advocates. (Auditor reviewed curriculum used to train Chaplains.) Facility also has established a PREA Advocate Availability Rotation Schedule.

During the tour of WERDCC information about outside emotional support services was not available to the offenders. The auditor requested that this information be posted in all living units, visitation, offender work areas (kitchen, laundry, and maintenance), diagnostic unit, medical, recreation, dining rooms, chapel and vocational buildings. The facility immediately made posters available and were posted in the designated areas by the end of the onsite portion of the audit.

When discussing how the facility ensures the rape crises centers are providing qualified victim advocates, the site coordinator states, “The MOU’s we sign make the qualifications a requirement and we verify the information.” The Site Coordinator also states, “Our chaplain is also trained to be an advocate if one is needed.”

While this auditor interviewed several inmates that reported sexual abuse, only one was willing to talk about her experience. She reported that she was not aware that she could have access to an advocate. She states that no one from the community came and spoke with her.

**RECOMMENDATIONS:** It is recommended that offenders are re-educated about outside emotional support services. One way this can be done is during meetings between offenders and their case managers. Case managers can have this information readily available in their offenders if they receive a report that sexual abuse has occurred.

The auditor did review three Corizon files that included Sexual Allegation Notification Form 2015. This is the form Corizon staff completes upon such notification. It includes a brief incident of the event and notifications Corizon staff has made. In addition to this form, Corizon also uses a form that documents whether an advocate was requested. The offender must sign the form indicating whether they are requesting an advocate or refusing advocated services. All three files viewed contained both forms and signed refusals advocate services.

**115.21(f)** The Inspector General’s Office conducts all criminal investigations for the MDOC. Each facility has investigators assigned to them. WERDCC currently has two investigators. WERDCC is responsible for administrative investigations.

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

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

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

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

The agency ensures that administrative or criminal investigations are completed on all allegations of sexual abuse and sexual harassment. All allegations of sexual abuse or sexual harassment are referred to the Inspector General for review. They determine if a criminal investigation is to be opened. If they do not open a criminal investigation, the warden then refers the case for administrative investigation.

**115.22(a)** Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (H) Investigations, page 20-21, states, “The department shall ensure that an administrative and/or criminal investigation is completed for all allegations of sexual abuse and sexual harassment and all referrals for such allegations shall be documented in accordance with the coordinated response to offender sexual abuse located on the department’s intranet website...”

See also policy D1-8.4 Administrative Inquiries, page 6, reads “The offender sexual abuse coordinated response will be initiated on all allegations of offender sexual abuse or harassment, including anonymous and third party allegations, in accordance with the department’s procedure regarding offender sexual abuse and harassment...Allegations of category II or III behaviors will be processed in accordance with the department procedure regarding the investigation unit responsibilities and actions. Allegations of offender abuse related to pat searches will be handled in accordance with the PREA coordinated response protocol. The office of inspector general may conduct investigations associated with pat searches depending on the nature of the allegation.”

WERDCC provided examples of their coordinated response as well as several investigations, one of which was referred for prosecution. An example of the tracking form used by the facility was also provided.

During the past twelve months, WERDCC received a total of 36 allegations of sexual abuse and sexual harassment. Of these cases 14 resulted in administrative investigations and 22 were referred for criminal investigations. All 36 investigations have been completed.

**115.22(b)** Policy D1-8.1 Investigation Unit Responsibilities and Actions define offenders’ sexual harassment by a staff member and staff member sexual misconduct. On page 7 of this policy it reads, “The facility shall report all allegations of sexual abuse, including third-party and anonymous reports, in accordance with the department procedure addressing offender sexual abuse and harassment. If the department receives notification from another agency that an offender alleges to be a victim of sexual abuse or harassment while incarcerated in the department, an investigation or inquiry may be conducted in accordance with investigation unit responsibilities and actions or administrative inquiries procedures.”

**115.22(c)** Policy D1-8.13 Offender Sexual Abuse and Harassment can be found on MDOC website at <http://doc.mo.gov/OD/PREA/php>

### **Standard 115.31 Employee training**

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

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

WERDCC trains all employees who have contact with inmates on the 10 elements identified in this standard.

**115.31(a)** Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (B) (4), page 8, covers training requirements for new staff, current staff, part-time employees, volunteers, contract staff members and vendors. “All staff members shall receive initial PREA training during the department’s basic training. All staff members shall complete refresher training every two years to ensure knowledge of the agency’s current sexual abuse and sexual harassment procedures. Years, in which an employee does not receive training, the department’s PREA coordinator shall provide current information on sexual abuse and sexual harassment policies. Part-time employees, volunteers and contract staff members shall receive PREA specific training to their classification as determined by the appropriate division director and chief of staff training. Vendor contractors shall be escorted by a staff member at all times or shall receive PRA training prior to entering the facility. Contracted residential facilities shall ensure all staff are trained on PREA as outlined in the residential contract. Work release

supervisors shall receive specific PREA training during their offender work release procedure training.”

Auditor reviewed the following curriculum: Basic Training, dated November 2013; and PREA 2014 Refresher Training. Both the Basic Training and the Refresher Training curriculum contained the 10 elements required in this standard.

Training logs were also reviewed. From January – December 2015, 469 participants were trained in PREA 101 and 524 participants received the 2014 refresher training.

All staff interviewed during this audit was able to describe major portions of the training they received on PREA.

**115.31(b)** Policy D1-81.13 Offender Sexual Abuse and Harassment also reads, “All new staff member who shall be placed at a female facility will receive Working with the Female Offender training prior to being placed on post. A staff member shall receive additional training if they are reassigned from a facility that houses only male offender to a facility that houses only female offenders. A staff member shall receive additional training if they are from a facility that houses only female offenders to a facility that houses only male offenders if their basic training or institutional training occurred more than two years prior to the time of assignment.”

Auditor reviewed “Working with the Female Offender” curriculum. This four hour course covers the following topics: 1) the needs of the female offender and the impact upon corrections, 2) differences between male and female offender behaviors in the corrections sub-culture, and 3) maintaining professional boundaries between staff members and the female offender. In the past calendar year, 50 new WERDCC employees have received this training.

Policy D2-2.13 Transfer of Employees (E), page 6, covers training requirements for staff that transfer between facilities. WERDCC provided records of 16 employees that transferred to this facility and received “Working with the Female Offender” training.

**115.31(c)** Policy D1-8.13, Offender Sexual Abuse and Harassment, Section III (B) (4) reads, “All staff members shall complete refresher training every two years to ensure knowledge of the agency’s current sexual abuse and sexual harassment procedures. Years, in which an employee does not receive training, the department’s PREA coordinator shall provide current information on sexual abuse and sexual harassment policies.” From January 2012 to December 2015, 524 WERDCC employees have received the PREA Refresher Training.

Auditor was also advised, “The department utilizes several avenues to ensure staff are kept informed about sexual abuse policies and practices between trainings. The department’s policy and procedure unit is responsible for forwarding all new and revised policies to all staff. MDOC ensures the PREA intranet page is kept up to date. This page is readily available to all staff and contains all things PREA.” (Auditor was provided an example of what this page looks like.)

**115.31(d)** Policy D1-8.13, Offender Sexual Abuse and Harassment, reads, “All completed PREA trainings shall require a PREA Acknowledgement form or PREA basic training acknowledgement form stating the staff member understood and completed the training. This form shall be routed through the facility training officer or regional training coordinator. The facility training officer or regional training coordinator shall send the original PREA acknowledgement form t the central office human resources personnel for retaining in the employee’s personnel file...”

Auditor reviewed training records of random staff found signed acknowledgments in each file.

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

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

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

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.

**115.32(a)(b)** Policy D1-8.13, Offender Sexual Abuse and Harassment, reads, “Part-time employees, volunteers and contract staff members shall receive PREA specific training to their classification as determined by the appropriate division director and chief of staff training. Vendor contractors shall be escorted by a staff member at all times or shall receive PRA training prior to entering the facility. Contracted residential facilities shall ensure all staff are trained on PREA as outlined in the residential contract. Work release supervisors shall receive specific PREA training during their offender work release procedure training.”

Auditor reviewed the following curriculums:

- PREA Basic (This is the same training that all staff receive.)
- Volunteers in Corrections – PREA and Discrimination, Harassment, and Retaliation (2 hour Refresher course)
  - This course teaches volunteers to identify the characteristics of a PREA victims and perpetrator and how discrimination and harassment may affect the workplace.
  - From 2013 – 2015, 128 volunteers received this training.
- Offenders Work Release Procedures and Training (3 hour course)
  - This course teaches signs of offender sexual abuse and to identify appropriate responses to be taken by staff when there is an allegation of sexual abuse.
- The Profession of Corrections and PREA (2 hour course)
  - From January 2013 through December 2015, 49 contract staff received this training.

While interviewing contract staff, they reported they not only received PREA training from the facility, they also received PREA training from Corizon and Gateway.

**115.32(c)** Auditor reviewed random training records of volunteers and contractors. Eight volunteer files were pulled and all had signed acknowledgments. In addition, six contract staff records were reviewed. All three had signed acknowledgments.

### **Standard 115.33 Inmate education**

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

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

WERDCC provides information to inmates at the time of intake about the zero-tolerance policy and how to report incidents or suspicions of sexual abuse and harassment.

**115.33(a)** Memo from Director of Division of Adult Institutions, dated 4/11/2012 to all Wardens discussed PREA – Offender Education. This memo stated that “Speaking Up” video must be shown during formal orientation at all Reception and Diagnostic Facilities and again when they arrive at mainline facilities. They must also receive the PREA brochure “Offenders Sexual Abuse: What you need to know.”

Auditor toured the R & D Unit of WERDCC and was taken through the intake process. Inmates view the video “Speaking Up” before leaving R & D.

Intake staff stated that PREA information is provided to all offenders on the day they arrive at WERDCC. They do not leave intake without watching the PREA video. They are also given a brochure at this time.

When talking with inmates at WERDCC, all stated they watched the PREA video and received PREA information upon arrival. (While this auditor toured the intake area, the PREA video was being played. The auditor was told the video is played on a continuous loop in the waiting area for all offenders to watch.)

In the past 12 months, a total of 3,376 inmates were given PREA information during intake.

Auditor also viewed four examples of the offender acknowledgment forms stating they received and understood the PREA education. (A total of six random forms were viewed from ranging from 2013 to 2015.)

**115.33(b)** Auditor reviewed a memo dated March 9, 2016 to all staff from the Site Coordinator. It was titled, "PREA Offender Education." The memo reads, "Offender PREA education is provided at WERDCC through many avenues. During intake, offenders view a short educational PREA video. Within days, offenders then watch the "Speaking Up" video during orientation with the associated lesson plan provided by a Case Manager. All offenders receive a PREA brochure during orientation. In addition the video is played on the institutional television channel. Informational PREA posters are also posted throughout the institution in all areas offenders are allowed."

In the past 12 months, a total of 3,133 inmates (whose length of stay in the facility was for 30 days or more) received PREA education. This was done in the form of the educational videos and brochures. In addition, informational posters were found throughout the facility.

**115.33(c)** Auditor reviewed an email sent out to all Site Coordinators from the Statewide PREA Coordinator on August 12, 2013. This email contained the following directive: "Don't forget that sometime between August 8 and August 13, every offender in your facility must receive a PREA brochure and sign the acknowledgement form. I have attached the memo that you received during the meeting that will outline how to order additional brochures or acknowledgement form. Also...we learned during the DAI meeting that everything can be purchased with canteen funds."

Auditor reviewed four signed acknowledgement forms from 2013.

**115.33(d)(f)** Policy D1-8.13 Offender Sexual Abuse and Harassment Section III (C) 6, page 12, discusses Offender Education must be provided in the native language of the inmate and in formats that deaf, visually impaired or otherwise, can understand. It also states, "Offenders who have limited English proficiency shall be provided a copy of the video transcript and the PREA offender brochure in their native language. If these documents are not already translated as a recognized language by the department, the department shall make reasonable accommodations to provide these documents in the offender's native language. If the documents are unable to be translated in the offender's native language the department's PREA site coordinator or designee shall work with additional staff to assist the offender in understanding the information provided. The PREA site coordinator shall make key information readily available or visible to all offenders through the PREA posters, the offender rulebook and the offender brochure on sexual abuse and harassment in accordance with the institutional services procedure regarding diagnostic center reception and orientation."

WERDCC provided examples of PREA brochures and posters in the following languages: English, Japanese, Serbo Croatian, Spanish, Vietnamese, Russian, Simplified Chinese and Traditional Chinese. Brochures are also available in large print and braille. There are also written transcripts of the video "Speaking Up for Female Offenders" in English and in Spanish.

Throughout the tour the audit team viewed PREA informational posters in all living units and other areas inmates gathered. These posters were in English and Spanish.

**115.33(e)** Auditor reviewed three additional inmate acknowledgment forms dating from September 2015 – December 2015.

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

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

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

WERDCC requires that investigators are trained in conducting sexual abuse investigations in confinement settings. Agency maintains documentation of such training.

**115.34(a)** Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (B) (5), page 8, states, “All new investigators and administrative inquiry officers (AIOs) or designee assigned to investigate sexual abuse allegations shall receive specialized PREA Training by the designated inspector general’s office staff members.”

Investigator was able to articulate what they received in this training and the basic PREA training that all staff received. The investigator also reported he received training in PREA Crime Scenes and Evidence Collection as well as jail crime scene photography.

