

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

Interim     Final

Date of Report    June 1, 2018

## Auditor Information

Name: Michele Morgenroth	Email: mmorgenroth@mt.gov
Company Name: Montana Department of Corrections	
Mailing Address: 5 South Last Chance Gulch	City, State, Zip: Helena, MT 59620
Telephone: 406-444-6583	Date of Facility Visit: January 24-27, 2018

## Agency Information

Name of Agency: Department of Public Safety	Governing Authority or Parent Agency (If Applicable): State of Hawaii		
Physical Address: 919 Ala Moana Blvd.	City, State, Zip: Honolulu, HI 96814		
Mailing Address: Click or tap here to enter text.	City, State, Zip: Click or tap here to enter text.		
Telephone: 808-587-1288	Is Agency accredited by any organization? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
The Agency Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
Agency mission: To uphold justice and public safety by providing correctional and law enforcement services to Hawaii's communities with professionalism, integrity, and fairness.			
Agency Website with PREA Information: <a href="http://dps.hawaii.gov/policies-and-procedures/pp-prea/">http://dps.hawaii.gov/policies-and-procedures/pp-prea/</a>			

## Agency Chief Executive Officer

Name: Nolan P. Espinda	Title: Director
Email: nolan.p.espinda@hawaii.gov	Telephone: 808-587-1350

## Agency-Wide PREA Coordinator

Name: Shelley Nobriga	Title: ISCDA/Litigation Coordinator
Email: shelley.d.nobriga@hawaii.gov	Telephone: 808-527-1260

<b>PREA Coordinator Reports to:</b> Director of Public Safety	<b>Number of Compliance Managers who report to the PREA Coordinator</b> 8
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**Facility Information**

**Name of Facility:**      Maui Community Correctional Center

**Physical Address:**      600 Waiale Drive, Wailuku, HI 96793

**Mailing Address (if different than above):**      [Click or tap here to enter text.](#)

**Telephone Number:**      808-243-5101

**The Facility Is:**       Military       Private for profit       Private not for profit

Municipal       County       State       Federal

**Facility Type:**       Jail       Prison

**Facility Mission:**      To uphold justice and public safety by providing correctional and law enforcement services to Hawaii's communities with professionalism, integrity, and fairness.

**Facility Website with PREA Information:**      <http://dps.hawaii.gov/policies-and-procedures/pp-prea/>

**Warden/Superintendent**

**Name:**      James Hirano      **Title:**      Warden

**Email:**      james.m.hirano@hawaii.gov      **Telephone:**      808-243-5030

**Facility PREA Compliance Manager**

**Name:**      Gail Mirkovich      **Title:**      Lieutenant

**Email:**      gail.l.mirkovich@hawaii.gov      **Telephone:**      808-243-8684

**Facility Health Service Administrator**

**Name:**      Jennifer Lopez      **Title:**      CSA

**Email:**      jennifer.d.lopez@hawaii.gov      **Telephone:**      808-243-5864

**Facility Characteristics**

**Designated Facility Capacity:**      301      **Current Population of Facility:**      512

**Number of inmates admitted to facility during the past 12 months**      2124

**Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:**      712

**Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:**      887

<b>Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:</b>		18	
<b>Age Range of Population:</b>	Youthful Inmates Under 18: n/a	Adults: 18+	
<b>Are youthful inmates housed separately from the adult population?</b>		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input checked="" type="checkbox"/> NA	
<b>Number of youthful inmates housed at this facility during the past 12 months:</b>		0	
<b>Average length of stay or time under supervision:</b>		n/a	
<b>Facility security level/inmate custody levels:</b>		Community-maximum	
<b>Number of staff currently employed by the facility who may have contact with inmates:</b>		156	
<b>Number of staff hired by the facility during the past 12 months who may have contact with inmates:</b>		5	
<b>Number of contracts in the past 12 months for services with contractors who may have contact with inmates:</b>		0	
<b>Physical Plant</b>			
<b>Number of Buildings:</b> 7		<b>Number of Single Cell Housing Units:</b> 0	
<b>Number of Multiple Occupancy Cell Housing Units:</b>		6	
<b>Number of Open Bay/Dorm Housing Units:</b>		7	
<b>Number of Segregation Cells (Administrative and Disciplinary):</b>		12	
<b>Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):</b>			
Cameras are placed in hallways only			
<b>Medical</b>			
<b>Type of Medical Facility:</b>		Health care unit operates 16hrs day/7days week	
<b>Forensic sexual assault medical exams are conducted at:</b>		Maui Memorial Medical Center	
<b>Other</b>			
<b>Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:</b>		Agency wide 818	
<b>Number of investigators the agency currently employs to investigate allegations of sexual abuse:</b>		4 internal affairs, 2 MCCC investigators	

# Audit Findings

## Audit Narrative

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

This report describes the process and findings of a PREA Audit of the Maui Community Correctional Center (MCCC) in Wailuku, HI. This audit was conducted by Michele Morgenroth, a Department of Justice Certified PREA Auditor, and support staff member, DJ Godfrey. The onsite portion of this audit occurred January 24-27, 2018.

Six weeks prior to the onsite visit, notification of the dates of the audit and the auditor's contact information was posted in all housing units and common areas of the jail to include; all dorms, education, library, MP Floor, and Modules A, B, C, and D. Pictures of the posted notifications were provided to the auditor. The auditor also saw these notifications posted while onsite. One letter was received in response to these notifications. The individual who sent the letter was included in the audit team's interviews. The auditor received pre-audit documents the week of November 6, 2017 on an encrypted flash drive. These documents included policies, procedures, training lesson plans, training records, logs, tracking sheets, reports, etc. All documents submitted with the pre-audit questionnaire were reviewed by the auditor prior to the onsite portion of the audit. As part of the pre-audit process, Just Detention International was contacted on 12/14/17 to determine if they had received any reports regarding the facility. Just Detention International responded on 12/18/17 that they had not received any reports regarding this facility.

On the first day of the onsite portion, the audit team met with facility staff to brief them on the audit process. Participants in this meeting included: Cheyenne Evans (PSD Central Office), Shelley Nobriga (PREA Coordinator), Lt. Gail Mirkovich (PREA Compliance Manager), and Warden Hirano.

During the onsite portion of the audit, the auditor and support staff (audit team) inspected all areas of the facility where inmates are allowed. This included all housing units, bathrooms, maintenance area, medical clinic, kitchen, recreation yards, and laundry. During the inspection, the auditor informally questioned staff and inmates regarding supervisory rounds, inmate supervision, inmate movement, and physical plant. The auditor noted PREA posters with reporting information in each housing unit and auxiliary areas. Housing units also have signs posted to remind staff of the opposite gender to announce their presence when entering. Showers and toilet stalls have curtains or doors. In some units, the toilets are in the cells. Some areas of concern were noted during the inspection which were immediately corrected. This included:

- a bathroom in the maintenance area that was intended to be locked from the outside by a padlock was unlocked and could be a blind/secluded area; this was addressed by adding a sign to the door stating, "this door to remain locked when not in use"
- a new shelving unit was added in a maintenance area which created a blind spot; this was fixed by adding a convex mirror in the corner

- an inmate bathroom in the laundry area locked from the inside which could create an area for an assault to happen and render staff unable to open the door; this was fixed by removing the lock and adding a sign to the door indicating when the bathroom is in use

Photos of all physical plant changes were emailed to the auditor. It is important to note the facility has not and does not house anyone under the age of 18, therefore, any standards or audit protocols applicable to youth do not apply.

Since both female and male inmates are housed at the facility, the audit team was diligent in reviewing the separation and supervision of female and male inmates. In the MP unit, which is a female unit, it was brought to the audit team's attention that male inmates are escorted past the shower to go to the medical unit. Even though the shower is covered by a curtain, staff have been informally shutting down that shower during clinic times to avoid any viewing of female inmates in the shower. The audit team recommended this practice be formalized so it is no longer the option of the staff to close that shower during these times. On 02/14/18 a memo was sent to all staff that the MP shower next to the medical unit will be closed during clinics. Since only cross-gender viewing between staff and inmates is covered in the standards, this was not part of formal corrective action. In all other areas of the facility, male and female inmates are kept separate.

During the onsite portion, the audit team interviewed inmates and staff. A total of 34 inmates were interviewed; 19 random interviews and 15 targeted interviews based on inmate demographics required by the audit process. To select the random inmates for interviews, the audit team requested a list of all current inmates by housing unit. Since there are 14 total housing units, the audit team randomly selected one inmate from each unit and then selected additional inmates from the larger units. This allowed for interviews of both male and female inmates as well as at least one inmate from every housing unit. For targeted inmate interviews, the auditors requested a list of all current inmates who fit into the following categories: inmates with a physical disability; inmates who are blind, deaf or hard of hearing; inmates who are limited English proficient; inmates with a cognitive disability; inmates who identify as lesbian, gay or bisexual; inmates who identify as transgender or intersex; inmates in segregated housing for high risk of sexual victimization; inmates who reported sexual abuse; and inmates who reported victimization during risk screening. The facility reported there were no current inmates with a physical or cognitive disability; blind, deaf, or hard of hearing; limited English proficient; in segregated housing for high risk of sexual victimization; or reported abuse during risk screening. The audit team also did not witness any inmates who would fit in these categories. Therefore, to meet the requirements for targeted inmate interviews, the audit team selected additional inmates from the other categories. In total, the audit team interviewed eight inmates who identify as lesbian, gay, or bisexual, three inmates who are transgender or intersex, and four inmates who reported sexual abuse for a total of 15 targeted interviews.