**115.34(b)** Auditor reviewed the curriculum “Investigating Offender Sexual Abuse in Confinement Settings,” 36 hour course designed for Inspector General staff and Investigators. This curriculum was last revised September 24, 2012 and covered the following topics:

- Techniques for interviewing sexual abuse victims (Module 4 “Investigating Allegations of Sexual Abuse,” pages 12 – 16)
- Proper use of Miranda and Garrity (Module 2 “State Laws and Policies” pages 22 – 26)
- Criteria and evidence required to substantiate a case for administrative or prosecution referral (Module 4 “Investigating Allegations of Sexual Abuse” page 8 -11 and pages 18 -30)

This training curriculum also included a module titled “Mock Crime Scene Investigations” wherein participants took what they learned in previous modules and applied it a practice setting.

**115.34(c)** The auditor reviewed training logs and found that all 41 investigators have been trained statewide. The Investigators also signed acknowledgments stating they received and understood this training. While onsite, the auditor reviewed the training logs of the two investigators assigned to WERDCC.

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

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

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

WERDCC has a policy related to training of medical and mental health practitioners who work regularly on its grounds. They **do not** provide forensic examinations.

**115.35(a)** Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (B) page 9, states, “Medical and mental health staff members shall receive annual specialized PREA training.”

Auditor reviewed curriculum “PREA Specialized Medical/Mental Health Professionals” dated September 2012. This course is worth four hours and covers the following topics:

- How to detect and assess signs of sexual abuse and sexual harassment (pages 17 – 19)
- How to preserve and physical evidence of sexual abuse (pages 20 -22)
- How to respond effectively and professionally to victims of sexual abuse (page 23)
- How to and whom to report allegations and suspicions (page 15 – also addresses mandated reporting)

During this training, participants also viewed an eleven minute film titled “Maintaining Professional Relationships with Offender.” After viewing this film, participants were required to sign an acknowledgement form stating they viewed and understood the film.

**115.35(b)** N/A The medical staff at the facility to not conduct forensic exams.

**115.35(c)(d)** Auditor reviewed training rosters indicating that 26 medical employees received a PREA refresher. The auditor viewed a random sample of three participants and found the certificates.

Medical/Mental Health Staff states there staff is required to attend that CORE training provided by the facility. Staff interviewed articulated what was provided in training and were able to discuss their responsibility as mandated reporters. Each staff member interviewed was able to explain WERDCC's coordinated response.

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

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

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

WERDCC has policy that addresses risk assessment screening upon admission to their facility as well as addresses reassessment requirements.

**115.41(a)(b)** Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (C), pages 10 -11, states "Facilities shall assess offenders for the risk of being sexually abused and the risk of being sexually abusive utilizing their divisional adult internal risk assessment in accordance with the institutional services procedure...Offenders shall be assessed within 72 hours of arrival. Offenders shall be reassessed within 30 days of arrival."

The time frame for administering the Internal Risk Assessment is also found in IS & SOP version of 5-2.3, Offender Internal Classification. On page 3, Section C (1), states, "Once an offender is received at the reception and diagnostic center, staff members will have seventy-two hours to complete an internal classification. In this same policy on page 4 in Section D (2) states, "CCM's will conduct a new internal classification within 72 hours at that facility and the offender will be housed in accordance with their new internal classification score."

Intake staff advised that the risk assessment tool is given to all arrivals within 72 hours, unless they sign the refuse to participate form. Intake staff also report that these inmates are also reassessed at the 30 day mark to see if any changes have occurred. (Auditor did reviewed an example of "Refusal to Participate" form that inmates can sign if the refuse to participate in the risk assessment. Inmates are also told that no sanctions will be given for refusal to participate.)

Inmates that were interviewed states they remembered being asked a "bunch of questions" at when they were at intake. They reported they were asked about prior sexual abuse, if they had ever been incarcerated before and if they were lesbian or bisexual. Several stated they did not understand why the facility needed that information and after the auditor explained the purpose of these questions the inmates reported "that makes sense."

**RECOMMENDATION:** Intake staff and Case Managers need to be reminded that questions they ask are very intrusive and can shut down communication with the inmate if they are not handled professionally and explained. Intake staff and Case Managers may need to take a few minutes and re-educate inmates as to why they are asking personnel questions. Inmates need to be reminded that these questions, especially about sexuality, are designed to ensure their safety.

There were 3,376 inmates entering WERDCC within the past 12 months who were screened for risk of sexual victimization or risk of sexually abusing other inmates within 72 hours of their entry into the facility. This auditor reviewed the tracking form used to track the inmates date admitted to WERDCC, the date of the 72 hour assessment, 30 day review and the date the 30 day review was completed. All assessments were completed in a timely manner and according to standards.

**115.31(c)(d)(e)** Auditor reviewed WERDCC's risk screening tool and found all 10 elements in this standard were covered. Auditor also reviewed examples of assessments that were completed within 72 hours of intake and examples of reassessments at 30 days and those that were even driven. This tool has been adopted by MDOC and is used in all of their state operated facilities.

Auditor also reviewed the "The Adult Internal Risk Assessment Manual" which contained relevant information on how to complete the PREA Audit Report

internal risk assessment. For example this manual contained information found in agency policy for example information on reassessment requirements can be found on page 8 and on page 9 a user can find information on how to interview an offender to obtain the information necessary to accurately completing the assessment. The manual was well laid out, provided explicit instructions on how to score the assessment and included screen prints on how to enter the assessment into the facility's database.

All offenders are assigned one of the three following scores:

- Alpha – high potential for sexual perpetration
- Kappa – not a high risk for either sexual victimization or perpetration
- Sigma – high risk for sexual victimization

During the interview with a staff member who performs screening for risk of victimization and abusiveness, they reported the screening too takes into account medical issues, disability, have they been a victim, have they been in prison/jail before, their age, weight, and type of offenses they have committed. They stated this assessment is done when they arrive intake.

**115.41(f)(g)** Policy IS5-2.3, Offender Internal Classification, reads, “CCM’s will complete a second internal classification within 30 calendar days of the offender’s arrival to the facility...”

Policy D1-8.13, Offender Sexual Abuse and Harassment, Section III (C)(1), pages 10, states “The offenders risk level shall be reassessed when warranted due to referral, incident of sexual abuse, or upon request or receipt of additional information that impacts an offenders risk of sexual victimization or abusiveness.”

Also on page 4 of this same policy in Section D (3) it states, “A second internal classification will be completed within thirty calendar days of the offender’s arrival at the reception and diagnostic center, if they have not been transferred. If there is a change in the offender's internal classification score a case manager will review the offender's housing assignment to determine if a change in bed assignment is required. If an assignment change is required, this must be made on the same day the internal classification is completed. Any time an offender is returned to a diagnostic center this process will be repeated.”

**115.41(h)** Policy D1-8.13, Offender Sexual Abuse and Harassment, reads, “...The offender shall not be disciplined for refusing to answer or not disclosing complete information during the assessment.”

The Adult Internal Risk Assessment Manual also states, “...The Case Manager should attempt to complete the assessment to the best of their abilities. The Case Manger should note in sections requiring offender response “refused to participate” and answer no to those questions. Offenders cannot be disciplined for refusing to answer questions...”

**115.41(i)** On pages 4 and 5 of Policy D1-8.13, Offender Sexual Abuse and Harassment, reads, outlines how the internal classification scores will be documented. In Section (F) it states, “(1) Upon completion of the internal classification process, a printout of the results will be placed in the offender's classification file in accordance with institutional services procedures regarding classification files and will be maintained in accordance with the departmental procedure regarding record retention. (2) CCMs will enter the offender's internal classification score into the department computer system along with the date of internal classification and their employee identification number in accordance with the internal classification manual.”

The Adult Internal Risk Assessment Manual also states, “Click on Assessment Listing (Do not print the final formed version of the assessment). Find the assessment in the Assessment Listing screen for the offender. Click on the file folder icon in the assessment line. This will bring up another window with the assessment summary. Click on the printer icon at the top of the assessment.

The Site Coordinator reported only case managers have access to the information found on the risk assessment. He reported that line staff do not have access to this information. Intake staff also reported that there is limited access to the information obtained. They also stated that this is in policy.

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

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

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

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

WERDCC uses the information from 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. Each determination is based on the individual. WERDCC has three classifications: Sigma (high risk for sexual victimization), Alpha (high potential for sexual perpetration) and Kappa (not a high risk for either sexual victimization or perpetration).

Housing and program assignments for transgender or intersex inmates in the facility are made on a case by case basis.

WERDCC has policy in place that outlines the make-up and actions of a transgender committee. This committee consists of administrative staff, medical/mental health professionals, and the inmate to discuss the needs, housing, shower, and safety issues of the individual. **In the past twelve months there has been no transgendered inmates assigned to WERDCC so no meeting has taken place.**

**115.42(a)(b)** Policy IS5-2.3 Offender Internal Classification, Section III (C) Diagnostic Centers, page 1, states "The department utilizes an internal classification system to assist department staff members in determining appropriate housing, programs, and work assignments of offenders to ensure offender safety, institutional security, and compliance with the Prison Rape Elimination Act (PREA) guidelines." On page 2 of this same policy reads, "Staff members who supervise offenders in required activity assignments will utilize the internal classification score to monitor offenders in accordance with institutional services procedures regarding required activities.

In this same policy on page 3, housing based internal classification is addressed. It states, "Upon completion of the internal classification, the offender will be housed according to his score in accordance to the internal classification manual. Whenever possible, sigmas should be celled with sigmas and alphas with alphas. If an offender does not have an internal classification score he should be housed with a kappa with similar demographics until the offender internal classification instrument is completed."

IS & SOP 18-1.1, Required Activities, page 5, Section III (B) (4), states, "Housing unit staff members will utilize the internal classification information to designate required activities assignments for the purpose of keeping separate and/or ensuring the appropriate monitoring of those offenders at high risk of being sexually victimized from those at high risk of being sexually abusive when working or attending programming together in accordance with institutional services procedures regarding offender internal classification. Housing unit staff members will review internal classification information and forward it to the required activities' supervisor prior to the offender's start date at the required activity."

On page 6 of this same policy, states, "The Required Activities Coordinator will notify the work supervisor of the offender's internal classification information. The work supervisor is responsible for knowing the internal classification of their workers and assign tasks in such a manner to ensure the appropriate monitoring of those offenders at high risk of being sexually victimized from those at high risk of being sexually abusive when working. Internal classification information shall not be used by any staff member to preclude placement of an offender in a required activity."

SOP D1-8.13 Offender Sexual Abuse and Harassment, page 12, "All housing, cell, bed, education, and programming assignments for transgender or intersex offenders shall be made in accordance with the institutional services procedures regarding offender housing assignments and programming assignments."

An example of work assignments was provided via an email dated March 23, 2016 from the Site Coordinator to all WERDCC Section Heads. It reads, "As a reminder, we cannot allow Alpha and Sigma offenders to work together in unsupervised and isolated locations. We also cannot assign Alpha and Sigma offenders to the same room on the housing units. As an extra precautionary measure to keep Alpha and Sigma offenders separated at your worksite, you will be receiving a color-coded folder differentiating Alpha's and Sigma's. You will receive a "red" colored folder for any Alpha offender being assigned to your worksite and a "yellow" folder for any Sigma offender being assigned. This folder will come from Case Manager D. Dewey who makes most of the offender job assignments. This notification will begin on April 11th. In the meantime, it is your responsibility to make sure you identify your current Alpha and Sigma offenders. A notice has already been put out regarding this responsibility. Please contact me if you have any questions regarding Alpha and Sigma offenders assigned to your work location."

Site Coordinator stated that information from the assessment tool is used to determine housing, education and programs. He stated it is the policy and practice of WERDCC not to house potential victims with potential aggressors. He states he reminds staff of this fact. (Auditor did review a memo he sent to the staff dated March 23, 2106.)

An interview was conducted of a staff person who performs screening for risk of victimization and abusiveness. This staff person advised WERDCC takes the determination of housing seriously. They advised that it the policy of WERDCC not to house Alphas and Sigmas

together. (It should be noted that Alphas are those who have a high potential for sexual perpetration and Sigmas are those who are high risk for sexual victimization.)

**115.42(c)(d)(e)(f)(g)** Policy IS & SOP 5-3.1, Offender Housing Assignments, also outlines the Transgender Committee. The policy reads, “Each institution shall convene a transgender committee to determine and review an offender’s classification on a case by case basis. A transgender or intersex offender’s own views with respect to his or her safety shall be given serious consideration. The transgendered committee should meet and have a written recommendation completed within 10 working days of the offender’s arrival at the facility. The recommendation should be forwarded to the appropriate deputy division director of the division of adult institutions; the director of the division of rehabilitative service and the prison rape elimination act (PREA) coordinator for review and approval. A response should be made back to the transgender committee within 10 working days. The transgender committee’s approved written decision shall be maintained in the offender’s classification and medical records in accordance with departmental procedures regarding record retention. The transgender committee will review the housing assignments every six months following the initial determination. Reassessments can be done more frequently as needed on a case by case basis. Transgender or intersex offenders shall be given the opportunity to shower separately from other offenders as outlined by SOP.”

IS & SOP 5-1.1 Diagnostic Center Reception and Orientation, page 11 states, “If the gender of an offender is unknown, the following steps should occur: Speak with the offender privately to determine sex, review medical records, within 72 hours of receiving the offender into the department, a referral should be made to the transgender committee to assist in gender identity and housing determinations, offenders awaiting review by the transgender committee shall be placed in a single cell to ensure safety until the review has been completed.”

On page 12 of this same policy, it states “Transgender offenders will be showered separately from other offenders until the recommendation of the transgendered committee is approved.”

SOP D1-8.13, Offender Sexual Abuse and Harassment, page 11, states “Housing assignment for transgender and intersex offenders shall be made on a case-by-case basis by the institutional transgender/intersex committee or designee of the community confinement facilities to ensure the health and safety of the offender in accordance with the institutional services procedure regarding offender housing assignments and the probation and parole procedure regarding risk assessment and housing assignments.”

IS & SOP 5-3.1 Offender Housing Assignments, pages 4 -5 addresses Transgender Housing Assignments. It also states, “The transgender committee is responsible for determining a permanent housing assignment for each transgender or intersex offender, and prior to this assignment shall meeting with each offender to determine his vulnerability within the general population and length of time living as the acquired gender. Transgender and intersex housing assignments shall not be made based solely on genitalia by must consider the offender’s health and safety and the security of the facility through a review of the respective classification, medical and mental health records.”

A copy of the template the Transgender Committee would use to determine housing was also reviewed by the auditor.

The Site Coordinator reported that WERDCC does not have a designated wing to house transgender or intersex inmates. He stated that if a transgender or intersex inmate would be assigned to their facility, they would be offered separate shower times.

When asked about any transgendered inmates, Intake Staff stated WERDCC only had one transgendered inmate come through intake that they could remember. They stated this individual was only at the facility for 30 days and never left the Reception and Diagnostic Unit.

### **Standard 115.43 Protective custody**

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

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

WERDCC has policy that prohibits 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. In the past 12 months, there has been **no** inmate placed in involuntary segregation.

**115.43(a)** Policy D1-8.13 Offender Sexual Abuse and Harassment, (F) Segregated Housing in Institutional Setting, pages 17 -18 states “Following an allegation of offender sexual abuse or if an offender is assessed at being high risk of victimization, the shift commander shall ensure the offender is housed in the least restrictive housing available to ensure safety. The assessment for least restrictive housing shall occur within 24 hours of the allegation or the offender being identified as at risk. Least restrictive options to ensure safety of the offender and the security of the institution include:

- (1) Return to assigned housing.
- (2) Temporary reassignment of staff members.
- (3) Assignment to another housing unit.
- (4) Temporary segregated housing for protective custody needs (segregated housing should not be considered as the first option to ensure safety of the victim).

The assessment shall consider the allegation or threat and the safety of the victim and institution. If the assessment is due to an alleged PREA event the shift commander shall note on the PREA allegation notification penetration/non-penetration event checklist of the recommended housing option. If temporary segregation is recommended, the shift commander shall note on the PREA notification checklist the reason no alternative means of housing separation can be arranged and the offender victim shall be placed in segregated housing in accordance with institutional services procedures regarding segregation units. The shift commander shall ensure the alleged victims and perpetrators are separated by sight and sound while housed in a segregation unit. Offenders who are victims and/or perpetrators in an alleged PREA event will be kept out of sight and sound from each other and be placed in separate wings. If the assessment is due to an offender being viewed as being in substantial risk of victimization in the absence of an allegation of offender sexual abuse, and temporary administrative segregation confinement (TASC) is recommended to ensure the offender’s safety, the shift commander shall note the PREA risk on the TASC order and the offender shall be placed in segregated housing in accordance with institutional services procedures regarding segregation units. The PREA site coordinator shall review all PREA notification checklists the following business day to ensure appropriate housing placement. Assignment to involuntary segregation housing shall not ordinarily exceed a period of 30 days. Every 30 days, the offender shall be afforded a review to determine whether there is a continuing need for separation from the general population in accordance with institutional services procedures regarding segregation units and protective custody.”

Policy IS21-1.1 “Temporary Administrative Segregation Confinement” states, “Offenders may be placed in temporary administrative segregation confinement upon recommendation by any staff member and approved by the shift commander when an offender is an immediate security risk....there is an urgent need to separate the offender from others for his/her safety or that of others...”

The number of inmates at risk of sexual victimization who were held in involuntary segregated housing in the past 12 months for one to 24 ours is zero. Auditor reviewed three PREA notifications for housing placements after reporting an allegation. In the three reviewed, the victim was immediately returned to their original housing units once they signed a PC waiver.

On the day of the audit there were no inmates being held in segregation based on high risk for victimization. The auditor did review three PREA allegation notifications that have been completed in the past 12 months. In looking at the housing placement recommendations, all indicated that alleged victim would remain in the original housing units. Only alleged perpetrators were removed.

Staff reported that the typical response is not to segregate the victim. They stated if involuntary segregation would be used to protect a victim, they would follow agency policy. They reported it is not to be longer than 48 hours and they do their best to make sure programming would continue. Staff reported that everything is documented and becomes a part of the classification hearing that is held.

Staff that works in the segregation unit stated they could not remember the last time an inmate was housed in protective custody due to a PREA incident.

Random interviews of inmates revealed a common theme. All stated they would not report being a victim of sexual abuse because they would “immediately go to the hole.” They reported they have seen it happen multiple times. The auditor could not find documentation to support this claim.

**RECOMMENDATION:** The auditor spoke to administration about the perception the inmates have of being placed “in the hole” when they report sexual abuse or harassment. After much discussion, it is believed that inmates are in fact seeing the coordinate response and the victims are being separated out for interviews and trips to medical and/or mental health. It is recommended that Functional Unit Managers and Corrections Case Managers talk with the inmates in their living units and stress that victims are not punished for reporting sexual abuse and harassment

**115.43(b)** WERDCC states there have been no inmate placed in segregated house for high risk for sexual victimization in the last 12 months.

**115.43(c)** WERDCC states there have been no inmate placed in segregated house for high risk for sexual victimization in the last 12 months.

**115.43(d)** WERDCC states there have been no inmate placed in segregated house for high risk for sexual victimization in the last 12 months.

**115.43(e)** WERDCC states there have been no inmate placed in segregated house for high risk for sexual victimization in the last 12 months.

**NOTE:** WERDCC did provide an example of what a classification hearing and documentation would like if a victim would be placed in protective custody and an example of the “PREA Ad-Seg Checklist.” Auditor reviewed MDOC’s Segregated Housing for Protective Custody which outlines the an assessment of all alternative housing choices (least restrictive housing) must be conducted prior to placing a victim in segregated housing for protection and that victims of sexual abuse ordinarily not be held in segregated housing for longer than 30 days.

### Standard 115.51 Inmate reporting

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

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

WERDCC has established multiple procedures for allowing inmates internal ways to report sexual abuse or sexual harassment privately to the facility or to an outside entity. Inmates may report via an informal resolution request, to a staff member, PREA hotline, advocacy agency, or to the Department of Public Safety, Crimes Victims Services Unit. Third party reports are also accepted by WERDCC.

As of the date of this audit, WERDCC does not have any offenders who are detained solely for civil immigration purposes.

**115.51(a)** Policy D1-8.13 Offender Sexual Abuse and Harassment, “Reporting Sexual Abuse or Harassment,” pages 14 states, “Each facility CAO’s or designee shall provide multiple ways for offenders to make anonymous reports of allegations of offender sexual abuse and harassment, retaliation, staff neglect, and violation or responsibilities that may contributed to an incident of offender sexual abuse , to include but not be limited to: informal resolution request (IRR), grievance process, or offender complaint, to a staff member, PREA hotline, advocacy agency, and Department of Public Safety, Crimes Victims Services Unit. All allegations including anonymous, third party, verbal, or allegations made in writing shall be accepted and moved forward in accordance with the offender sexual abuse coordinated response outlined in this procedure.”

Auditor reviewed the offender brochure on “Offender Sexual Abuse and Harassment” which is given out at intake. This brochure outlines the ways inmates can make reports of sexual abuse and sexual harassment. It reads, “Report the abuse to any staff member either verbally or in writing as soon as possible, whether the alleged incidence involved you or not. Call the department’s confidential PREA hotline. You can do so at any offender phone by listening to the prompts and pressing “8” or dialing (573) 526-PREA (7732). Write to the Missouri Department of Public Safety, Crime Victims Services Unit, P.O. Box 749, Jefferson City, MO 65102. If you are assigned to a community release center or community supervision center, you may report sexual abuse using the above guidelines or call the PREA hotlines at (855) 773-6391.

Staff was able to articulate the various ways inmates can report sexual abuse and sexual harassment. They stated that all reports are taken seriously. They also advised that they could also call the PREA hotline and make a report.

Inmates interviewed were also able to articulate the various ways they could make a report including calling the hotline, telling staff and/or family members. Although they were aware of the PREA hotline, many felt that it was not anonymous. They also reported they felt most staff took reports seriously and they felt safe at WERDCC.

Information was posted on bulletin boards throughout the facility and in the housing units advising inmates on how to make reports of sexual abuse. The PREA hotline number was clearly posted above all phones.

**115.51(b)** Auditor reviewed the MOU with the Missouri Department of Public Safety. Missouri Department of Public Safety's responsibilities include initiating a SharePoint application that can be shared by DPS and DOC. The DPS shall receive written correspondence of allegations of offender sexual abuse and harassment. All written correspondence received by the DPS shall be assigned a tracking number. The DPS shall record in the SharePoint application the date of the written correspondence is received, the name of the institution, the name of the victim if known and the date the letter is forwarded to the DOC. The DOC shall record in the SharePoint application the date offender letter is received and any action taken. This MOU is ongoing from the date of the final signature until such time as it is deemed unnecessary by either party. The MOU was signed July 25, 2013.

**115.51(c)** SOPD1-8.13, Offender Sexual Abuse and Harassment, page 14, states, "All allegations including anonymous, third party, verbal, or allegations made in writing shall be accepted and moved forward in accordance with the offender sexual abuse coordinated response outlined in this procedure."

Auditor reviewed two PREA Notifications made by anonymous reporters. WERDCC initiated their coordinated response according to their policy and PREA national standards.

**115.51(d)** Policy D1-8.9 Crime Tips and PREA Hotlines, page 5, Section III (C) states, "For staff, the department has established a separate crime tips hotline to anonymously report criminal activity, offender sexual abuse, or offender sexual harassment and is received in the office of inspector general. These calls may be answered by a staff member in the office of inspector general or in cases of afterhours calls, the caller may leave a message and a return phone number should they wish to be contacted. Information regarding hotline use for staff will be posted conspicuously in areas routinely accessible to all staff members."

Staff Tips Hotline posters are throughout the facility and are located in staff break rooms and on the MDOC intranet home.

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

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

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

WERDCC has an administrative procedure for dealing with inmates grievances regarding sexual abuse. This procedure also allows them to submit a grievance at any time regardless when the incident occurred. If their grievance is against a staff member they are not required to submit their grievance through that staff member. WERDCC also outlines, through policy, where grievance cannot be filed.

WERDCC also requires that a decision on the merits of any grievance or portion of a grievance alleging sexual abuse be made within 70 days of the filing of the grievance. According the pre-audit questionnaire, the agency reported that in the past twelve months, no grievances have been filed.

**115.52(a)(b)(c)** Policy D5-3.2 Offender Grievance, pages 17-19 addresses PREA Informal Resolution Request, Grievance and Appeal. The following are portions of this policy that supports this standard:

##### **Time limit**

- "The department shall not impose a time limit on when an offender may submit a complaint regarding an allegation of offenders' sexual abuse."

##### **Informal Process**

- “The department will not require an offender to use the informal grievances process, or to otherwise attempt to resolve with staff members, an alleged incident of offender sexual abuse.”
- “Informal resolution request alleging sexual abuse will be processed normally with the exception of the following: A response should be completed as soon as practical, but no later than 30 calendar days of receipt.”

### **Against a Staff Member**

- “A staff member who is subject of the complaint should not be the respondent.”

### **Grievance Process**

- “Offender grievances alleging sexual abuse will be processed normally with the following exceptions: the CAO or designee should respond within 30 calendar days of receipt, and, computation of the 30 day time period will not include the days between the offender’s receipt of the informal resolution request and receipt of the offender grievance by the grievance officer or designee.”
- “Offender grievance appeals alleging offender sexual abuse will be processed normally with the following exceptions: a response should be provided as soon as practical, but no later than 30 calendar days of receipt, and, computation of the 30 day time period will not include the days between the offender’s receipt of the offender grievance response and receipt of the offender grievance appeal by central office grievance staff members. Appeals will be referred to the deputy division director or designee, and, an extension of time to respond, of up to 70 days, may be claimed if the normal time period for response is insufficient to make an appropriate decision. The offender will be notified in writing of any such extension and will be provided a date by which a response will be provided.
- “At any level of the administrative process, including the offender grievance appeal level, if the offender does not receive a response within the time allotted for reply, including any properly noticed extension, the offender may proceed to the next level of the offender grievance process”

### **Third Party Reporting:**

- “Third parties, including fellow offenders, staff members, family members, attorneys, and outside advocates, shall be permitted to assist offenders in filing requests for informal resolution requests, grievances or appeals relating to allegations of offender sexual abuse. This assistance cannot interfere with the safety and security of the institution.”
- “When a staff member receives a request from a third party to file a complaint via the offender grievance procedure on behalf of an offender regarding allegations of offender sexual abuse. The staff member will require the party making the complaint to submit such in writing.”
- “Administrative or case management staff members will then prepare a report of incident in accordance with procedure for possible investigation or inquiry.”
- “When a staff member receives the documentation from the reporting third party, it will be attached to an informal resolution request form and will immediately be recorded in accordance with this procedure. A copy of the documentation will also be forwarded to the CAO or designee in order to be attached to the possible investigation or inquiry.”
- “The case manager shall attempt to discuss the issue with the offender (victim) prior to developing a response to confirm if the alleged victim agrees to have the request filed on his behalf.”
- “If the offender declines to have the request process on his behalf, the case manager shall document the offender’s decision in the discussion section of the informal resolution request form and the complaint shall be considered withdrawn for grievance purposes.”
- “If the offender agrees to have the request processed on his behalf, it will then be documented in the discussion section of the informal resolution request and will be processed normally in accordance with this procedure.”