Staff interviews consisted of both randomly selected staff and staff responsible for specific duties. Prior to arriving at the facility, the audit team conducted phone interviews with the Acting Institutional Division Administrator (designated by the Director), an agency contract administrator, an Internal Affairs Investigator, volunteer coordinator, and an agency human resources representative. While onsite, 12 staff were randomly selected by the audit team for interviews from a staff roster. These random interviews represented all three watches and included both security and non-security staff. To ensure the first watch, or night shift, was included, the audit team arrived at the facility at 0600 on the second day of the audit to interview staff on that shift. The audit team interviewed staff responsible for unannounced supervisory rounds, performing risk screening, supervising segregation, retaliation monitoring, and investigations. The team also interviewed the Warden, PREA Coordinator, PREA Compliance Manager, medical and clinical staff, volunteers/contractors, first responders, intake staff, and a member of the incident review team. The facility does not have any SAFE/SANE staff.

Documentation reviewed onsite and/or after the onsite portion included the Department's Offendertrak system to verify completed risk assessments, offender education documentation, employee and volunteer/contractor training records, background checks, investigation files, medical records, and retaliation monitoring documentation. In conformity with standard auditing methods which rely on reviewing a sample representation of documents, the audit team randomly selected staff files and inmate files to review. The staff files were selected to represent supervisory staff, correctional officers, and non-security staff. Since the inmates randomly selected for interviews already represented a cross-section of the inmate population, their files were the ones chosen to review. In some cases, more files were selected, as noted in applicable sections.

At the conclusion of the onsite portion, the audit team met with Cheyenne Evans (PSD Central Office), Shelley Nobriga (PREA Coordinator), Lt. Gail Mirkovich (PREA Compliance Manager), and Warden Hirano to discuss initial findings. Any areas of concern and corrective actions are noted herein.

All standards were assessed for compliance based on review of documentation (policy, procedure, reports, logs, etc.), visual observation during the facility inspection, and interviews with both staff and inmates. Where policy or procedure is directly quoted, this is to show evidence of compliance with the standard where the facility or agency has clearly adopted the standard in written documentation and instruction to staff members.

Agency, Department, and Department of Public Safety (PSD) are used interchangeably throughout this report. Inmate and offender are used interchangeably throughout this report.

## Facility Characteristics

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

Maui Community Correctional Center (MCCC) is a state operated jail. Designed capacity is 301 with a current population of 512. The facility houses both adult male and adult female inmates. The facility houses all custody levels from community to maximum. 156 employees staff the facility. There is a total of seven buildings on approximately seven acres, including six multiple occupancy cell housing unit and seven open bay/dorm housing units. In addition to housing pre-trial detainees, MCCC provides reintegration programs to sentenced felons and parole violators who will be released on Maui. MCCC offers adult basic education, GED, parenting, cognitive skills, substance abuse treatment, vocational training, and work furlough. Each housing unit varies in design and layout. Some units have bathrooms with separate showers and toilet stalls and privacy curtains. Others have a common shower area with doors/curtains which allows inmates to shower without being viewed by staff of the opposite gender. The facility has a small medical clinic, one primary kitchen, and multiple outdoor recreation yards. There are security cameras throughout the facility, placed primarily in common areas and hallways. Footage from these cameras may be viewed in the main control room. All areas of the facility were inspected by the audit team for compliance with the PREA standards.

## Summary of Audit Findings

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

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

**Number of Standards Exceeded:** 0

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**Number of Standards Met:** 45

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**Number of Standards Not Met:** 0

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### Summary of Corrective Action (if any)

See Corrective Action Plan and Corrective Action Completed notes in the sections for 115.41 and 115.86.

## PREVENTION PLANNING

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

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

#### 115.11 (a)

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



### 115.11 (b)

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

### 115.11 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

- (a) Policy No. ADM.08.08, page 11 states, "PSD has a zero-tolerance policy concerning all forms of sexual abuse, sexual harassment, and retaliation for reporting incidents: (1) an offender by another offender, or (2) a staff member on an offender, in a PSD prison, jail, lockup, community correctional center, and privately contracted prison operating under the direct control of PSD or under contract with PSD. All references to "staff members" in this policy, by default will include contractors and volunteers." The policy goes on to outline elements of preventing, detecting, and responding to sexual abuse and sexual harassment. The policy covers definitions of sexual abuse and harassment; contracting with other entities; supervision and monitoring; youthful offenders; limits to cross-gender viewing and searches; lesbian, gay, bisexual, transgender, and intersex offenders; offenders with disabilities; hiring and promotion decisions; upgrades to



facilities; evidence protocols; investigations; training; offender education; screening for risk; protective custody; reporting; administrative remedies; confidential support services; first responder duties; coordinated response; protection against retaliation; disciplinary sanctions; medical and mental health care; incident reviews; data collection; and audits, all of which will be discussed in greater detail in other sections of this report. In staff interviews, every staff reported they were trained on the agency's zero-tolerance policy. Three volunteers were interviewed, and all confirmed being informed of the agency's zero-tolerance policy.

- (b) The agency has designated an upper-level agency PREA Coordinator who reports to the Director of Public Safety. Policy No. ADM.08.08 states, "PSD has designated the Litigation Coordination Office, a branch of the Director's Office, to manage PREA." "The Department PREA Coordinator shall have sufficient time and authority to develop, implement, and oversee PSD's efforts to comply with the PREA standards..." "The Department PREA Coordinator reports directly to the Director of the Department of Public Safety." The PREA Coordinator's position was also supported by the agency organizational chart. Shelley Nobriga, the PSD PREA Coordinator was interviewed. She confirmed she has sufficient time and authority to oversee the agency efforts to comply with the PREA standards.
- (c) Policy No. ADM.08.08 states, "Each facility shall have a designated Facility PREA Compliance Manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA Standards..." The facility has designated Lieutenant Mirkovich as the PREA Compliance Manager who reports to the Warden, PREA Coordinator, and Chief of Security. Lt. Mirkovich was interviewed, and she confirmed she has sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards.

Based on policy and document review and interviews with the PREA Coordinator and PREA Compliance Manager, as well as the facility and agency's overall efforts to comply with PREA as evident in the knowledge of PREA expressed in staff and inmate interviews, the facility is found to be compliant with this standard.

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

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

#### 115.12 (a)

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

#### 115.12 (b)

- Does any new contract or contract renewal signed on or after August 20, 2012 provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards? (N/A if the agency does not contract with private agencies or other entities for the confinement

of inmates OR the response to 115.12(a)-1 is "NO".)  Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

- (a) The State of Hawaii Department of Public Safety contracts with Corrections Corporation of America (now CoreCivic) for the confinement of inmates. Contract No. PSD 16-ID/MB-32, page 11 states, "The PROVIDER shall be in full compliance with the Prison Rape Elimination Act (PREA). Failure to maintain full compliance with PREA as demonstrated through facility-specific PREA compliance audit shall constitute an event of default on the part of the PROVIDER." The agency also has an agreement with the U.S. Department of Justice Federal Bureau of Prisons Federal Detention Center in Honolulu, HA. This agreement and all renewals of the agreement were signed prior to the standards being finalized in August 2012. Therefore, the auditor does not deem this agreement to be subject to the requirements of standard 115.12 as it was not a new or renewed contract after August 2012.
- (b) Contract No. PSD 16-ID/MB-32, page 25 states, "The STATE shall have the right to inspect, at all reasonable times, the facility or institution of the Provider in which inmates are confined pursuant to this Contract in order to determine whether the terms of this Contract are being followed..." "The STATE shall have the right to inspect, at all reasonable times, all records of, or associated with, inmates or any charges, billings, demands, and payments under this Contract, including, but not limited to any institutional, medical, dental, psychiatric, financial, educations, recreational, or transportation expense, timekeeping, or other operational records." An agency contract monitor was interviewed. He stated the agency conducts reviews of the contracted facility, including verifying PREA compliance, once every quarter and that PSD has a contract monitor onsite at the contract facility.

Based on review of Contract No. PSD 16-ID/MB-32 and an interview with a PSD contract monitor, the facility is found to be compliant with this standard.

## Standard 115.13: Supervision and monitoring

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

### 115.13 (a)

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

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

#### 115.13 (b)

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

#### 115.13 (c)

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

#### 115.13 (d)

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

#### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 Section 9.1 requires a staffing plan be developed and documented for each facility and requires the staffing plan contain all eleven elements required by part (a) of this standard.

The MCCC staffing plan was reviewed by the auditor. It contains: a description of the physical plant of the facility, including number of buildings and beds; the racial/ethnic and gender composition of the inmate population; a breakdown of staffing positions; a listing of institutional programming and when programs occur; a staffing chart; budgetary information; and organizational charts for the facility. The plan identifies essential positions and gender specific positions. The auditor finds the staffing plan takes into consideration all eleven sub-standards required in part (a) of this standard.

- (b) PSD Policy No. ADM.08.08 Section 9.2 requires the facility to document and justify circumstances where the staffing plan is not complied with using the PREA Mandated Reporting Form (PSD 8317). The Department requires this form be forwarded to the PREA Coordinator within three days. There were three documented deviations from the staffing plan in the last 12 months for the auditor to review. The reason for the deviations were a shortage of female staff.

- (c) PSD Policy No. ADM.08.08 Section 9.3 requires the Warden to review the staffing plan each July and submit the assessment of the staffing plan to the PREA Coordinator by the end of July. The PREA Coordinator then schedules a formal meeting to review the staffing plan to assess the three areas required by part (c) of this standard.

The most recent staffing plan review, dated July 13, 2017, is signed by the MCCC PREA Compliance Manager and the MCCC Warden and Major and was submitted to the PREA Coordinator. The review addresses the areas required by this standard. The review mentions MCCC is currently budgeting for technology upgrades which will enhance staff monitoring. The conclusion of the staffing plan review was that the facility and operations of MCCC meet the staffing requirements of the PREA standard and no further action is needed at the time of the review. The auditor finds the staffing plan review addresses all three sub-standards required in part (c) of this standard.

- (d) PSD Policy No. ADM.08.08 Section 9.4 requires the Warden to ensure lieutenants, captains, and correctional supervisors conduct and document unannounced walk-throughs of all watches. At MCCC this is documented in a log book in each unit. The audit team reviewed a log book which showed supervisory rounds on each shift for several randomly selected days. Section 9.5 states staff are prohibited from alerting other staff of these walk-throughs. Intermediate/supervisory staff were interviewed, and they confirmed they conduct unannounced rounds on each shift which are logged in each unit's log book. These rounds are conducted at different times, by different routes, and staff are not allowed to notify other staff that rounds are being conducted. The auditor also

questioned random staff and inmates while conducting the facility inspection regarding the presence of supervisory staff. All those questioned stated they see supervisory staff often, at different times, and in various places throughout the facility.

During interviews with the Warden and the PREA Compliance Manager, they were questioned regarding the facility staffing plan. Both were knowledgeable of the staffing plan, including what elements are required in the staffing plan, and confirmed the staffing plan is reviewed each year. The PREA Coordinator also confirmed the staffing plan is submitted to her every year for review. Based on review of the facility staffing plan, review of logs for unannounced supervisory rounds, and interviews with multiple staff, the facility is compliant with this standard.

## Standard 115.14: Youthful inmates

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

#### 115.14 (a)

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

#### 115.14 (b)

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

#### 115.14 (c)

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

### Auditor Overall Compliance Determination

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

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

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

### Instructions for Overall Compliance Determination Narrative

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

MCCC does not house youthful inmates, therefore, this standard is not applicable. The audit team verified during numerous interviews that youthful inmates have never been placed at MCCC.

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

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

#### 115.15 (a)

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

#### 115.15 (b)

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

#### 115.15 (c)

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

#### 115.15 (d)



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

#### 115.15 (e)

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

#### 115.15 (f)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 Section 11.1 states, "PSD staff shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening), except in exigent circumstances, or when performed by medical practitioners." Staff confirmed in interviews that cross-gender strip searches are not conducted.
- (b) PSD Policy No. ADM.08.08 Section 11.2 states staff shall not conduct cross-gender pat searches of female offenders, absent exigent circumstances and that all such searches will be documented. Staff and inmates reported in interviews that female inmates are rarely restricted from programming or out-of-cell opportunities. In one female unit, there is always a female staff on duty. In the other female unit there is usually a female staff on duty and if not, two male officers will take the place of one female officer. Any restrictions are temporary until staffing can be arranged. Based on these interviews and the observations of the audit team, female inmates are not restricted, and the facility makes a diligent effort to ensure female staff are available.
- (c) PSD Policy No. ADM.08.08 Section 11.1a states that all cross-gender strip searches and cross-gender visual body cavity searches will be documented on the PREA Mandated Reporting Form (PSD 8317). The facility reports that no cross-gender strip or visual body cavity searches were conducted over the last 12 months.
- (d) PSD Policy No. ADM.08.08 Section 11.4 states offenders will be allowed to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Section 11.5 requires staff of the opposite gender to "knock and announce" their presence when entering an offender housing unit. Each housing unit varies in design and layout. Some units have bathrooms with separate showers and toilet stalls and privacy curtains. Others have a common shower area with doors/curtains which allow inmates to shower without being viewed by staff of the opposite gender. All staff and inmates reported in interviews that inmates have privacy to shower, perform bodily functions, and change clothing. Unit entrances have signs to remind staff of the opposite gender to announce their presence. All staff and inmates interviewed reported that staff consistently make these announcements. While onsite, the audit team witnessed staff announcing their presence.
- (e) PSD Policy No. ADM.08.08 Section 12 states non-medical staff shall not search or physically examine a transgender or intersex offender for the sole purpose of determining the offender's genital status. The policy further states if the genital status is unknown, it may be determined by conversations with the offender, review of medical records, or if necessary, as part of a medical examination. All staff interviewed confirmed they understand the policy that prohibits staff from physically examining a transgender or intersex inmate for the purpose of determining the inmate's genital status.
- (f) PSD Policy No. ADM.08.08 Section 12 requires that cross-gender pat searches and searches of transgender and intersex offenders be conducted in a professional, respectful, and in the least intrusive manner. Cross-gender pat searches and pat searches of transgender and intersex offenders are to be conducted using the back of the hand. The auditor reviewed the training material for cross-gender searches and searches of transgender and intersex inmates, which is included in the agency's comprehensive PREA training provided to all staff. The training includes the "back of the hand" technique for pat searches and conducting searches in a professional and respectful manner. All staff interviewed stated they were trained on how to conduct cross-gender pat searches and that the technique they were trained to use is the back of the hand/blade of the hand technique.

Based on review of policy, training material, confirmation of practices during the onsite inspection, and staff and inmate interviews, the facility is compliant with this standard.

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

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

#### 115.16 (a)

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

- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have intellectual disabilities?  Yes  No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have limited reading skills?  Yes  No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Are blind or have low vision?  Yes  No

#### 115.16 (b)

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

#### 115.16 (c)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 Section 13 states, "Disabled offenders and offenders with limited English proficiency shall be provided with equal opportunity to participate in or benefit from all

aspects of PSD's efforts to prevent, detect and respond to sexual abuse and sexual harassment." There were no inmates with disabilities currently at the facility for the audit team to interview. However, the audit team asked other inmates if the material was presented in a way that was understandable and if they were allowed to ask questions. These inmates stated they were able to understand the PREA education material that was provided to them and they were given opportunities to ask questions and get any clarification needed on PREA related information. Information is provided to inmates in video and booklet form, allowing inmates to both hear and read the information.

- (b) PSD Policy No. ADM.08.08 Section 13 states PSD uses Pacific Interpreters as an interpreter service. This service provides 24/7 access to interpreters in over 200 languages. Information on the interpreter service is included in the employee PREA training. According to the PSD Limited English Proficiency Plan, the department also keeps a list of employees who are multi-lingual who have volunteered to provide interpretation services at each respective site. This plan also states written translation of important departmental information will be based on the four "relevant factors" which are the number/proportion of limited English individuals likely to be encountered by the program, frequency with which the individuals come into contact with the program, nature and importance of the program, and resources available/costs of provided the translation. If the written translation cannot be provided, all efforts will be made to provide oral translation of the document. This shows a diligent effort by the department to provide written translated materials to the most prevalent languages, without wasting resources, while still ensuring consideration of uncommon languages for the region. The facility has posters with PREA reporting information in English, Tagalog, Ilocano, and Samoan. All staff who were interviewed identified there was an interpreter service through Pacific Interpreters and they carry a card which has the contact information for the service. There were no limited-English proficient inmates at the facility to interview regarding this standard. Although the facility rarely has a limited-English proficient inmate, the auditor believes the facility and agency are equipped to provide necessary information should the circumstance arise.
- (c) PSD Policy No. ADM.08.08 Section 13 states the use of offender interpreters is prohibited except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise an offenders' safety. It goes on to state that if an offender is used as an interpreter in these limited circumstances, it must be documented. The prohibition on using offender interpreters, and how to document if an offender interpreter is used, is included in the employee PREA training. The facility reports there have been no inmate interpreters used in the last 12 months. All staff interviewed identified they would only use an inmate interpreter if an extended delay would compromise the inmate's safety or the ability of the staff to respond.

Based on review of policy, relevant documents, and inmate and staff interviews the facility is compliant with this standard.