### **Emergency Informal Resolution Requests**

- “Allegations of offender sexual abuse by employees shall immediately be reported to the CAO or designee for possible investigation or inquiry.”
- “If the staff member who processes the informal resolution requests determines that it meets the definition of a PREA emergency complaint, the offender will be provided an informal resolution request form.”
- “Emergency informal resolution requests will be processed as follows:
  - The offender will request an informal resolution request form from case management staff members and briefly state the issues and subject of complaint in accordance with this procedure.
  - When a staff member receives the completed informal resolution request form from the offender, the staff member will record receipt of the form in accordance with this procedure and it will be taken to the CAO or designee immediately.
  - Upon receipt of an informal resolution request from an offender, the CAO or designee may confer with the PREA site coordinator to make the determination if the informal resolution request should be handled as an emergency.

- The CAO or designee will prepare an initial response which will be attached to the informal resolution request and provided to the offender within 48 hours of receipt of the initial filing date. The offender will sign and date the response.
- A final response from the CAO or designee will be provided to the offender within 5 calendar days from the initial filing date. The offender will sign and date the form.
- The initial and final response for the informal resolution request shall document the department’s determination whether the offender is in substantial risk of imminent sexual abuse and the action taken in response to the emergency informal resolution request.
- If the offender is unsatisfied with the final response for the informal resolution request and chooses to file a grievance, an offender grievance form will be provided. The grievance or grievance appeal will then be processed as a non-emergency PREA complaint as noted in this procedure.”

Policy D1-8.13 Offender Sexual Abuse and Harassment, Page 13 - 14, states “The department shall not require an offender to use any informal grievance or complaint process, or to otherwise attempt to resolve with staff members, an alleged incident of sexual abuse...nor impose a time limit”

Policy D1-8.9 Crime Tips and PREA Hotlines, page 4, Section III (A)(1a) states “The hotlines will not be utilized for complaints, grievances or other unrelated purposes.”

SOPDI-8.13 Offender Sexual Abuse and Harassment, page 14, addresses exhausting administrative remedies. It states, “The department shall not require an offender to use any informal grievance or complaint process, or to otherwise attempt to resolve with staff members, an alleged incident of sexual abuse. The department shall not impose a time limit on when an offender may submit a grievance or complaint regarding an allegation of sexual abuse. The department may apply otherwise applicable time limits to any portion of a grievance or complaint that does not allege an incident of sexual abuse in accordance with the department procedure regarding offender grievance, administrative inquiries, and investigation unit responsibilities and actions. The department shall ensure that an offender who alleges sexual abuse may submit a complaint to a staff member who is not the subject of the complaint and the grievance or complaint is not referred to a staff member who is the subject of the complaint. Staff members are to address grievances or complaints for allegations of sexual abuse and harassment in accordance with the department procedure regarding offender grievance, administrative inquiries, and investigation unit responsibilities and actions.”

Policy D5-3.2 Offender Grievance, page 6, Section III, (E)(2b)(1) states, “Upon approval of the division director or designee, a conduct violation may be issued for threats. This conduct violation will not be viewed as retaliation reprisal.” Also on page 6, Section III (E)(4a)(1) it states, “When there is evidence to support an unfounded allegation, the CAO or designee will issue a conduct violation and the CAO or designee will issue a letter of limited filing status.”

**115.52(d)** WERDCC provided a Grievance Tracking Log which tracks the month the grievance was filed, the type of grievance, the name of the offender, date received, 70 day extension, date completed, calendar days, declined 3<sup>rd</sup> party assistance, alleged substantial risk of imminent sexual abuse, move forward with PREA Emergency IRR, Emergency Initial Response within 48 hours, Emergency Final Response within 5 days, and disciplinary action taken against offender for filing grievance in bad faith. This log had one grievance listed dated 2014.

**115.52(e)** WERDCC reports they have had no third party grievances filed within the past year.

**115.52(f)** WERDCC reports they have had no emergency grievances filed pursuant to this standard.

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

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

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

inform inmates prior to given them access to outside supports, the extent to which such communications will be monitored. WERDCC maintains a MOU with Audrain County Crises Interventions Services (ACCIS) to provide advocates.

**115.53(a)(b)** SOP version D1-8.13 Offender Sexual Abuse and Harassment, pages 20 -21 covers the procedure during the initial assessment with mental health when there is an allegation of sexual abuse and harassment. It states, “During the initial assessment, mental health treatment interventions will be discussed with the victim by QMHP and will include options such as individual and/or group therapy. The QMHP will explain and offer advocacy services to the alleged victim offender. Advocacy will not be offered for allegations of sexual harassment. The QMHP will document the offender’s acceptance or refusal of advocacy services in the electronic medical record. If the offender refuses advocacy services the QMHP will have the victim sign the refusal or treatment/no show form. A copy of the refusal of treatment form will be forwarded to the PREA site coordinator to be placed in the PREA event file. If the offender requests an advocate, the QMHP will notify the site advocacy liaison. QMHP will notify the PREA site coordinator in writing or email when victim requests an advocate. PREA site coordinator will subsequently notify the investigative staff of victim’s request for advocate. When the victim is out counted to MOSAIC Life Care for a SANE exam the hospital will contact the YWCA for advocacy services. When advocacy hours provided by the YWCA have been exhausted, the PREA site coordinator will notify the chaplain of the victim’s request for an advocate. Institutional chaplain will meet with the victim and document the meeting, forwarding this documentation to the PREA site coordinator to be placed in the PREA event file.”

Auditor reviewed the Notice to Offenders Assigned to Administrative Segregation Reporting Allegations of Sexual Harassment. This notice outlined how inmates in Administrative Segregation can still have access to outside emotional support services. Inmates in WERDCC’s Administrative Segregation can contact the Missouri Department of Public Safety. They are given the address and are instructed they do not have to place their return address on the envelope.

It was noted throughout the tour that offender advocacy posters were not posted throughout the facility. Once this was brought to the administration’s attention they were quick correct this missing information. At the completion of the onsite portion of this audit, advocacy posters were in every living unit and any place that inmates gathered.

It should also be noted that the advocacy posters also state, “Be aware: Per department policy, mail will be subject to examination and phone call may be monitored.”

Interviews with inmates resulted in mixed responses in when it came to the discussing availability of advocates. Most stated they knew they were available but was unsure how to access them if needed.

**RECOMMENDATION:** Have the Case Managers re-educate inmates when they meet with them; just as staff need PREA refreshers so do inmates. Have them do a brief PREA refresher that covers reporting and advocacy availability.

**115.53(c)** Auditor reviewed the MOU with ACCIS. This MOU is ongoing and may be terminated by either party, with or without cause, by submitting a thirty (30) days written notice. This MOU was signed in November 2013 and outlines the confidentiality exceptions.

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

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

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

WERDCC provides a method to receive third party reports of inmate sexual abuse or sexual harassment. Family members can make report via information found on MDOC website. They can either email or make a phone call.

**115.54(a)** Policy SOPD1-8.13 Offender Sexual Abuse and Harassment, Section III (D)(2), page 14 states, “All allegation including anonymous, third party, verbal, or allegations made in writing shall be accepted and moved forward in accordance with the offender sexual

abuse coordinated response outlines in this procedure.”

Auditor verified that reporting information is on the MDOC website. The URL is <http://doc.mo.doc/OD/PREA.php>. This site has an email address and a phone number available to the public.

### Standard 115.61 Staff and agency reporting duties

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

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

WERDCC requires all staff to report immediately any knowledge or suspicion of any incident of sexual abuse or sexual harassment. This is also in their policy.

**115.61(a)(b)** Policy D1-8.13 Offender Sexual Abuse and Harassment, page 7, “The CAO or designee shall control the dissemination of sensitive information related to offender sexual abuse to ensure the offender is not exploited by staff members or other offenders. Failure to report offender sexual abuse is a class A misdemeanor. All staff members, volunteers, and contractors shall immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility and any knowledge of retaliation against offenders or staff members who reported such an incident and any staff member neglect or violation of responsibilities that may have contributed to an incident or retaliation in accordance with this procedure. Medical and mental health staff members shall inform offenders of the practitioner’s duty to report at the initiation of services. Staff members are prohibited from revealing any information related to an allegation of offender sexual abuse or harassment other than to the extent necessary to make treatment, investigation, and other security and management decisions.”

Policy D2-11.10, Staff Member Conduct, not only states that staff members must obey all laws but on page 7, Section III, (D1&2) states, “Staff members having knowledge of any instances of offender or resident abuse or sexual contact with an offender or resident shall immediately report such to the inspector general in accordance with the department procedures regarding offender physical abuse and offender sexual abuse and harassment. Staff members must immediately report any misconduct through the appropriate chain of command. If there is reason to believe that any staff member in the chain of command may be involved in the alleged misconduct, the staff member should report the matter to the next higher level of management in the department.

WRDCC requires all staff to report immediately any knowledge or suspicion of any incident of sexual abuse or sexual harassment. This is also in their policy.

Staff members interviewed reported they have a duty to report. They also reported they could be fired and charged with a crime if they do not report knowledge of sexual abuse and sexual harassment.

**115.61(c)** Policy D1-8.13 Offender Sexual Abuse and Harassment reads, “Medical and mental health staff members shall inform offenders of the practitioner’s duty to report at the initiation of services.”

During the past 12 months WERDCC has not had instances requiring medical and mental health reporting.

**115.61(d)** Policy IS11-32 Receiving Screening Intake Unit, page 5 addresses procedure if the alleged victim is under the age 18 or considered to be a vulnerable adult. The policy states, “Health services staff members shall obtain informed consent from offenders in accordance with institutional services regarding informed consent before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the offender is under the age of 18. If the offender is under the age of 18, a health service staff member shall report the allegation to the designated local Children’s Division, Department of Social Services under applicable mandatory reporting laws.”

Auditor also reviewed Missouri Revised Statutes, Chapter 217, Department of Corrections, Section 217.410. 1 which states, “When any employee of the department has reasonable cause to believe that an offender in a correctional center operated or funded by the department

has been abused, he shall immediately report it in writing to the director.”

Missouri Revised Statutes, Chapter 630, Department of Mental Health, Section 630.005.1, defines a vulnerable person as “any person in the custody, care, or control of the department that is receiving services from an operated, funded, licensed, or certified program.”

Missouri Revised Statutes, Chapter 630, Department of Mental Health, Section 630.163.1, defines mandatory reporting requirements as “Any person having reasonable cause to suspect that a vulnerable person presents a likelihood of suffering serious physical harm or is the victim of abuse or neglect shall report such information to the department. Reports of vulnerable person abuse received by the departments of health and senior services and social services shall be forwarded to the department.”

**115.61(e)** SOPD1-8.13, Offender Sexual Abuse and Harassment,” pages 16 and 17 states, “All allegations of offender sexual abuse and/or harassment, including third party and anonymous reports, shall immediately be forwarded to the shift supervisor to initiate the coordinated response utilizing the applicable PREA allegation notification penetration/non-penetration event checklist. The coordinated response will be completed and distributed as outlined in the Coordinated Response Completion Guide (SOP Reference E) as well as the Coordinated Response to Offender Sexual Abuse (Institutions) protocol (SOP Reference F). Offender/staff interpreters for non-English speaking victims/perpetrators can only be utilized in an exigent circumstance when the event is first reported until and outside interpreter can be arranged.” WERDCC also provided a copy of their PREA Coordinated Response to Offender Sexual Abuse.

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

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

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

WERDCC acts immediately if they learn that an inmate is subject to a substantial risk of imminent sexual abuse. In the past twelve months there have been no inmates that have been reported to be subject to substantial risk of imminent sexual abuse.

**115.62(a)** SOPD1-8.13, Offender Sexual Abuse and Harassment, page 18, under Segregated Housing in Institutional Setting states, “If the assessment is due to an offender being viewed as being in substantial risk of victimization in the absence of an allegation of offender sexual abuse, and temporary administrative segregation confinement (TASC) is recommended to ensure the offender’s safety, the shift commander shall note the PREA risk on the TASC order and the offender shall be placed in segregated housing in accordance with institutional services procedures regarding segregation units.”

Administrative staff stated that the expectation for all staff is to act immediately if they become aware of an offender being in imminent danger of sexual abuse. This involves beginning the facility’s coordinate response and separate the victim from the alleged perpetrator. The warden also stressed staff are use the least restrictive housing available to secure the victim. The facility’s goal is to keep the victim separate from their reported abuser.

Random staff reported that if such an incident would occur they would immediately secure the alleged victim for safety purposes and contact their supervisor.

WERDCC reports there have been no incidents in the past 12 months where the facility determined that an inmate was subject to a substantial risk of imminent sexual abuse.

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

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

- Does Not Meet Standard (requires corrective action)

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

WERDCC has a policy requiring that, upon receiving an allegation that an inmate was sexually abused while confined at another facility that the Warden must notify the head of the facility where the sexual abuse is alleged to have occurred. Notification is to be made as soon as possible but no later than 72 hours after receiving the allegation.