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

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

#### **115.17 (a)**

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

#### 115.17 (b)

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

#### 115.17 (c)

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

#### 115.17 (d)

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

### 115.17 (e)

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

### 115.17 (f)

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

### 115.17 (g)

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

### 115.17 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does*



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

- (a) PSD Policy No. ADM.08.08 Section 14 prohibits hiring, promoting, or using the services of anyone, who may have contact with offenders, if the person has: engaged in sexual abuse in an institutional setting; been convicted of engaging in or attempting to engage in sexual activity in the community facilitated by force, threats of force, coercion, or if the victim did not consent; or has been civilly or administratively adjudicated to have engaged in these activities.
- (b) PSD Policy No. ADM.08.08 Section 14 states PSD will consider incidents of sexual harassment in determining whether to hire, promote, or use the services of anyone who may have contact with offenders.
- (c) PSD Policy No. ADM.08.08 Section 14 states a criminal background record check will be performed prior to hiring employees, contractors, or volunteers. It also states PSD will make its best effort to contact all prior institutional employers for information on substantiated allegation of sexual abuse or any resignation due to a pending investigation of an allegation of sexual abuse. Applicants fill out a Request, Consent, and Notification for Fingerprint Clearance form which initiates a criminal background check. The form has a section to mark whether the applicant is suitable for the position. Review of these background investigation forms shows that PSD does a National Crime Information Center (NCIC), state criminal record, and local police department check. A criminal record background check for five applicants and one employee transferring to a new position were reviewed prior to the onsite portion of the audit. The facility also provided documentation showing they checked with the PREA Coordinator to see if any applicants being considered for a position had any previous PREA violations at other facilities. The audit team requested eight employee files to review background checks in addition to those provided during the pre-audit process. These were provided to the auditor after the onsite portion. The files included background checks completed upon hire and promotion.
- (d) PSD Policy No. ADM.08.08 Section 14 states a criminal background record check will be performed prior to hiring contractors.
- (e) PSD Policy No. ADM.08.08 Section 14 states PSD will conduct a criminal background record check at least every five years for current employees, contractors, and volunteers who may have contact with offenders. PSD's Personnel's Office is responsible for ensuring compliance with the five-year background checks. The auditor reviewed background checks for ten employees verifying they were completed within the last five years.
- (f) PSD Policy No. ADM.08.08 Section 14 states PSD will ask all applicants and employees, who may have contact with offenders, about previous misconduct as described in paragraph (a) of this standard either on a written application, during an interview for hire, a promotional interview, or if applicable, during any interview or written self-evaluation conducted as part of reviews of current employees. This is documented on the PREA Applicant Questionnaire (PSD 8318). PSD 8318 includes four questions about the conduct described in section (a) of this standard that applicants and employees (for promotion, transfer, demotion, reallocations) must fill out. Applicants complete these questions as part of the online application process. The auditor reviewed an example of the online applicant questions. PSD implemented this process in December 2013. Of the staff records reviewed, all contained the completed questionnaire for those staff hired or promoted after 2013. PSD asserts that they do not, on a regular basis, conduct interviews or self-evaluations as part of reviews of current employees. Therefore, that element of this standard is

not applicable. PSD Policy No. ADM.08.08 Section 14 also states employees have an affirmative duty to immediately disclose any misconduct covered by this standard through their chain of command.

- (g) PSD Policy No. ADM.08.08 Section 14 states employees who materially omit reporting such misconduct or provide materially false information will be subject to discipline, up to and including discharge. PSD 8318 includes a signed certification by the staff member that their responses to the questions on the form are true and correct and that any misstatements of material facts may cause forfeiture of all rights to any employment.
- (h) PSD Policy No. ADM.08.08 Section 14 states PSD will provide information on substantiated allegations of sexual abuse or harassment involving current or former employees upon receiving a request from an institutional employer conducting a background check. The policy states a signed consent to release information is preferred. Requests for this information are forwarded to the PREA Coordinator for review and drafting of a response.

An agency human resources staff member was interviewed via phone. She verified the agency conducts criminal record background checks which include a NCIC, state Criminal Justice Information Network (CJIN), driver's license, domestic court case, and National Sex Offender public website check on all employees upon hire, transfer, promotion, and every five years. She stated the agency conducts Lautenberg checks every year on employees who carry firearms. These checks include all the checks of a regular criminal record background check. For employees who do not carry firearms, the agency conducts a background check on those employees every five years. She stated the last such check was in 2016. She stated the agency considers prior incidents of sexual harassment and will confer with the PREA Coordinator if a staff member has any history of sexual harassment before determining whether that person can be hired. She also confirmed staff have a continuing affirmative duty to disclose any misconduct covered by this standard. When asked whether the agency will provide information about former employees to other institutions, she stated the agency will provide this information if a waiver or consent to release information has been signed by the former employee. These requests will then be forwarded to the PREA Coordinator for review and response.

A separate unit within the agency is responsible for background checks of volunteers and contractors who may have contact with inmates. The volunteer coordinator was interviewed via phone. She confirmed that the same background check conducted for employees is conducted for volunteers/contractors. Any information revealed in the check is forwarded to the facility Warden for review. Each volunteer/contractor is re-checked every two years.

Based on policy, background check documentation, and interviews with staff, the facility is compliant with this standard.

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

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

#### **115.18 (a)**

- If the agency designed or acquired any new facility or planned any substantial expansion or modification of existing facilities, did the agency consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect inmates from sexual abuse? (N/A)

if agency/facility has not acquired a new facility or made a substantial expansion to existing facilities since August 20, 2012, or since the last PREA audit, whichever is later.)

Yes  No  NA

### 115.18 (b)

- If the agency installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology, did the agency consider how such technology may enhance the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012, or since the last PREA audit, whichever is later.)

Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The agency/facility has not acquired any new facilities or made any substantial expansions or modifications since the last PREA audit. The agency/facility has not installed or updated any video monitoring, electronic monitoring, or other monitoring technology since the last PREA audit. The facility does have plans to install cameras and a new phone system sometime in the future. Based on interviews with the PREA Compliance Manager, Warden, and other staff, the facility is considering how those systems may enhance the facility's ability to protect inmates from sexual abuse.

## RESPONSIVE PLANNING

### Standard 115.21: Evidence protocol and forensic medical examinations

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

### 115.21 (a)

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

#### 115.21 (b)

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

#### 115.21 (c)

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

#### 115.21 (d)

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

#### 115.21 (e)

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

#### 115.21 (f)

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

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD is responsible for conducting all administrative sexual abuse investigations. All criminal sexual abuse investigations are referred to the county law enforcement agency. If the county law enforcement agency declines to investigate, then a referral is made to the State of Hawaii Department of the Attorney General. PSD Policy No. ADM.08.08 Section 16 states PSD utilizes

evidence protocols that maximize the potential for obtaining usable physical evidence for administrative proceedings and preserves the crime scene for criminal investigations and prosecution. The auditor reviewed the PSD Administrative Investigation training presentation. The training provides information on how to document an administrative investigation; Garrity warnings; evidence classification; transfer theory; crime scene management and preservation; and seizure, tagging and custody of evidence. All staff interviewed confirmed being trained on how to protect evidence in a sexual abuse case. An Internal Affairs investigator was interviewed, and he confirmed that county law enforcement would be responsible for criminal investigations and that facility/agency staff would protect and preserve evidence until law enforcement can respond.

- (b) The protocol does not need to be developmentally appropriate for youth as youth are not housed at this facility. Additionally, forensic medical exams are conducted at an outside facility.
- (c) Forensic medical examinations are conducted at an outside facility, Maui Memorial Medical Center. This is the only medical center available to the facility. PSD Policy No. ADM.08.08 Section 16 states examinations are at no cost to the victim. The facility reports that no forensic medical exams have been conducted in the last 12 months.
- (d) The State of Hawaii has a contract (16-HSA-01) with Kapiolani Medical Center for Women and Children, Sex Abuse Treatment Center (SATC) for statewide comprehensive victim sexual assault treatment services. The agency under the master contract for delivery of services for the island of Maui is the Child and Family Services Maui Sexual Assault Center (MSAC). This program provides crisis intervention, clinical counseling, and legal advocacy. The auditor interviewed a representative of the Child and Family Services on 01/31/18. He reported the facility will contact the crisis outreach person when an advocate is needed. He stated the physician assistant who does forensic medical exams in the community is also a victim advocate. The facility has not needed this service in the last 12 months.
- (e) The contract with the SATC, page 2, Scope of Services states crisis response services, including in-person services, will be available to sexual assault victims at all times, 24 hours a day, 365 days a year. In addition to crisis counseling, response services include medical and legal care and assistance with reporting options. Page 8 of the contracts states; "In situations where a victim has been sexually assaulted and is need of medical-legal services, the program worker will respond to the examination site to provide the comprehensive services of crisis stabilization and counseling, legal systems advocacy to inform the victim of legal rights and options, and assistance with and support during the acute forensic examination." The sexual assault response team members used under the contract are specially trained to provide crisis support services to victims. PSD Policy No. ADM.08.08 Section 16 states at the request of the victim, the SATC contracted provider will be provided to support the victim through medical exams and the investigatory process. The Child and Family Services representative reported advocates meet with victims to determine what level of services they need including clinical services.
- (f) A letter dated December 15, 2014 from the PSD PREA Coordinator to the Deputy Chief of Police, Maui Police Department and a draft MOU to the Maui Police Department were reviewed by the auditor. These were attempts by the PSD to request that the investigating agency for criminal cases follow the requirements of this standard. A memo dated January 16, 2015 states that PSD has an ongoing working relationship with the local law enforcement. It goes on to state that PSD has attempted to follow up on the status of the MOU on at least three occasions. This satisfies



the requirement for the agency to request the investigating agency follow the requirements of paragraphs (a) through (e) of this section.

- (h) According to the SATC contract, the sexual assault response team members used under the contract are specially trained to provide crisis support services to victims. The Child and Family Services Advocate confirmed advocates are trained.

Based on policy and contract review, and interviews with staff and a victim advocate representative, the facility is compliant with this standard.

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

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

#### 115.22 (a)

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

#### 115.22 (b)

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

#### 115.22 (c)

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

#### 115.22 (d)

- Auditor is not required to audit this provision.

#### 115.22 (e)

- Auditor is not required to audit this provision.



## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 Section 17 states an internal administrative investigation and an external referral for criminal investigation is completed for all allegations of sexual abuse and sexual harassment with the limitation that any criminal referral for sexual harassment must meet a criminal standard. All external referrals for criminal investigation are processed through the county law enforcement agency. In the last 12 months, the facility reports 15 allegations of sexual abuse or harassment. All 15 were administratively investigated. Nine were also referred for criminal investigation.
- (b) The PSD policy which ensures allegations of sexual abuse or sexual harassment are referred for investigation to an agency with legal authority to conduct criminal investigations is PSD Policy No. ADM.08.08 Prison Rape Elimination Act and it is published at: <http://dps.hawaii.gov/policies-and-procedures/pp-adm/>. In interviews with the Institutional Division Administrator, investigative staff, the PREA Coordinator, and PREA Compliance Manager, all confirmed all allegations are referred for investigation. For MCCC, all sexual abuse allegations are referred to the Maui Police Department. The PREA Response Incident Checklist has a space to note where law enforcement is notified and includes the report number.
- (c) The PSD policy outlines the agency's responsibilities and states county law enforcement may have their own policy governing how criminal investigations of sexual abuse are conducted. PSD does not manage criminal investigations for sexual abuse or criminal sexual harassment.

Based on policy and investigation document review, and interviews with staff, the facility is compliant with this standard.

## TRAINING AND EDUCATION

### Standard 115.31: Employee training

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

### 115.31 (a)

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

### 115.31 (b)

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

### 115.31 (c)

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

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

### 115.31 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy NO. ADM.08.08 section 18 states PSD provides comprehensive training, covering all the subsections of this standard, for all staff, emphasizing PSD's zero-tolerance policy. The auditor reviewed the comprehensive PREA training presentation and it covers all 10 sub-standards of this section. All staff interviewed verified they received PREA training which included the topics covered in the 10 sub-standards. 10 staff were randomly selected by the audit team from the staff roster to review their training records. All 10 staff records show they received PREA training. The audit team is satisfied the facility is compliant with this standard given the familiarity and knowledge of PREA demonstrated in staff interviews, staff verification of ongoing PREA training, and thorough coverage of the requirements of this standard in the training documents.
- (b) PSD Policy NO. ADM.08.08 section 18 states training is tailored to address all genders. A review of the training presentation shows that all genders are covered. Therefore, employees do not need additional training if reassigned.
- (c) PSD Policy NO. ADM.08.08 section 18 states the Warden is responsible for ensuring staff receive PREA training and that staff receive refresher training every two years. All staff interviewed stated they received training within the last year. All 10 staff training records showed they received training within the last year.

- (d) PSD Policy NO. ADM.08.08 section 18 states staff members will complete a sign-in sheet documenting receipt of PREA training and that they understand the training materials. During a corrective action for a different facility within the agency, the agency began using individualized sign off forms for staff PREA training. The new forms have a statement staff sign, acknowledging understanding of the training they received. Of the 10 staff training records reviewed, seven were completed after this agency change. The other three records have a general sign in sheet from the training. Since the agency already addressed this in a previous corrective action and the facility demonstrated that they now use the new form, the auditor does not find any compliance concerns with this sub-standard.

Based on review of policy, training curriculum, training records, and interviews with staff, the facility is compliant with this standard.

## Standard 115.32: Volunteer and contractor training

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

#### 115.32 (a)

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

#### 115.32 (b)

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

#### 115.32 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 section 19 states all volunteers and contractors who have contact with offenders will be trained on PREA, including prevention, detection, and response. The auditor reviewed the Volunteer and Contractor Training presentation. It contains all elements required by this standard. Three volunteers were interviewed. All confirmed they received training on their responsibilities regarding prevention, detection, and response policies.
- (b) PSD Policy No. ADM.08.08 section 19 states contractor and volunteer training will be tailored to the level of contact and services provided to offenders. Volunteers interviewed verified they were notified of the agency's zero tolerance policy.
- (c) PSD Policy No. ADM.08.08 section 19 states documentation confirming contractor and volunteer training will be documented. The audit team reviewed training documentation for the volunteers interviewed, verifying they received and understood training.

Based on review of policy, volunteer training documentation, and interviews with volunteers, the facility is compliant with this standard.

## **Standard 115.33: Inmate education**

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

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

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

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

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

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Agency policies and procedures for responding to such incidents?  Yes  No

#### 115.33 (c)

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

#### 115.33 (d)

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

#### 115.33 (e)

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

#### 115.33 (f)

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

#### Auditor Overall Compliance Determination

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

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

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

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

- (a) PSD Policy No. ADM.08.08 section 20 states offenders will receive verbal and written information at intake about PSD's zero-tolerance policy and how to report incidents of sexual abuse and sexual harassment. During the intake process at MCCC, each inmate is given a pamphlet which states the zero-tolerance policy as well as methods for reporting. All inmates interviewed for both random and targeted interviews verified they received information at intake regarding the zero-tolerance policy and how to report allegations.
- (b) PSD Policy No. ADM.08.08 section 20 states within 30 days of intake, the facility will provide comprehensive PREA education to offenders that addresses prevention and intervention, self-protection, reporting, treatment and counseling, and zero-tolerance policy. An intake staff was interviewed who stated all inmates review an educational PREA video within in a day of arrival at the facility. All inmates interviewed for both random and targeted interviews verified they watched the video within the first day of arrival. Inmates also verified they were given an opportunity to ask questions regarding the information provided. Several inmates also noted they are required to periodically re-watch the video. The audit team reviewed education documentation for 20 offenders, all were completed within the required time frames.
- (c) PSD Policy No. ADM.08.08 section 20 states all current offenders should have received information on PREA effective August 2013. The facility reports there are 18 inmates currently at the facility who were admitted prior to August 2012. The auditor reviewed the education documentation which showed offenders who arrived prior to August 2013 have been educated.
- (d) PSD Policy No. ADM.08.08 section 20 states accommodations for offenders with disabilities or who have limited reading skills will be made at the facility level. The facility provided the auditor with brochures and posters in Samoan and Tagalog. Staff are currently in the process of translating these materials into Ilocano, Chuukese, and Marshallese. Please see also notes for Standard 115.16.
- (e) PSD Policy No. ADM.08.08 section 20 states each facility will maintain documentation of an offender's participation in educational sessions. MCCC maintains this documentation in a database which was printed for the audit team to review. It shows the intake date of each offender and the date of PREA education sessions. The audit team reviewed education documentation for 20 offenders, all were completed within the required time frames.
- (f) PSD Policy No. ADM.08.08 section 20 states key information on PREA policies will be continuously and readily available. Inmates are given the pamphlet at intake to keep. Posters with PREA reporting information are posted throughout the facility.

The audit team is satisfied the facility is compliant with this standard given the familiarity and knowledge of PREA demonstrated in inmate interviews. Based on review of policy, acknowledgement forms, the



audit team's onsite inspection, and interviews with staff and inmates, the facility is compliant with this standard.

## Standard 115.34: Specialized training: Investigations

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

### 115.34 (a)

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

### 115.34 (b)

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

### 115.34 (c)

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

### 115.34 (d)

- Auditor is not required to audit this provision.

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 section 21 states PSD investigators will receive, in addition to the general training provided all employees, training on conducting sexual abuse investigations in confinement settings. PSD investigators complete the online National Institute of Corrections (NIC) "PREA: Investigating Sexual Abuse in a Confinement Setting." The agency offered additional specialized training through Wicklander-Zulawski & Associates, Inc. for Non-Confrontational Investigative Interviewing, and training on the role of the Sex Abuse Treatment Center (SATC) and the Honolulu Police Department in investigating sexual abuse. An Internal Affairs investigator and a facility staff member responsible for conducting investigations both confirmed they received both the general training and specialized training for investigations.
- (b) PSD Policy No. ADM.08.08 section 21 states the specialized training for investigators will include techniques for interviewing sexual abuse victims, Garrity warnings, preserving sexual abuse evidence, understanding the criteria and evidence required to substantiate a case in an administrative proceeding or for referral by a county law enforcement agency for criminal prosecution. The NIC online training covers criteria and evidence for administrative action and prosecution, forensic medical exams, working with victims, interviewing techniques, etc. which meet the requirements of this standard. The auditor reviewed the Non-Confrontational Investigative Interviewing presentation. It covers trauma, reactions to trauma, interviewing victims of sexual assault, and interviewing techniques. The SATC and Honolulu Police Department training covers the roles and responsibilities of those agencies. Both investigators interviewed confirmed the training they received covered the areas required in this standard. The NIC training covers all requirements of this standard and with the additional training PSD investigators have received, the agency is meeting the requirements of this standard.
- (c) PSD Policy No. ADM.08.08 section 21 states PSD will maintain documentation that investigators have completed the required training. The auditor reviewed documentation showing staff responsible for investigations at MCCC took the National Institute of Corrections PREA: Investigating Sexual Abuse in a Confinement Setting online training. The auditor also reviewed training records and certifications for all Internal Affairs investigators. Combined, this documentation shows individuals assigned to conduct investigations have received training as mandated by this standard.

Based on policy and training documentation review, and interviews with staff, the facility is compliant with this standard.

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

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

#### 115.35 (a)

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

#### 115.35 (b)

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

#### 115.35 (c)

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

#### 115.35 (d)

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

### Auditor Overall Compliance Determination

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

**Instructions for Overall Compliance Determination Narrative**

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- (a) PSD Policy No. ADM.08.08 section 22 states all full and part-time medical and mental health practitioners will be trained in the elements required by this standard. The staff at this facility take the NIC online PREA: Medical Health Care/Behavioral Health Care for Sexual Assault Victims in a Confinement Setting training which meets the requirements of this standard. The facility reports all medical and mental health care practitioners have received this training. A mental health staff member, as well as the facility health administrator were interviewed, and both confirmed that they, and all medical and mental health staff, are required to take this training.
- (b) Medical staff at this facility do not conduct forensic examinations.
- (c) PSD Policy No. ADM.08.08 section 22 states PSD will maintain documentation that practitioners have completed the required training. The auditor reviewed training certificates for all medical and mental health practitioners.
- (d) PSD Policy No. ADM.08.08 section 22 states practitioners will also receive the training mandated for all employees. The facility mental health staff member and facility health administrator confirmed in interviews they received the training mandated for all employees.