They also have a policy that states that allegations received from other facilities are investigated in accordance with PREA standards.

**116.63(a)(b)(c)(d)** SOPD1-8.13 Offender Sexual Abuse and Harassment, page 17 states, "Upon receiving information that an offender has been sexually abused while assigned at another facility the coordinated response for offender sexual abuse will be immediately initiated as outlined in this procedure. If the alleged abuse occurred at a facility outside the Missouri Department of Corrections, the notification checklist will be forwarded to the department's PREA coordinator. The PREA coordinator will ensure notification to the facility is made within 72 hours. A coordinated response will be initiated as outlined in this procedure for all allegations of offender sexual abuse that are received from facilities outside the Missouri Department of Corrections."

WERDCC reported that in the last twelve months they have not received any reports from incoming or current inmates that abuse occurred at another facility.

WERDCC reported that in the last twelve months they have received no reports from other agencies regarding sexual abuse reported to have happened at their facility.

Interview with facility administration revealed that any notification WERDCC receives is sent to the site coordinator when then sends information to the Inspector General. Administration advises that the Inspector General will make the determination if an investigation will be opened.

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

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

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

WERDCC has a Coordinator Response in policy that outlines the duties of a first responder. This coordinated response has all four components listed in this standard. WERDCC reported they had 36 allegations reported where security staff members responded to reported allegations where they victim and perpetrator had to be separated and evidence was collected. They also advised they had zero allegations reported where a non-security staff was the first responder and secured potential evidence on the victim.

**115.64(a)** Auditor reviewed WERDCC's Coordinated Response that is a part of policy D1-8.13 Offender Sexual Abuse and Harassment located on page 17. This part of the policy states, "Staff member first responder shall:

- Ensure the safety of the victim.
- Request the victim not to take any actions that may destroy physical evidence including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, when applicable.
- Make immediate notification to the shift commander or shift supervisor.
  - In the event of an allegation of a penetration act, the shift commander or shift supervisor shall make telephone notifications and respond as outlined in the divisions' coordinated response to offender sexual abuse protocol.
  - In the event of a non-penetration or harassment event the shift commander or shift supervisor shall make email

notifications as outlined in the applicable PREA notification checklist protocol.

- Shift supervisors will copy the email notification with the PREA checklist attachment to necessary WRDCC mental health staff. Shift supervisors will complete and forward (via email and hard copy) the Referral and Screening Note-Health Services form to the mental health staff.”

Auditor reviewed the lesson plan for PREA Basic Training, pages 21 –23 covers first responder responsibilities. It breaks down the First Responder responsibilities by type of event. The three events covered include: allegation of penetration that has happened within 72 hours, all other penetrations and allegations of non-penetration events.

Auditor reviewed three documented examples of a coordinated response. This included reviewing notifications made by security staff. Each notification included date and time of incident, location of incident, name and custody information of victim as well as the alleged perpetrator. Notifications also included a description of the event, date and time of persons to be notified and recommendation for housing placement. If a forensic exam was required, location of the examination as well as date and time victim was sent out and then returned to the facility.

Staff all stated that as a first responder their responsibility is to separate the victim from the abuser, allow neither one of them to shower, get a drink or change clothes. They stated they would then call their supervisor who, in turn, contacts the investigators. Staff would also secure the scene and would not allow anyone to enter until the investigators arrived and took control.

**115.64(b)** All staff are considered to be first responders and are to follow the coordinated response found in D1-8.13 Offender Sexual Abuse and Harassment.

When talking with volunteers and contractors, they stated if they were the first to respond to a sexual abuse allegation they would keep the victim safe and notify staff immediately.

### Standard 115.65 Coordinated response

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

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

WERDCC has developed a coordinated response to all sexual abuse incidents.

**115.65(a)** The coordinated response to offender sexual abuse covers the following topics:

- Role and Responsibilities of Shift Commander, Site PREA Coordinator, First Responder, Mental Health, and Medical
- Exceptions to the protocol

SOPD1-8.13 Offender Sexual Abuse and Harassment includes a section on coordinated response on pages 16 and 17. It states, “CAO or designee shall coordinate actions taken by first responders, medical, mental health, investigators, and administrators in response to all allegations of offender sexual abuse and harassment as outlined in the divisions’ coordinated response to offender sexual abuse protocol. All allegations of offender sexual abuse and/or harassment, including third party and anonymous reports, shall immediately be forwarded to the shift supervisor to initiate the coordinated response utilizing the applicable PREA allegation notification penetration/non-penetration event checklist. The coordinated response will be completed and distributed as outlined in the Coordinated Response Completion Guide (SOP Reference E) as well as the Coordinated Response to Offender Sexual Abuse (Institutions) protocol (SOP Reference F). Offender/staff interpreters for non-English speaking victims/perpetrators can only be utilized in an exigent circumstance when the event is first reported until an outside interpreter can be arranged. If the allegation is reported directly to a facility administrator the administrator can initiate the coordinated response to ensure confidentiality utilizing the notification checklist.

Staff member first responder shall:

- Ensure the safety of the victim.
- Request the victim not to take any actions that may destroy physical evidence including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, when applicable.
- Make immediate notification to the shift commander or shift supervisor.
  - In the event of an allegation of a penetration act, the shift commander or shift supervisor shall make telephone notifications and respond as outlined in the divisions' coordinated response to offender sexual abuse protocol.
  - In the event of a non-penetration or harassment event the shift commander or shift supervisor shall make email notifications as outlined in the applicable PREA notification checklist protocol.
  - Shift supervisors will copy the email notification with the PREA checklist attachment to necessary WRDCC mental health staff. Shift supervisors will complete and forward (via email and hard copy) the Referral and Screening Note-Health Services form to the mental health staff.
- Upon receiving information that an offender has been sexually abused while assigned at another facility the coordinated response for offender sexual abuse will be immediately initiated as outlined in this procedure. If the alleged abuse occurred at a facility outside the Missouri Department of Corrections, the notification checklist will be forwarded to the department's PREA coordinator. The PREA coordinator will ensure notification to the facility is made with 72 hours.
- A coordinated response will be initiated as outlined in this procedure for all allegations of offender sexual abuse that are received from facilities outside the Missouri Department of Corrections."

Administrative staff articulated all of the components of the facility's coordinated response to sexual abuse and harassment. The expectation outlined by the administration is that every employee should be knowledgeable of the coordinated response and execute the response when needed.

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

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

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

MDOC has a labor agreement with Missouri Corrections Officers Association that ends 9/30/2018.

**115.66(a)** Policy D2-11.6, Labor Organization, page 4 states, "Per the Prison Rape Elimination Act, the department shall not enter into or renew any collective bargaining agreements or other agreements that limit the department's ability to remove alleged staff sexual abusers from contact with any offender resident pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted."

On page 2, Article 2, Management Rights of Labor Agreement between the State of Missouri Office Administration, The Department of Corrections Division of Adult Institutions and Missouri Corrections Officers Association (MOCOA) states, "The right to hire, assign, reassign, transfer, promote and to determine hours of work and shifts and assign overtime."

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

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

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

WERDCC has policy in place to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigation from retaliation by other inmates or staff.

In the past twelve months there have been reports of retaliation.

**115.67(a)(b)(c)(d)** SOPD1-8.13 Offender Sexual Abuse and Harassment, pages 15 -16 outlines the protection from retaliation for inmates and staff in the following manner:

- Inmates:
  - The PREA site coordinator shall ensure all victims and reporters and those that cooperate with offender sexual abuse and harassment investigations or inquiries are monitored and protected from retaliation.
  - Immediately following any reported incident of sexual abuse or harassment, monitoring for retaliation shall be conducted in the following manner:
    - The alleged victim and reporter of offender sexual abuse or harassment shall be monitored for a minimum of 90 days to assess any potential risk or act of retaliation.
      - For offender victims and offender reporters, monitoring shall include face-to-face status checks by staff members a minimum of every 30 days.
      - The assessment/retaliation status check form shall be used during each of the assessment interviews.
      - If the victim or reporter expresses fear of retaliation, monitoring shall continue for an additional 90 day period or until the victim or reporter is no longer in fear of retaliation or if the investigation or inquiry is unfounded.
- Staff
  - The PREA site coordinator or designee shall monitor all staff reporters of offender sexual abuse or harassment for a minimum of 90 days. Monitoring shall include but is not limited to monitoring for changes that may indicate retaliation, negative performance reviews, or reassignments.
    - The assessment/retaliation status check form shall be used during each of the assessment interviews.
  - The PREA site coordinator or designee shall ensure all witnesses receive an initial assessment utilizing the assessment/retaliation status check form.
    - Witnesses who voice they have no concerns regarding potential retaliation shall not receive further monitoring.
    - The witness shall sign the assessment/retaliation status check form showing they have no concerns regarding potential retaliation.

This policy also states, “The PREA site coordinator shall report all evidence of retaliation to the CAO to ensure an inquiry or investigation is initiated in accordance with department procedures. If possible retaliation is suggested, the PREA site coordinator shall act promptly to remedy any such retaliation and protect the individual. The PREA site coordinator shall ensure victims, reporters, and witnesses that report a fear of retaliation and/or possible victims of retaliation be offered emotional support services. Emotional services for offender victim, reporters, or witnesses include but are not limited to, case management or referral to mental health, chaplain, or advocacy when appropriate. Emotional services for staff reporters or witnesses included but are not limited to, employee assistance program, peer action and care team referral, and/or chaplain referral. All action taken to remedy retaliation or services offered victim or suspected victim shall be noted on the assessment/retaliation status check form. In the event that a victim, offender reporter, or a witness is transferred during a period of monitoring, the PREA site coordinator shall forward the assessment/retaliation status check form to the PREA site coordinator in the receiving institution. The PREA site coordinator at the receiving institution shall ensure monitoring continues as outlined in this procedure. The PREA site coordinator shall ensure the completed assessment/retaliation status check form is returned to the originating institution to be filed in the PREA incident file for future audits. If released to a community confinement facility monitoring will continue. If released to a field probation and parole office, monitoring will stop. In the event the allegations are determined to be unfounded the agency shall terminate monitoring.”

WERDCC provided an example of “Assessment/Retaliation Status Checklist” form; also provided example of monitoring for retaliation. These twelve monitoring examples show check-ins averaging once every 30 days. All examples reviewed indicated “no harassment or retaliation was reported.” It should also be noted that during the retaliation monitoring advocate services were offered to the offenders and

no offenders requested these services.

Auditor interviewed the grievance officer who is responsible for monitoring retaliation at WERDCC. She advises she asks the offender/victim if there has been in conflict. She also looks for any changes in behavior. She states she does a 30 – 60 – 90 days check in and will continue past that day if necessary.

Administration stated the grievance officer monitors for retaliation and that it is not tolerated. They reported that inmates who report allegations or cooperate with allegations are contacted to see if any types of retaliation from other inmates or staff is occurring. They want to let them know they take allegations seriously. Administration stated that contact should be made every 30 days for at least three months. If needed, monitoring can be extended beyond that time. Administration advised that this type of protection is also given to their employees, contractors and volunteers. It was stressed again that retaliation from anyone will not be tolerated.

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

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

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

WERDCC has policy that prohibits the placement of inmates who allege to have suffered sexual abuse in involuntary segregated housing unless an assessment of all available alternatives has been made. In the past twelve months, there have been no inmates placed in involuntary segregated housing.

**115.68(a)** SOPD1-8.13, Offender Sexual Abuse and Harassment, pages 17 and 18, under Segregated Housing in Institutional Setting states, "Following an allegation of offender sexual abuse or if an offender is assessed as being at high risk of victimization, the shift commander shall ensure the offender is housed in the least restrictive housing available to ensure safety. The assessment for least restrictive housing shall occur within 24 hours of the allegation or the offender being identified as at risk. Least restrictive options to ensure safety of the offender and the security of the institution include:

- Return to assigned housing.
- Temporary reassignment of staff members.
- Assignment to another housing unit.
- Temporary segregated housing for protective custody needs (segregated housing should not be considered as the first option to ensure safety of the victim).

The assessment shall consider the allegation or threat and the safety of the victim and institution. If the assessment is due to an alleged PREA event the shift commander shall note on the PREA allegation notification penetration/non-penetration event checklist of the recommended housing option. If temporary segregation is recommended, the shift commander shall note on the PREA notification checklist the reason no alternative means of housing separation can be arranged and the offender victim shall be placed in segregated housing in accordance with institutional services procedures regarding segregation units. The shift commander shall ensure the alleged victims and perpetrators are separated by sight and sound while housed in a segregation unit. Offenders who are victims and/or perpetrators in an alleged PREA event will be kept out of sight and sound from each other and be placed in separate wings. If the assessment is due to an offender being viewed as being in substantial risk of victimization in the absence of an allegation of offender sexual abuse, and temporary administrative segregation confinement (TASC) is recommended to ensure the offender's safety, the shift commander shall note the PREA risk on the TASC order and the offender shall be placed in segregated housing in accordance with institutional services procedures regarding segregation units. The PREA site coordinator shall review all PREA notification checklists the following business day to ensure appropriate housing placement. Assignment to involuntary segregation housing shall not ordinarily exceed a period of 30 days. Every 30 days, the offender shall be afforded a review to determine whether there is a continuing need for separation from the general population in accordance with institutional services procedures regarding segregation units and protective custody."

Staff stated that anyone placed in segregated housing will still have access to programming as much as possible. If they are placed in

segregated housing they have their first classification hearing within 7 days of placement.

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

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

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

The Inspector General conducts all criminal case at WERDCC. Administrative agency investigations are also conducted at WERDCC.