Based on policy and training documentation review and staff interviews, the facility is compliant with this standard.

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

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

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

**115.41 (a)**

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

#### 115.41 (b)

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

#### 115.41 (c)

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

#### 115.41 (d)

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

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes?  Yes  No

#### 115.41 (e)

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

#### 115.41 (f)

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

#### 115.41 (g)

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

#### 115.41 (h)

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

#### 115.41 (i)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 section 24 states the ISC is required to screen offenders at intake, which occurs upon admission to a facility, by utilizing the PREA Screening Tool (PSD 8314). For this facility, intake screening occurs at the court house before they are transferred to the facility. A staff member responsible for this intake screening was interviewed and confirmed that all inmates are screened prior to transport to the facility.
- (b) PSD Policy No. ADM.08.08 section 24 states the screening must occur within 72 hours of intake/arrival. The auditor reviewed intake screening documentation for 16 inmates. All were screened within 72 hours.
- (c) The auditor reviewed the PREA Screening Tool used by the agency. It is an objective tool, in that, it is not influenced by the personal feelings or opinions of the individual conducting the screening. The tool and the instructions which accompany it require the user to identify the source of information. The tool has a clear scoring mechanism which may be overridden. However, the override must be approved by the PREA Coordinator. The staff member who conducts intake screening verified this is the screening tool used for all assessments.
- (d) The auditor reviewed the PREA Screening Tool. It includes all 10 sub-sections of this standard. The staff member who conducts intake screening verified they cover all elements in the intake assessment. All 16 files reviewed contained the described assessment.



- (e) The auditor reviewed the PREA Screening Tool. It includes prior acts of sexual abuse, prior criminal history of physical abuse, history of correctional violence, and gang affiliation. The staff member who conducts intake screening verified they covers all element in the intake assessment. All 16 files reviewed contained the described assessment.
- (f) PSD Policy No. ADM.08.08 section 24 states the facility will reassess an offender's risk within 30 days of intake screening, if additional relevant information is received. The screening tool has a place to mark if new information was received. A staff member responsible for conducting reassessment was interviewed and verified 30-day reassessments are completed. While the staff member stated that new information would be reviewed, they did not actively seek new information. It is only reviewed if they happen to know or be given new information. The auditors requested documentation showing completion of the 30-day reassessments for 16 offenders but were only able to verify a completed reassessment for one of those offenders. The reports provided to the auditor show when a 30-day reassessment is required and includes a check box showing it was completed. However, the report form is not clear regarding which day the reassessment was actually completed, making it difficult to determine if it was within the 30-day requirement. Another contributing factor to why reassessments may be missed is that staff have two separate methods for documenting a completed reassessment. One involves a quick report that brings up a list of offenders and allows the staff member to check a box stating the reassessment was completed. The other method is to open the actual assessment form and mark a box on the form to show reassessment was completed. Utilizing one method may make it easier to determine which reassessments have been completed or missed.
- (g) PSD Policy No. ADM.08.08 section 24 states the offender's risk will be reassessed upon a referral, request, incident of sexual abuse, or receipt of additional information which may impact the offender's risk level. The PREA Compliance Manager and screening staff confirmed they would do reassessments in these cases.
- (h) PSD Policy No. ADM.08.08 section 24 states the offender will not be disciplined for refusing to answer or for not disclosing complete information. The staff members responsible for intake screening and reassessment both confirmed inmates are not disciplined for refusing to answer.
- (i) PSD Policy No. ADM.08.08 section 24 states the information on the screening tool is subject to confidentiality requirements, that professional and ethical rules will be enforced, and the information should not be exploited to the detriment of the offender. The PREA Screening Tool Instructions state the Warden is responsible for ensuring the confidentiality of the form while balancing disclosure to key facility staff to assist with determining appropriate housing, worklines, and other programmatic issues based on the offender's designation. In interviews with the PREA Coordinator and PREA Compliance Manager, both confirmed information from assessments is only shared with those who need to know to make informed decisions on housing, programming, etc. Controls are put in place through the Offendertrak system which allows access to information based on a person's position within the agency.

**Corrective Action Plan:**

- (f) The facility must develop a method for staff responsible for the 30-day reassessments to actively seek or receive any new information. A memo to staff members responsible for 30-day screening reminding/advising them of this method and the requirement in the standard should be provided to the auditor no later than 150 days from the facility's receipt of the interim report to allow the auditor sufficient time to review the provided document.

The facility must develop a plan to ensure 30-day reassessments are completed for every offender who remains at the facility for more than 30 days and that this is clearly documented to show each reassessment is completed. This can be documented in a memo or procedure for staff and provided to the auditor no later than 150 days from the facility's receipt of the interim report to allow the auditor sufficient time to review the provided document.

The facility must also provide intake rosters and documentation showing completed 30-day reassessments. This will begin one week after the receipt of the interim report and continue for a minimum of 12 weeks. If there are any concerns with the completion of the reassessments, the auditor will extend the number of weeks for documentation to be sent.

**Corrective Action Completed:**

- (f) A memo dated March 16, 2018 was sent through the Warden to the PREA Coordinator detailing the updated process to ensure 30-day reassessments. The memo states a comment will be added in Offendertrak if the date an assessment is entered differs from the date it was completed. The memo identifies Offender Services staff as the responsible parties to determine if there is any new information for the 30-day reassessment. Case managers conduct face-to-face follow ups with inmates and notify the Offender Services designee when this has been completed. The memo also states staff have been trained and received the PREA Screening Manual.

The facility sent PREA Admission Logs with intake and release dates and PREA Reviews Required logs showing completion of 30-day reassessments to the auditor. The auditor reviewed 12 weeks of intakes for their 30-day reassessment. A total of 178 samples were reviewed. Of those, all showed completion of the reassessment within 30 days or evidence that the inmate had been released or transferred prior to the 30 days.

The facility completed corrective action and is compliant with this standard.

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

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

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

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

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

#### 115.42 (b)

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

#### 115.42 (c)

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

#### 115.42 (d)

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

#### 115.42 (e)

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

#### 115.42 (f)

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

#### 115.42 (g)

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing:

lesbian, gay, and bisexual inmates in dedicated facilities, units, or wings solely on the basis of such identification or status?  Yes  No

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 section 25 states information from the risk assessment will be used for housing, work, or scheduling to keep separate those offenders at high risk of being sexually victimized from those at high risk of being sexually abusive. In interviews with staff, including the PREA Compliance Manager, intake staff, and screening staff, they stated information from the risk assessment is used in making housing decisions. The bottom of the risk assessment tool has a section to mark the housing status, recommended housing, and final housing designation of each inmate who scores as a victim, potential victim, predator, or potential predator. Instructions that accompany the assessment tool describe how to consider the information in making a housing assignment. Information from the assessment is also used in programming decisions. It is also considered in work assignments; however, most work assignments are for the inmates in community custody level which means most of them are at low risk in general.
- (b) PSD Policy No. ADM.08.08 section 25 states the risk screening information will be used to make an individualized assessment about how to ensure the safety of each individual offender. The PREA Screening Tool Instructions describe how the Facility COS or Watch Commander is to review each screening where an offender is designated as a victim, potential victim, sexual

predator, or potential sexual predator to ensure the offender is appropriately housed. The PREA Compliance Manager, intake staff, and screening staff all stated they make individualized determinations about the safety of each inmate.

- (c) PSD Policy No. ADM.08.08 section 26 states transgender and intersex offenders will be housed based on their legal status as a male or female. Any deviation in the housing assignment of a transgender or intersex offender will be determined by medical and mental health staff with input from program and security staff at the intake process. In deciding what facility to assign a transgender or intersex inmate and in making housing and other assignments, the policy states PSD will consider on a case-by-case assessment whether a placement would ensure the offender's health and safety, and whether the placement would present a management or security concern. The audit team interviewed three transgender inmates. All stated they felt safe where they were housed, and all reported the PREA Compliance Manager checks in on them frequently. The PREA Compliance Manager and PREA Coordinator both stated individualized assessments are made and inmates are housed based on their legal status as a male or female.
- (d) PSD Policy No. ADM.08.08 section 26 states facility staff will reassess the placement of each transgender and intersex offender biannually. The instructions that accompany the risk assessment tool instruct staff that the two reviews each year should occur during initial classification and reclassification. A representative from the PREA Coordinator's office confirmed this is when reviews of transgender and intersex inmates occur and showed the audit team how this is documented in Offendertrak.
- (e) PSD Policy No. ADM.08.08 section 26 states transgender and intersex offender's own views with respect to his or her own safety will be given serious consideration. The PREA Compliance Manager confirmed transgender and intersex inmate's views with respect to their own safety is given serious consideration. The risk assessment tool also asks each inmate if they have concerns about their sexual abuse vulnerability. The audit team interviewed three transgender inmates. All stated they felt safe where they were housed, and all reported the PREA Compliance Manager checks in on them frequently.
- (f) PSD Policy No. ADM.08.08 section 26 states transgender and intersex offenders will be given the option to shower separately from other offenders in dorm shower situations, if requested. For some units, individual showers are available, which are divided by curtains or doors. For the units with gang-style showers, transgender and intersex inmates may request a separate shower time. Staff and transgender inmates confirmed in interviews that transgender inmates may request a separate shower time.
- (g) PSD Policy No. ADM.08.08 section 26 states facilities will not place LGBTI offenders in dedicated facilities, units, or wings unless established by consent decree, legal settlement, or legal judgement for the purpose of protecting such inmates. The PREA Coordinator confirmed the agency is not under any consent decree or legal settlement and that the agency does not place inmates in dedicated units or facilities. Eight inmates who identify as lesbian, gay or bisexual and three transgender inmates were interviewed. They all stated they have never been placed in a dedicated facility or unit. Based on the audit team's onsite inspection, LGBTI inmates are placed in a variety of units and that placement is based on safety, security, and common correctional practices.