**115.71(a)** Policy D1-8.1 Investigation Unit Responsibilities/Actions, page 5, Section III (A) (2) (3) states, "The department maintains a zero tolerance policy against offender abuse and offender sexual abuse. The PREA also prohibits sexual misconduct by staff members against an offender and offender against an offender. All such allegations will be thoroughly reviewed for potential investigation. The investigation unit, under the jurisdiction of the inspector general's office, is the investigative unit of the department. This unit conducts investigations in response to reports of violations of Missouri state law and serious violations of department procedure at all facilities throughout the state. The unit works closely with federal, state and local law enforcement agencies and the other divisions within the department to ensure criminal violators are prosecuted. The department may pursue prosecution of any staff member or offender who violates state law."

Page 7 of this same policy states, "The facility shall report all allegations of sexual abuse, including third-party and anonymous reports, in accordance with the department procedure addressing offender sexual abuse and harassment."

Page 10 of this same policy, Section H, outlines the investigators responsibilities. The policy states, "All investigators shall aid and assist in investigations as directed, and to the limit permitted, by the responsible law enforcement agency and the inspector general or designee. Investigators may be assigned outside their normally assigned region to assist in statewide investigations. Investigators shall conduct investigations into all allegations assigned for investigation promptly, thoroughly, and objectively. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical, DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of behavior involving the alleged victim and suspected perpetrator. Medical records or information related to offender sexual assaults and uses of force may be obtained from facility medical practitioners without authorization from central office. The credibility of a victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as an offender or employee. Investigations shall be documented in a written report that contains a thorough description of physical, testimonial and documentary evidence and attach copies of all documentary evidence where feasible. Administrative investigations shall include an effort to determine whether staff member actions or failures to act, contributed to the behaviors being alleged. The departure of the alleged abuser or victim from employment or control of the department shall not provide a basis for terminating the investigation. When an investigation reveals probable cause that an offender or staff member has committed, or is suspected of committing, an act in violation of local, state or federal law, the investigator conducting the investigation shall note in the investigative report that the case will be forwarded for prosecution consideration, and submit a request for prosecution packet. The prosecution packet will include at a minimum: the investigation report written by the investigator, a probable cause statement completed by the investigator that conducted the investigation, all relevant documentation associated with the investigation, and other information deemed necessary by the prosecuting attorney's office having proper jurisdiction...CAOs shall impose no standard higher than a preponderance of the evidence in determining whether allegations of offender sexual abuse are substantiated."

**115.71(b)** Auditor reviewed the training roster from "PREA Specialized Investigator Training" dated January 1, 2013 through September 20, 2014. The roster showed that 56 investigators statewide received this training during that time frame.

**115.71(c)** Policy D1-8.1 Investigation Unit Responsibilities/Actions states, "All investigators shall aid and assist in investigations as directed, and to the limit permitted, by the responsible law enforcement agency and the inspector general or designee. Investigators may be assigned outside their normally assigned region to assist in statewide investigations. Investigators shall conduct investigations into all allegations assigned for investigation promptly, thoroughly, and objectively. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical, DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of behavior involving the alleged victim

and suspected perpetrator. Medical records or information related to offender sexual assaults and uses of force may be obtained from facility medical practitioners without authorization from central office.”

In the past 12 months there have been no investigations involving a SANE exam other evidence at WERDCC.

**115.71(d)** Policy D1-8.1 Investigation Unit Responsibilities/Actions states, “When an investigation reveals probable cause that an offender or staff member has committed, or is suspected of committing, an act in violation of local, state or federal law, the investigator conducting the investigation shall note in the investigative report that the case will be forwarded for prosecution consideration, and submit a request for prosecution packet. The prosecution packet will include at a minimum: the investigation report written by the investigator, a probable cause statement completed by the investigator that conducted the investigation, all relevant documentation associated with the investigation, and other information deemed necessary by the prosecuting attorney’s office having proper jurisdiction...CAOs shall impose no standard higher than a preponderance of the evidence in determining whether allegations of offender sexual abuse are substantiated.”

WERDCC provided two examples of cases referred for prosecution; however, charges were not filed by the prosecution.

**115.71(e)** Policy D1-8.1 Investigation Unit Responsibilities/Actions states, “The credibility of a victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person’s status as an offender or employee.”

**115.71(f)** Policy D1-8.4 Administrative Inquiries, page 5, Section III, (A) states, “Any staff member having direct or indirect knowledge of a potential category I or IV behavior shall immediately notify the CAO by submitting a report of incident, or memorandum, through the chain of command. A copy of all reports of harassment, sexual misconduct, discrimination, or retaliation should be sent to the employee relations supervisor. Staff members must fully cooperate with all administrative inquiries and must fully and truthfully relate their knowledge of all facts pertaining to the alleged behavior under review. Staff members who are the subject of a criminal investigation are not required to provide incriminating information about their own misconduct. However, in all other cases, staff members must fully cooperate with any investigation or administrative inquiry and truthfully relate their knowledge of all facts.”

Pages 5 and 6 of this same policy discuss when an administrative inquiry may be conducted. This policy states, “An administrative inquiry may be conducted when a staff member may have been engaged in category I behaviors, or an offender may have been engaged in category IV behaviors. When the CAO receives information that a staff member may have been engaged in category I behavior, the CAO shall review the information and determine the appropriate course of action... The offender sexual abuse coordinated response will be initiated on all allegations of offender sexual abuse or harassment, including anonymous and third party allegations, in accordance with the department’s procedure regarding offender sexual abuse and harassment. Based on the circumstances of the allegation, the CAO may immediately remove or reassign the staff member from having contact with the offender pending the outcome of an investigation, or the determination of whether and to what extent discipline is warranted, or if there is reason to believe the offender is being retaliated against by the staff member.”

Administrative staff report all administrative cases are assigned by the Warden. Administration advised that requests for investigations are referred to the inspector general’s office and they in turn make the determination if an investigation is going to be opened

Auditor reviewed one administrative investigation: one case of substantiated inmate on inmate sexual harassment. This investigation was well written and thorough. It included interviews with the victim and alleged perpetrator as well as witnesses. This investigation was concluded within 45 days of the date the report was received.

**115.71(g)** Policy D1-8.1 Investigation Unit Responsibilities/Actions states, “Investigations shall be documented in a written report that contains a thorough description of physical, testimonial and documentary evidence and attach copies of all documentary evidence where feasible.”

**115.71(h)** WERDCC provided two examples of cases referred for prosecution; however, charges were not filed by the prosecution.

**115.71(i)** Auditor reviewed the Agency Records Disposition Schedule and found that records are retained for 50 years.

**115.71(j)** WERDCC reported no staff has resigned in the past twelve months as a result of an investigation of a sexual abuse or sexual harassment of an inmate.

**NOTE:** Investigative staff state they have received specialized PREA training and were able to explain what they covered in training including the discussion of DNA collection, Miranda, Garrity and interviewing victims. Investigative staff stated that all investigations are written in report form. They interview victims, alleged perpetrators, witnesses as well as review any video surveillance that is available. Staff also stated that they look at the totality of the investigation before making a determination. They do not look solely on the credibility of the victim. Investigations are not terminated until all facts and evidence is gathered. Staff stated they do not terminate an investigation when the alleged perpetrator leaves the facility. (This includes staff.)

### Standard 115.72 Evidentiary standard for administrative investigations

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

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

WERDCC imposes no higher standard of a preponderance of the evidence or a lower standard of proof when determining whether allegations of sexual abuse or sexual harassment are substantiated.

**115.72(a)** Policy D1-8.4 Administrative Inquiries, page 8, Section III (C) (9) states, "No higher standard than a preponderance of evidence in determining whether allegations of sexual abuse are substantiated."

WERDCC also provided examples for this auditor to review. Auditor reviewed two cases of substantiated allegations of inmate on inmate sexual harassment. Both reports were well written and thorough. They included interviews with the victim, alleged perpetrator and witnesses. In one report, the investigator interviewed an inmate that was no longer at WRDCC. Both cases were closed within 35 days of being opened.

Investigative staff stated they do not impose a higher standard of a preponderance of the evidence. They reported they take their investigations seriously and that sexual abuse and harassment is not tolerated.

### Standard 115.73 Reporting to inmates

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

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

WERDCC has a policy requiring that any inmate who makes an allegation that he suffered sexual abuse is informed, verbally or in writing, as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation.

The Inspector General's office conducts all criminal investigations and WERDCC conducts administrative investigations.

**115.73(a)(c)(d)(e)** Policy D1-8.13, Offender Sexual Abuse and Harassment, Reporting Outcomes, pages 23 and 24 states, "Upon the completion of a PREA investigation or inquiry regarding offender sexual abuse, the department's PREA coordinator shall make written notifications to the alleged victim regarding the outcome of the investigation or inquiry utilizing the applicable alleged sexual abuse by offender notification or the alleged sexual abuse by staff notification form. Notification shall not be made to the offender following an investigation or inquiry regarding sexual harassment. The initial notification shall state whether the allegation was substantiated, unsubstantiated, or unfounded.

In the event that the investigation was conducted by an outside agency, the office of the inspector general shall request relevant information from the outside agency in order to inform the offender of the outcome of the investigation. All subsequent notifications shall be made when: Staff member on offender allegations: following the completion of an inquiry or investigation, the offender shall be notified when PREA Audit Report

the following occurs unless the inquiry or investigation is unfounded:

- (1) Staff perpetrator is no longer assigned to the housing unit.
- (2) Staff perpetrator is no longer employed at the institution or department.
- (3) The staff perpetrator has been indicted on a charge related to sexual abuse within the institution.
- (4) A disposition of charges exists related to sexual abuse within the institution.

Offender on offender allegations: following the completion of an inquiry or investigation, the offender shall be notified when the following occurs.

- (1) The offender has been indicted on a charge related to sexual abuse within the institution.
- (2) A disposition of charges exists related to sexual abuse within the institution.

The departmental PREA coordinator shall forward the written notification to the offender via the PREA site coordinator. The PREA site coordinator shall ensure that the written notification is provided to the offender. If the investigation or inquiry involved offender-on-offender sexual abuse or harassment that was substantiated or unsubstantiated, written notification shall be delivered to the offender victim in a confidential manner. The offender shall be offered the notification letter but shall have the right to decline the letter. The original notification shall be signed by the offender or resident and witnessed by a staff member. The original notification shall be forwarded to the department's PREA coordinator for tracking. A copy of the notification shall be provided to the offender. The date the notification letter is delivered to the offender shall be documented in the chronological section of the offender's classification file. In the event the offender is no longer housed in an institution, community release center, or community supervision center the duty to report ends."

Administrative staff reported that it is in policy that all offender victims are notified of the outcomes of their PREA cases. Investigative staff reported that notifications are made and also reported that this is part of policy.

In the past 12 months, 36 criminal and/or administrative investigations of alleged inmate sexual abuse were completed by WERDCC and investigators.

The inmate who reported sexual abuse who was selected to be interviewed declined to participate in this part of the audit process.

**115.73(b)** N/A WERDCC is responsible for conducting administrative investigations and the Inspector General's Office has investigators inside the facility to conduct criminal investigations of alleged sexual abuse and sexual harassment.

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

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

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

WERDCC has procedures in place to discipline staff for violating agency sexual abuse and sexual harassment policies. In the past 12 months, there has been no staff disciplined under this policy.

**115.76(a)(c)(d)** Policy D2-11.10 Staff Misconduct, page 4, Section III (A) (14) states, "In order to pursue organizational excellence staff members are expected to adhere to the following professional principles and conduct...report inappropriate actions, misconduct, offender or resident abuse, and sexual contact by staff members and offenders or residents to appropriate personnel."

Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (N), page 27 states, "Staff members shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse and sexual harassment procedures. Termination from the department shall be the presumptive disciplinary action for staff members who have engaged in sexual abuse. All terminations for violations or the resignation of a staff member, who would have been terminated if not for their resignation, shall be reported to relevant licensing or accreditation bodies and law enforcement."

**115.76(b)** WERDCC reports that no staff has been disciplined or terminated in the past twelve months. Auditor reviewed a statewide log that shows staff member, contractors and volunteers that have been disciplined for sexual abuse. The log lists five names from 2014 and none were assigned to WERDCC.

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

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

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

WERDCC requires that any contractor or volunteer who engages in sexual abuse be reported to law enforcement, unless the activity was clearly not criminal, and to any relevant licensing bodies.

In the past 12 months, there have been no contractors or volunteers engage in sexual abuse of inmates.

**115.77(a)(b)** Policy D1-8.13 Offender Sexual Abuse and Harassment (Page 27 of SOP version) states, “Corrective action for contractors and volunteers: Contractors or volunteers who engage in sexual abuse shall be prohibited from contact with offenders and shall be reported to relevant licensing bodies and law enforcement. The CAO or designee of the department facility or contracted facility shall take appropriate measures and shall consider whether to prohibit further contact with offenders in the case of any other violations.”

Policy D2-13.1 Volunteers, page 11 -13, Section III (G) states, “All volunteers will be familiar with and adhere to the standards for professionalism, conduct, and job performance in accordance with the department policy and procedures regarding employee standards and staff member conduct. All offender sexual abuse and harassment allegations that occur in a department facility involving a volunteer will be referred for investigation. Volunteers may be subject to disciplinary action and/or termination. When disciplinary action is recommended, the volunteer supervisor shall submit documentation to the volunteer site coordinator outlining the reasons for such actions. The volunteer site coordinator shall provide the CAO with the recommendation and documentation. If the volunteer is a multi-location volunteer, the volunteer site coordinator requesting the disciplinary action shall provide a copy of the documentation to the volunteer site coordinator at the home base location and/or all other additional locations. If the CAO concurs, and the discipline requires suspension, the volunteer will be suspended and notified in writing within 5 working days that he is suspended and that the recommendation for disciplinary action is being sent to the volunteer services coordinator. The CAO shall forward a recommendation for disciplinary action to the supervisor of department volunteer services with all pertinent documentation. The volunteer services coordinator shall determine what, if any, disciplinary sanctions are warranted. Within 10 working days of receipt of the recommendation, the supervisor of department volunteer services shall provide written notice of discipline sanctions to the volunteer, CAO, volunteer site coordinator, and volunteer supervisor at all locations where the volunteer was approved to provide services...”

WERDCC provided an example of an investigation of allegation made against medical personnel. The result of the investigation resulted in an unfounded disposition. At the conclusion of the investigation it was determined that the inmate’s mental health diagnosis contributed to her making an unfounded allegation.

Administrative staff stated that all contractors and volunteers are subject to the same polices as regular employees when it comes PREA. Staff stated volunteer and contractors are expected to abide by the zero-tolerance culture of the facility. They reported they would be barred until the investigation is complete. If they it is found to be substantiated, they would be terminated and not allowed back in the facility.

Auditor reviewed one investigation against a volunteer. The result of that investigation was unfounded.

**Standard 115.78 Disciplinary sanctions for inmates**

- Exceeds Standard (substantially exceeds requirement of standard)

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

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

At WERDCC 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. The facility will offer therapy, counseling or other interventions to interrupt that type of behavior. If an inmate makes a report in good faith, there will no disciplinary action.

**115.78(a)(b)(c)(d)(e)(f)(g)** SOP D1-8.13 Offender Sexual Abuse and Harassment, Section III (M), pages 26 and 27 state, "Offenders shall be subject to disciplinary sanctions or violations pursuant to a formal disciplinary process following an administrative finding or a criminal finding of guilt when the offender engaged in offender on offender sexual abuse in accordance with divisional and institutional services procedures regarding conduct violations and disciplinary sanctions. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the offender's disciplinary history, and the sanctions imposed for comparable offenses by other offenders with similar histories in accordance with divisional and institutional services procedures regarding conduct violations and disciplinary sanctions. The disciplinary process shall consider whether an offender's mental disabilities or mental illness contributed to his behavior when determining what type of sanction, if any, shall be imposed in accordance with divisional and institutional services procedures regarding conduct violations and disciplinary sanctions. The mental health notification memo (SOP Reference H) will be completed and forwarded to mental health staff for completion prior to concluding the disciplinary hearing. If found guilty of sexual abuse, the offender shall be referred to appropriate treatment (therapy, counseling) by mental health staff member, as available, in accordance with divisional and institutional services procedures regarding conduct violations and disciplinary sanctions. An offender who has sexual contact with a staff member may only be disciplined if the staff member did not consent to the contact in accordance with divisional and institutional services procedures regarding conduct violations and disciplinary sanctions. The department prohibits all sexual activity between offenders. Consensual sexual activity between offenders will not be deemed sexual abuse and shall be addressed in accordance with divisional and institutional services procedures regarding conduct violations and disciplinary sanctions."

Policy IS&SOP 19-1.1 Conduct Rules and Sanctions, Section II (Definitions) pages 2 and 3 state, "If the rule violation is a major violation, is serious in nature, threatens the safety and security of the institution, is for sexual misconduct, or involves the destruction of state or offender property the employee should immediately fill out a Conduct Violation Report (Attachment A) and not use an informal sanction." This policy also defines sexual activity as "Any sexual act; intentional touching, whether done by a foreign object or by physical human contact of a sexual part of another or of self, regardless of whether such touching is consensual, kissing, or fondling; or physical or verbal conduct of a sexual nature."

This policy also defines forcible sexual misconduct as "Using force, coercion or threats of force to obtain the compliance of another in any type of sexual activity." It defines sexual misconduct as "Engaging with another in any type of sexual activity; Engaging in the self-touching of one's sexual parts in view of others and inappropriately exposing one's sexual parts to others."

WERDCC provided a copy of a memo dated August 1, 2013 that was addressed to all Wardens and the subject was "PREA Protocols." The memo stated, "The date for full compliance with PREA standards is rapidly approaching. When fully implemented, our facilities will be better equipped to detect, prevent, and respond to incidents of offender sexual abuse and harassment. During our DAI Staff meeting yesterday, we discussed the PREA protocols that will move the department towards compliance with the PREA standards. While the procedure revisions are pending, we are implementing the PREA protocols, which were provided to you yesterday, as outlined below: To be implemented for PREA incidents that occur from this day forward: Segregated Housing for Protective Custody, Disciplinary Sanctions and Mental Health..."

WERDCC reported that they did not have any incidents where an offender was issued a conduct violation for sexual contact with staff after finding that the staff member did not consent to such contact.

WERDCC also provided three examples of violation reports of sexual misconduct and exposing genitalia.

Administrative staff report that inmates are not punished for making a PREA allegation especially if it is made in good faith. Staff reported that this is in policy.

After visiting with mental health staff, it was reported do not get the mental health referral until have an inmate is found guilty of sexual misconduct. They also advised there are no consequences if the inmate chooses not to participate in services.

**116.78(c)** Auditor reviewed the Disciplinary Sanction Sheet that outlined the disciplinary process for forcible sexual abuse. This process outlines the responsibilities of the Adjustment Hearing Board as well as a Qualified Mental Health Professional. The process also states, “PREA mandates that the disciplinary process consider whether an offender’s mental disabilities or mental illness contributed to his/her behavior when determining what type of sanction, if any, shall be imposed. If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to require the offending offender to participate in such interventions as a condition of access to programming or other benefits. In this process it also states that an offender will not be issued a conduct violation for sexual misconduct involving a staff member unless the sexual activity is forced upon the staff member by the offender. In addition it states a report of offender 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 or the allegation is unfounded.”

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

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

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

Inmates housed at WERDCC are offered follow up meetings with medical or mental health professionals if they disclosed any prior sexual victimization. This is also offered to inmates who have previously perpetrated sexual abuse. Informed consent is obtained from inmates unless they are under the age of 18.

**115.81(a)(c)(d)** SOP DI-8.13 Offender Sexual Abuse and Harassment, page 10, Section III (C) (5) states, “If the screening indicates that an offender has experienced prior sexual victimization, whether it occurred in a correctional setting or in the community, staff members shall ensure that the offender is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening. If the screening indicates that an offender has previously perpetrated sexual abuse, whether it occurred in a correctional setting or in the community, staff members shall ensure that the offender is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening. Medical and mental health practitioners shall obtain informed consent from offenders before reporting information about prior sexual victimization that did not occur in an institutional setting.”

IS11-32 Receiving Screening – Intake Center, pages 4 -5, Section III (B) states, “If during the screening, the offender reports being sexually abused within the last 72 hours or if a forensic exam is deemed medically necessary, the coordinated response to offender sexual abuse will be initiated in accordance with departmental procedures regarding offender sexual abuse and harassment. If the screening indicates the offender has experienced prior sexual victimization and a forensic exam is not deemed medically necessary, the coordinated response protocol will not be initiated and the offender will be offered a follow-up meeting with a medical and/or mental health practitioner within 14 days of the intake screening. If the screening indicates the offender has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff members shall ensure that the offender is offered a follow-up meeting with a QMHP within 14 days of the intake screening. Health services staff members shall obtain informed consent from offenders in accordance with institutional services regarding informed consent before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the offender is under the age of 18.”

Auditor also reviewed the PREA Risk Assessment Manual --- many questions remind users that if marked “yes” they need to contact mental health. For example Question 1 of the Risk Assessment:

1. Have you ever been approached for sex/threatened with sexual abuse while incarcerated? (If the offender offers any information with regards to incident place information in the comments box, it is not necessary to get specific details. Determine if the incident was reported. Has the assailant been added t the victim’s enemy listing? Determine if the offender needs Protective Custody or a Mental Health Referral...”

Interviews with inmates stated they knew if they wanted mental health assistance due to a PREA allegation they can request it through their Functional Unit Managers (FUM's.) Inmates stated they have never been denied access to mental health at this facility however sometimes it takes a while to get in due to the number of inmates at WERDCC.

**115.81(b)** WERDCC also provided copies of the “WERDCC PREA Event Log” and “WERDCC PREA Log for Mental Health.” The PREA Event log had nine entries; seven from 2015 and two from 2016. This log tracks offender name, number, and date of PREA event. It also tracks the date the provider was notified as well as any hospital information. This log has provider referrals but not referrals to outside hospitals. The PREA log for Mental Health tracks the offender name, DOC number, date mental health was notified as well as the name of staff that was assigned.

**115.81(e)** Auditor also reviewed three examples of “Consent to Evaluate” from 2015. Two of the consents indicated that no advocate was requested while one requested an advocate.

Mental Health staff indicated they obtain informed consent from every inmate that comes through. They stated if the inmate is under the age of 18, they contact the Site Coordinator, who handles the youth and arranges for the youth’s transfer.

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

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

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

Inmate victims of sexual abuse at WERDCC receive timely, unimpeded access to emergency medical treatment and crisis intervention services. They are also offered information and access to sexually transmitted infections prophylaxis. All services are provided at no cost to the victim.

**115.82(a)(b)(c)** Policy SOP D1-8.13 Offender Sexual Abuse and Harassment, pages 18-21 states, “Victims of sexual abuse shall receive timely, unobstructed access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by health services practitioners according to their professional judgment. When conducting a medical assessment of any victim or alleged or suspected perpetrator of an incident of sexual abuse or sexual harassment, health services staff members may not collect evidence but shall assist in the preservation of items related to the incident. Health services staff members should screen victims for obvious physical trauma, and at that time provide emergency medical care. If an allegation of offender sexual abuse is made within 72 hours of the event and consists of penetration of the mouth, anus, buttocks, or vulva, of any kind, however slight, by hand, finger, object instrument, or penis, the victim should be transported to the community emergency room with a sexual assault forensic examiner (SAFE) or sexual assault nurse examiner (SANE), when possible, for gathering of evidence. If it has been greater than 72 hours since the alleged abuse, and the alleged victim has not showered, they should be transported to the community emergency room with a sexual assault forensic examiner (SAFE) or sexual assault nurse examiner (SANE), when possible for gathering of evidence. Health services staff members should contact the shift commander and the community emergency room to arrange transportation to the emergency room in accordance with institutional services procedures regarding offender transportation and hospital and specialized ambulatory care. If the victim has showered and it has been more than 72 hours since the reported assault, the physician should determine treatment and whether or not the victim will be sent off site for a forensic exam. For investigative purposes, the investigator may choose to have the victim sent out for a forensic exam.

\*\*\*\*SOP The offender will remain in the medical unit until the investigator has determined whether or not the offender needs to go on medical out count.

When a forensic out count is indicated:

- a. Health services staff members should contact the shift commander and the community emergency room to arrange transportation in accordance with institutional services procedures regarding offender transportation and specialized ambulatory care. The offender will be held in medical when possible until the arrival of the investigator. Through communication with the hospital,

health services staff shall determine when the offender should arrive at the hospital to ensure prompt services. If the offender refuses a forensic exam, medical staff members will educate the offender on importance of forensic exams. If the offender continues to refuse a forensic exam, documentation of the refusal will be noted on the refusal of treatment - no show form.

\*\*\*SOP A copy of the refusal is to be sent to the PREA site coordinator.

Any emergency treatment provided should be documented, in SOAP format, in the applicable department computer system. Health services staff members should interact with the alleged victim in a neutral and non-judgmental manner. Health services staff members should ask the alleged victim for details of the incident that are important for the provision of health services. The health services related documentation of the alleged assault should be released only to the CAO or designee and the institutional investigator. Alleged victims of offender sexual abuse that consists of penetration of the mouth, anus, buttocks, or vulva, of any kind, however slight, by hand, finger, object instrument, or penis should be provided with prophylactic treatment and follow-up for sexually transmitted or other communicable diseases, as clinically determined by the physician. Female victims shall be offered timely information and timely access to pregnancy testing and emergency contraception in accordance with professionally accepted standards of care, where medically appropriate. If initial disclosure of offender sexual abuse is made to health services staff members, notification should be made to the shift commander to initiate the coordinated response to offender sexual abuse in accordance with this procedure.

\*\*\*SOP Health services staff are to also notify the PREA site coordinator. The reported perpetrator's health record will be reviewed by the health services administrator or designee and referred to the physician for appropriate communicable disease diagnostic testing. Upon receiving a report of a substantiated case of offender sexual abuse the PREA site coordinator will submit a referral and screening note - health services form to ensure the perpetrator will be assessed by qualified mental health professional (QMHP) within 60 days of learning of such abuse. If the allegation involves penetration and the offender is being out counted for a forensic exam and/or treatment, a QMHP will assess the victim within two hours of the offender returning to the facility. If the allegation involves penetration but the offender is not being out counted due to the amount of time that has elapsed since the time of the incident, a QMHP will assess the offender within two hours of receiving notification from the shift commander. If the allegation involves non-penetration, mental health staff members will receive a referral and screening note - health services from the shift commander and assessment will be offered within the next business day unless emergent events warrants a more immediate response by mental health staff members. During the initial assessment, mental health treatment interventions will be discussed with the victim by the QMHP and will include options such as individual and/or group therapy. The QMHP will explain and offer advocacy services to the alleged victim offender. Advocacy will not be offered for allegations of sexual harassment. The QMHP will document the offender's acceptance or refusal of advocacy services in the electronic medical record. If the offender refuses advocacy services the QMHP will have the victim sign the refusal of treatment/ no show form.