Based on policy and risk assessment tool review, the audit team's facility inspection, and interviews with staff and inmates, the facility is compliant with this standard.

## Standard 115.43: Protective Custody

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

#### 115.43 (a)

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

#### 115.43 (b)

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

#### 115.43 (c)

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

#### 115.43 (d)



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

### 115.43 (e)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 section 27 outlines the use of protective custody for offenders at high risk of sexual victimization. The policy covers the requirements of this standard. In addition, the policy references Policy No. COR.11.01 Administrative Segregation and Disciplinary Segregation. This policy states an inmate may be placed in administrative segregation if the inmates continued presence in general population is a threat to the safety of self or others. The policy goes on to state the warden or designee must review the placement within 24 hours or as soon as is practicable. A staff member responsible for supervising inmates in segregated housing was interviewed. This staff member, as well as the Warden, confirmed inmates are only placed in involuntary segregation as a last resort. The Warden stated that if they are placed there, the facility tries to move them out as quickly as possible.
- (b) The staff member responsible for supervising inmates in segregated housing stated inmates are still provided programs, privileges, education, and work opportunities. Since MCCC is a jail, there are few education, program or work opportunities for the general population. Policy No. COR.11.01 states inmates in segregation will receive privileges consistent with a facility's available resources and security consideration.



- (c) PSD Policy No. ADM.08.08 section 27 states that if the placement in involuntary segregation exceeds 30 days, the facility will conduct follow-up reviews no less than every 30 days to assess the offender's continued separation from the general population. The staff member responsible for supervising inmates in segregation stated inmates are only temporarily held involuntarily. The Warden confirmed inmates are removed from segregated housing as quickly as possible, typically within 72 hours.
- (d) The facility had no instances in the last 12 months of an inmate being held in involuntary segregated housing.
- (e) Policy No. COR.11.01 states 30 days after an inmate's initial placement in administrative segregation and every 30 days thereafter, the warden or designee will personally interview the inmate and make a written record of his decision to either confirm the continued placement or release the inmate back to general population.

The facility reported, and staff confirmed in interviews, no inmates at risk of sexual victimization were placed in involuntary segregation over the last 12 months. Therefore, no current segregation documentation existed for the audit team to review. Based on policy review, interviews with staff, and the audit team's onsite inspection, the facility is compliant with this standard.

## REPORTING

### Standard 115.51: Inmate reporting

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

#### 115.51 (a)

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

#### 115.51 (b)

- Does the agency also provide at least one way for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency?  Yes  No
- Is that private entity or office able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials?  Yes  No

- Does that private entity or office allow the inmate to remain anonymous upon request?  
 Yes  No
- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security?  Yes  No

#### 115.51 (c)

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

#### 115.51 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 section 28 states offenders may report non-consensual sexual acts, abusive sexual contacts, staff sexual misconduct, or staff sexual harassment to any PSD employee, contract employee, or volunteer, including verbal and written reports. The policy goes on to list the following contacts (with addresses and phone number) where offenders, staff, or others may report: the Ombudsman, a legislative or political representative, the Department of the Attorney General, the Sex Abuse Treatment Center, the Department PREA Coordinator, the Director or Deputy Director, Internal Affairs, and the facility warden or investigator. It also states a family member can initiate contact with any of these individuals. The offender may also file an emergency offender grievance or contact the relevant county law enforcement agency. With the exception of the law enforcement agency, all of these methods allow the inmate to remain anonymous. The "Informational Guide for Offenders: Offender Sexual Abuse and Sexual

Harassment by Offenders, Staff, Volunteers, and Contractors" which is provided to inmates, also outlines all of the reporting mechanisms, including tell a staff member, a chaplain, or a medical or mental health professional. All 34 inmates interviewed, including random and targeted interviews, identified at least one way in which they could report, or felt comfortable reporting. Every inmate stated they knew at least one staff member they would feel comfortable reporting to. Some stated they would tell a family member or friend or would call the numbers on the posters. The posters outline all the internal and external methods to make a report.

- (b) Of the contacts for reporting listed in (a) above, the Ombudsman, legislative representative, Department of the Attorney General, and the Sex Abuse Treatment Center are all public or private entities that are not part of the agency who can receive and immediately report allegations. A review of the Ombudsman website at <http://ombudsman.hawaii.gov/about-us/> shows the Ombudsman is an officer of the legislature who investigates complaints about actions of the executive branch agencies of the state. They serve as a neutral, independent intermediary between citizens and the agency and are authorized to investigate administrative actions of the state agencies. The State of Hawaii has a contract in place with the Sex Abuse Treatment Center to receive reports. The auditor reviewed this contract.

PSD Policy No. ADM.08.08 section 28 states offenders detained solely for civil immigration purposes will be provided information on how to contact the relevant consular officials and relevant Department of Homeland Security officials. The agency notes it does not normally house offenders solely for civil immigration purposes.

- (c) PSD Policy ADM.08.08 section 28 states staff are mandated to accept reports verbally, in writing, anonymously, and from third parties and they must immediately document verbal reports. All 12 staff who were randomly selected for interviews stated they must accept verbal reports and they would immediately document those reports. These staff also identified numerous methods by which an inmate may report.
- (d) Staff members may privately report incidents by contacting any of the individuals or agencies listed in (a) above. Staff are informed of this during PREA training. All 12 staff members randomly selected for interviews stated they could privately report information up their chain of command. They also identified the Ombudsman and the PREA Coordinator as possible methods to privately report.

Based on policy, contract, poster, and brochure review, interviews with staff and inmates, and the audit team's onsite inspection, the facility is compliant with this standard.

## Standard 115.52: Exhaustion of administrative remedies

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

#### 115.52 (a)

- Is the agency exempt from this standard? NOTE: The agency is exempt ONLY if it does not have administrative procedures to address inmate grievances regarding sexual abuse. This does not mean the agency is exempt simply because an inmate does not have to or is not ordinarily expected to submit a grievance to report sexual abuse. This means that as a matter of

explicit policy, the agency does not have an administrative remedies process to address sexual abuse.  Yes  No  NA

#### 115.52 (b)

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

#### 115.52 (c)

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

#### 115.52 (d)

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

#### 115.52 (e)

- Are third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA

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

#### 115.52 (f)

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

#### 115.52 (g)

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

#### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

- (a) Not applicable as the agency does have procedures to address inmate grievances regarding sexual abuse.
- (b) PSD Policy No. ADM.08.08 section 29 states there will be no time limits or deadlines for filing a grievance reporting an alleged incident of sexual abuse; the filing period for any portion of the grievance not alleging an incident of sexual abuse is still applicable, and; an offender is not required to use an informal grievance process.
- (c) PSD Policy No. ADM.08.08 section 29 states an offender does not have to submit the grievance to the staff member who is the subject of the complaint and the grievance will not be referred to the staff member who is the subject of the complaint. These policy statements are in compliance with the standard. Locked grievance boxes were noted throughout the facility.
- (d) PSD Policy No. ADM.08.08 section 29 states a decision on the merits of any grievance or portion of a grievance alleging sexual abuse be made within 90 days of the filing of a grievance; computation of the 90 days does not include time consumed by offenders in preparing any administrative appeal; PSD may claim an extension up to 70 days and will notify the offender in writing of any extensions, and; if the offender does not receive a response within the time allotted for reply, the offender may consider the absence of a response to be a denial at that level. These policy statements are in compliance with the standard.
- (e) PSD Policy No. ADM.08.08 section 29 states third parties may assist offenders in filing requests for administrative remedies relating to allegations of sexual abuse or may file such requests on behalf of offenders. If the offender declines to have the request processed on his or her behalf, PSD documents this on the PREA Mandated Reporting form.
- (f) PSD Policy No. ADM.08.08 section 29 outlines the process for an emergency grievance and includes the requirements of subsection (f) of this standard.
- (g) PSD Policy No. ADM.08.08 section 29 allows for a misconduct violation against an offender for filing a grievance or reporting related to alleged sexual abuse or sexual harassment when PSD demonstrates the offender filed the grievance or report in bad faith.

The facility reports there have been no grievances filed that allege sexual abuse in the last 12 months therefore, there were no documents to review beyond policy. Based on policy review the facility is compliant with this standard.