\*\*\*SOP A copy of the refusal of treatment form will be forwarded to the PREA site coordinator to be placed in the PREA event file. If the offender requests an advocate, the QMHP will notify the site advocacy liaison.

\*\*\*SOP A QMHP will notify the PREA site coordinator in writing or email when victim requests an advocate. PREA site coordinator will subsequently notify the investigative staff of victim's request for advocate. When the victim is out counted to MOSAIC Life Care for a SANE exam the hospital will contact the YWCA for advocacy services. When advocacy hours provided by the YWCA have been exhausted, the PREA site coordinator will notify the chaplain of the victim's request for an advocate. Institutional chaplain will meet with the victim and document the meeting, forward documentation to the PREA site coordinator to be placed in the PREA event file. If no qualified medical or mental health practitioners are on duty at the time a report of a penetration event that occurred within 72 hours within a correctional facility or 92 hours within a community confinement facility, custody staff first responders shall take preliminary steps to protect the victim and shall immediately notify the appropriate medical and mental health practitioners. Victims of sexual abuse shall be offered timely information and access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. Treatment services shall be 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. Each victim and abuser shall be offered medical and mental health evaluation, and as appropriate, treatment and include 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. Victims and abusers shall be provided with medical and mental health services consistent with the community level of care in accordance with the institutional services procedures regarding medical and mental health services."

WERDCC's Coordinated Response to Offender Sexual Abuse addresses medical and mental health responsibilities for a penetration event and a non-penetration event.

For a penetration event:

Medical will:

- Assess the offender and process the medical out count to a hospital that utilizes Sexual Assault Nurse Examiners (SANE) to collect forensic evidence for an examination.

- The listing of SANE hospitals can be found on the PREA intranet page.
  - WERDCC will utilize Lincoln Memorial Hospital in Troy Missouri for SANE Exams unless a SANE Nurse is not available.
  - If a SANE Nurse is not available the Shift Supervisor will work with Medical and the PREA Site Coordinator to send the offender to another SANE Hospital on the list.
  - Lincoln Memorial Hospital is to call ACCIS to provide advocacy service during the SANE Exam.
- If the alleged victim refuses to submit to a forensic examination after speaking with the investigator, medical will have the offender sign the medical refusal form which will be forwarded to the PREA Site Coordinator to be attached to the PREA Event Checklist.
- Provide follow-up care upon offender’s return from the medical out count.

**Mental Health:**

- Mental Health will respond within 2 hours of the offender’s return from the medical out count.

For a non-penetration event:

- Mental health – Mental Health Referral Form – will respond no later than the next business day

WERDCC also provided copies of the “WERDCC PREA Event Log” and “WERDCC PREA Log for Mental Health.” The PREA Event log had nine entries; seven from 2015 and two from 2016. This log tracks offender name, number, and date of PREA event. It also tracks the date the provider was notified as well as any hospital information. This log has provider referrals but not referrals to outside hospitals. The PREA log for Mental Health tracks the offender name, DOC number, date mental health was notified as well as the name of staff that was assigned.

Medical also provided examples of charts demonstrating timely access to medical services.

Mental health staff state that services start as soon as they are made aware of the need. They stated that if any medication is ordered during the SANE, orders would be sent to the facility and they would follow them. They also were able to articulate their first responder responsibilities if something were to happen inside the clinic.

**115.82(d)** Auditor reviewed the contract requirements the MDOC has with Corizon. Pages 25 and 26 outline Corizon’s obligations when obtaining medical care services from hospitals. The pages 42 – 45 outlines Corizon’s experience with PREA, training regarding PREA, zero tolerance and mandatory reporting requirements if witnessing any form of sexual misconduct. Corizon will not charge victims for any services provided.

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

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

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

WERDCC offers medical and mental health evaluations/treatment to all inmates who have been victimized by sexual abuse in any confinement settings. They also offer tests for sexually transmitted infections as medically appropriate. (NOTE: WERDCC is a female only facility.)

**115.83(a)(b)(c)(d)(e)(f)** SOP D1-8.13 Offender Sexual Abuse and Harassment, page 21, Section III (G) states, “Victims of sexual abuse shall be offered timely information and access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. Each victim and abuser shall be offered medical and mental health evaluation, and as appropriate, treatment and include 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. Victims and abusers shall be

provided with medical and mental health services consistent with the community level of care in accordance with the institutional services procedures regarding medical and mental health services. Victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. If pregnancy results the victim shall receive timely and comprehensive information about and access to all lawful pregnancy-related medical services.”

Auditor reviewed an example of “Referral and Screening Note – Mental Health/Medical Service.” This referral note had documented observed behaviors, the reason for referral, screening results as well as actions taken by mental health and medical.

Medical also provided examples of charts demonstrating follow up visits had occurred.

WERDCC did not have any events that involved vaginal penetration which would require a pregnancy test or STI testing in the past 12 months.

Mental Health/Medical Staff stated that physical exams are always done on alleged victims. They always check to see if there is anything that is reportable. They advised that they do provide services that are consistent with the community. They advise they do everything but the forensic exams on site. They compared their services to what a citizen would find at an Urgent Care.

**115.83(g)** Policy SOP D1-8.13 Offender Sexual Abuse and Harassment states, “Treatment services shall be 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.”

**115.83(h)** Medical also provided examples of charts demonstrating that known abusers were referred for mental health evaluations.

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

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

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

WERDCC conducts a sexual abuse incident review at the conclusion of every criminal or administrative sexual abuse investigations, unless the allegation is determined to be unfounded. They do this within 30 days of the conclusion of the investigation. Members of the review team include upper-level management, supervisors, investigators, and medical and/or mental health professionals. The members document their findings and any recommendations they may make.

**115.86(a)** SOP D1-8.13 Offender Sexual Abuse and Harassment, pages 22 and 23, Section III (I) states, “Each facility shall conduct a sexual abuse incident debriefing at the conclusion of every substantiated and unsubstantiated offender sexual abuse investigation or inquiry. A sexual abuse incident debriefing is not required on offender sexual harassment investigations or inquiries or if the investigation or inquiry is unfounded.

**115.86(b)** SOP D1-8.13 Offender Sexual Abuse and Harassment states, “Debriefings shall be held within 30 days of the conclusion of a formal investigation or inquiry utilizing the PREA sexual abuse debriefing form and submitted to the department PREA coordinator, CAO, and assistant division director.”

**115.86(c)** SOP D1-8.13 Offender Sexual Abuse and Harassment states, “The review team for offender sexual abuse events shall include the PREA site coordinator, and other upper level administrators, when applicable, with input from supervisors, investigator, and medical or mental health practitioners, when applicable. A complete written report shall be prepared by the CAO or designee outlining in detail the findings of the debriefing sessions and recommendations for improvements utilizing the PREA sexual abuse debriefing form. The written report will be prepared by the PREA site coordinator.

**115.86(d)** Auditor reviewed an example of a review of sexual abuse incidents that resulted from an unsubstantiated disposition. This review included the name of the victim, assailant, staff members involved in the briefing, date and time of the incident, what occurred, location of the incident, housing information, was the allegation motivated by race, ethnicity or sexual orientation, information on the

coordinated response, information on a forensic exam, mental health consultation, and any recommendations. This review is also included in the facility's annual report.

Administration stated that they review each case and look for ways that can be done to make it better for the inmate and for the facility. They do not want prevent future incidents. They reported they always look at the totality of the incident when making recommendations.

**115.86(e)** SOP D1-8.13 Offender Sexual Abuse and Harassment states, "The facility shall implement the recommendations for improvement, or shall document its reasons recommendations shall not be implemented. The completed report shall be stamped confidential and shall be submitted to the assistant division director with a copy to department's PREA coordinator. The assistant division director shall forward the report to the division director. A copy of the report shall be filed in the institutional PREA event file for future audits."

WERDCC reported that in the past twelve months there have been recommendations for improvements that have come from the review of sexual abuse incidents.

### **Standard 115.87 Data collection**

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

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

Data needed to complete the annual Survey of Sexual Violence is collected in the Correctional Information Network (COIN) system. Data is collected and reviewed annually.

**115.87(a)(b)(c)(d)** Policy D1-8.13 Offender Sexual Abuse and Harassment states, "Each facility shall utilize information from the offender sexual abuse debriefings to prepare an annual report to be submitted to the department's PREA coordinator by the last working day in March. The report shall include: 1) identified problem areas, 2) recommendations for improvement, 3) corrective action taken, 4) if recommendations for improvements were not implemented, reasons for not doing so, 5) a comparison of the current year's data and corrective actions with those from prior years, and an assessment of the facility's progress in address sexual abuse, 6) an evaluation of the need for camera and monitoring systems, 7) in consultation with the PREA site coordinator; assessment determination, and documentation of whether adjustments are needed to the staffing plan, the deployment of video monitoring and the resource availability to adhere to the staff plan. The yearly report shall be submitted to the division director and the department PREA coordinator no later than the last working day in March.

The PREA coordinator shall prepare an annual report compiling each facility's current year's data and corrective actions. The report shall include a comparison with prior year's data, corrective actions, and an assessment of the department's progress in addressing offender sexual abuse. The report shall be forwarded to the department director for approval by the last working day in May."

Auditor reviewed examples of monthly incident data from September 2013, December 2013, February 2014, April 2014 and December 2014. Auditor also reviewed the 2014 PREA breakdowns for each facility in the MDOC.

Auditor reviewed the MDOC 2014 PREA Annual Report. This report contained information on the progress the department made in 2014 in PREA, a trend analysis of all investigations in the state and correction actions for each facility. This report is also published on the MDOC website at <http://doc.mo.gov/OD/PREA/php>.

Administrative staff reported that data is collected monthly and reported annually to the PREA Coordinator.

**115.87(e)** N/A WERDCC does not contract for the confinement of its inmates.

**115.87(f)** WERDCC completes the SSV each year.

### Standard 115.88 Data review for corrective action

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

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

**115.88(a)(b)(c)** SOPD1-8.13 Offender Sexual Abuse and Harassment, pages 27 – 28 state, “Annual Site Report: Each facility shall utilize information from the offender sexual abuse debriefings to prepare an annual report to be submitted to the department’s PREA coordinator by the last working day in March. The report shall include: (1) identified problem areas, (2) recommendations for improvement, (3) corrective action taken, (4) if recommendations for improvements were not implemented, reasons for not doing so, (5) a comparison of the current year's data and corrective actions with those from prior years, and an assessment of the facilities' progress in addressing sexual abuse, (6) an evaluation of the need for camera and monitoring systems, (7) in consultation with the PREA site coordinator; assessment, determination, and documentation of whether adjustments are needed to the:

- (A ) the staffing plan,
- (B) the deployment of video monitors, and
- (C) the resource availability to adhere to the staffing plan.

The yearly report shall be submitted to the division director and the department PREA coordinator no later than the last working day in March.

Agency Report: The PREA coordinator shall prepare an annual report compiling each facility’s current year’s data and corrective actions. The report shall include: (1) a comparison with prior year's data, (2) corrective actions, and (3) an assessment of the department's progress in addressing offender sexual abuse. The report shall be forwarded to the department director for approval by the last working day in May.

Auditor reviewed the statewide annual report as well as the report as it relates specifically to WRDCC.

Auditor reviewed the 2014 PREA breakdowns for each facility in the MDOC.

Auditor reviewed the MDOC 2014 PREA Annual Report. This report contained information on the progress the department made in 2014 in PREA, a trend analysis of all investigations in the state and correction actions for each facility. This report is also published on the MDOC website at <http://doc.mo.gov./OD/PREA/php>.

**115.88(d)** SOPD1-8.13 Offender Sexual Abuse and Harassment also states, “The COA or designee, PREA coordinator, and/or department director shall edit specific material from the reports when publication would present clear and specific threat to the safety and security of the facility. The CAO or designee, PREA coordinator, and/or department director shall indicate the nature of the material edited. The department’s annual PREA report shall be made available to the public on the department’s internet website.”

### Standard 115.89 Data storage, publication, and destruction

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

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

**115.89(a)** The Site Coordinator keeps all investigations, data tracking forms, monthly statistic reports secured in a locked file cabinet.

**115.89(b)** SOPD1-8.13 Offender Sexual Abuse and Harassment, page 28 states, “The department’s annual PREA report shall be made available to the public on the department’s internet website.”

Auditor reviewed the MDOC 2014 PREA Annual Report. This report contained information on the progress the department made in 2014 in PREA, a trend analysis of all investigations in the state and correction actions for each facility. This report is also published on the MDOC website at <http://doc.mo.gov/OD/PREA/php>.

**115.89(c)** SOPD1-8.13 Offender Sexual Abuse and Harassment also states, “The COA or designee, PREA coordinator, and/or department director shall edit specific material from the reports when publication would present clear and specific threat to the safety and security of the facility. The CAO or designee, PREA coordinator, and/or department director shall indicate the nature of the material edited. The department’s annual PREA report shall be made available to the public on the department’s internet website.”

**115.88(d)** According the Agency Records Disposition Schedule (Inspector General Section) , this information is retained for five years, and then it is destroyed.

**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.

/s/ Elisabeth M. Copeland

06/06/2016

Auditor Signature

Date