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

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

#### 115.53 (a)

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

#### 115.53 (b)

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

#### 115.53 (c)

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

### Auditor Overall Compliance Determination

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



## Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 section 30 states PSD will provide offenders with access to outside victim advocates by providing contact information for victim advocacy or rape crisis organizations, or immigrant services agencies. The policy states they will allow reasonable communication between offenders and these organizations in as confidential a manner as possible. The State of Hawaii has a contract (16-HSA-01) with Kapiolani Medical Center for Women and Children, Sex Abuse Treatment Center (SATC) for statewide comprehensive victim sexual assault treatment services which the auditor reviewed. The agency under the master contract for delivery of services for the island of Maui is the Child and Family Services Maui Sexual Assault Center (MSAC). A brochure provided to inmates at intake states, "You may contact the Sex Abuse Treatment Center Hotline at [phone number] to report an incident and to obtain emotional support counseling services. (External & Confidential)." While onsite, the audit team noted that, while the facility is providing this information, most inmates and staff did not know this service was available. The audit team recommended that the information be highlighted during the intake process. The facility corrected this prior to the interim report being submitted. This was done by advising intake/screening staff to specifically discuss the support service information and provide an additional flier with the hotline information during intake. The flier is posted by the collect call phone in all housing units. No further corrective action is required for this standard.
- (b) Inmates are informed during the intake process the extent to which these services are monitored. It also states on the brochure that it is "external and confidential."
- (c) The auditor reviewed the State of Hawaii contract (16-HSA-01) with Kapiolani Medical Center for Women and Children, Sex Abuse Treatment Center (SATC) for statewide comprehensive victim sexual assault treatment services. The agency under the master contract for delivery of services for the island of Maui is the Child and Family Services Maui Sexual Assault Center (MSAC). This program provides a 24-hour hotline for crisis counseling. The auditor interviewed a representative of this agency and he confirmed these services are provided to the facility.

Based on policy, contract, and other document review, and interviews, the facility is compliant with this standard.

## Standard 115.54: Third-party reporting

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

### 115.54 (a)

- Has the agency established a method to receive third-party reports of sexual abuse and sexual harassment?  Yes  No

- Has the agency distributed publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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Third party reports may be made to the PREA Coordinator, PSD Internal Affairs, PSD Director, Sex Abuse Treatment Center, Office of the Ombudsman, the facility administrator, PREA Compliance Manager or criminal complaints may be filed with the County Police Department. This information is posted on the agency website at <http://dps.hawaii.gov/wp-content/uploads/2015/02/How-to-report-PREA-Incident-2-3-15.jpg>.

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

### Standard 115.61: Staff and agency reporting duties

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

#### 115.61 (a)

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

### 115.61 (b)

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

### 115.61 (c)

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

### 115.61 (d)

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

### 115.61 (e)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 section 32 requires all staff to immediately report any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or harassment, retaliation, or staff neglect which may have contributed to a PREA incident. All 12 staff randomly selected for interviews stated they are required to report in accordance with this standard.

- (b) PSD Policy No. ADM.08.08 section 32 prohibits staff from revealing any information related to a sexual abuse report to anyone other than those needed to manage treatment, investigations, or other security decisions related to the incident. All 12 staff randomly selected for interviews stated information about a sexual abuse is only shared with staff who need to know the information.
- (c) PSD Policy No. ADM.08.08 section 32 requires medical and mental health practitioners to report sexual abuse unless otherwise precluded by law. Practitioners must also inform offenders of their duty to report and the limitations of confidentiality at the initiation of services. A psychiatric social worker and the facility health administrator were interviewed, and both confirmed they have a duty to report and inmates are notified of their duty to report and limits to confidentiality during intake. The facility health administrator has received a few reports of sexual harassment during her tenure, which she immediately reported to the watch commander.
- (d) PSD Policy No. ADM.08.08 section 32 states PSD will report allegations involving victims under the age of 18 or considered a vulnerable adult to designated agencies. HRS §346, Part X: Adult Protective Services, defines a "vulnerable adult" as a person 18 years of age or older who because of mental, developmental, or physical impairment, is unable to: communicate or make responsible decisions to manage his/her own resources; carry out or arrange for essential activities of daily living; or protect oneself from abuse, including physical abuse, psychological abuse, sexual abuse, financial exploitation, caregiver neglect, or self-neglect. HRS §346, Part X: Adult Protective Services, mandates that personnel employed in health care, social services, law enforcement, and financial assistance are required to report suspected abuse or neglect of a vulnerable adult. The law mandates reporting when there is reason to believe abuse has occurred or the vulnerable adult is in danger of abuse, if immediate action is not taken. The facility has not had any victims under 18 or vulnerable adults to necessitate such notification.
- (e) PSD Policy No. ADM.08.08 section 32 PSD will report all allegations through the chain of command and a copy will be sent to the PREA Coordinator. The Warden and PREA Compliance Manager confirmed that all allegations are reported for administrative and/or criminal investigation.

Based on policy and document review and interviews with staff, the facility is compliant with this standard.

## Standard 115.62: Agency protection duties

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

### 115.62 (a)

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

### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

PSD Policy No. ADM.08.08 section 33 requires a facility or staff member to take immediate action to protect an offender when they learn the offender is subject to a substantial risk of imminent sexual abuse. The policy defines immediate action to mean to assess appropriate protective measures without unreasonable delay. The Institutional Division Administrator, the Warden, and every staff randomly selected for interview, stated they would immediately act to separate a potential victim from a potential abuser when an inmate is at imminent risk of sexual abuse. Based on policy review, interviews with staff, and the audit team's overall assessment of PREA compliance, the facility is compliant with this standard.

## Standard 115.63: Reporting to other confinement facilities

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

#### 115.63 (a)

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

#### 115.63 (b)

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

#### 115.63 (c)

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

#### 115.63 (d)

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

### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 section 34 requires, upon receiving an allegation that an offender was abused in another facility, the facility head will immediately notify the facility head where the incident occurred. The Institutional Division Administrator was interviewed, and she confirmed all allegations received about other facilities are reported to the respective facility. She stated the PCM will work with the warden to ensure information is relayed.
- (b) PSD Policy No. ADM.08.08 section 34 requires this notification be completed within 72 hours of receiving the allegation. The facility reports within the last 12 months it has not received any allegations that an inmate was abused at another facility. However, the agency provided documentation from another facility to show notifications. The email documentation shows notification occurred within 72 hours.
- (c) PSD Policy No. ADM.08.08 section 34 requires the notification be documented. The facility reports within the last 12 months it has not received any allegations that an inmate was abused at another facility. However, the agency provided documentation from another facility to show notifications. The email documentation shows notification from the warden where the allegation was reported to the warden where the incident allegedly occurred.
- (d) The facility reports it has not received any reports within the last 12 months of sexual abuse from other facilities. The warden confirmed in his interview that any reports MCCC receives from other facilities will be fully investigated.

Based on policy review, documentation of reports from other agency facilities, and interviews with staff, the facility is compliant with this standard.

## Standard 115.64: Staff first responder duties

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

### 115.64 (a)

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

#### 115.64 (b)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 section 35 outlines first responder duties consistent with this standard. All 12 staff randomly selected for interviews identified the appropriate first responder duties.



- (b) PSD Policy No. ADM.08.08 section 35 outlines first responder duties consistent with this standard. All non-security staff selected for interviews accurately identified the appropriate first responder duties.

The facility reports there have been 12 allegations that an inmate was sexually abused within the last 12 months. Of these, none were reported within a time frame that would allow for the collection of physical evidence. Five cases were reviewed and each showed documentation of first responder duties in a checklist. In cases where the alleged victim and abuser were not already separate, staff took action to separate them and staff responded in a timely manner. Based on policy and document review and staff interviews, the facility is compliant with this standard.

## Standard 115.65: Coordinated response

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

### 115.65 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The auditor reviewed the MCCC Facility Response Plan. The plan lists required actions in response to a sexual abuse, harassment, or misconduct allegation. It includes the first responder duties outlined in Standard 115.64, isolating witnesses, securing the crime scene, notifying the chain of command, notifying law enforcement, transporting the victim and suspect to medical and/or mental health, reassessing housing, and ensuring retaliation monitoring. This meets all the elements required by this standard. All staff interviewed were well informed of the process to follow and the elements of a coordinated response. All staff interviewed were well informed of the process to follow and the elements of a coordinated response.

Based on review of the Coordinated Response Plan and interviews with staff, the facility is compliant with this standard.

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

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

### 115.66 (a)

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

### 115.66 (b)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

- (a) The auditor reviewed the HGEA Unit 13 Contract which states whenever an investigation against an employee is pending and the employee's presence at the work site is deemed by the employer to be detrimental to the proper conduct of the investigation or operation of the work place, the employee may be placed on leave of absence pending an investigation. The auditor also reviewed the United Public Worker Unit 10 Agreement which gives the employer the ability to place the employee on leave of absence or temporarily reassign the employee pending an investigation. The Institutional Division Administrator and the warden confirmed the agency has the ability to place employees on leave without pay or reassign them pending an investigation.

Based on review of the contract language and staff interviews, the facility is compliant with this standard.

## Standard 115.67: Agency protection against retaliation

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

#### 115.67 (a)

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

#### 115.67 (b)

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

#### 115.67 (c)

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

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff?  Yes  No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need?  Yes  No

#### 115.67 (d)

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

#### 115.67 (e)

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

#### 115.67 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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- (a) PSD Policy No. ADM.08.08 section 39 establishes the agency policy to protect inmates and staff from retaliation. The policy states the designated facility PREA Compliance Manager in conjunction with the Warden is charged with monitoring any issues related to retaliation. The PREA Compliance Manager was interviewed as the individual responsible for ensuring retaliation monitoring is conducted. She confirmed that retaliation monitoring is initiated upon a report.
- (b) PSD Policy No. ADM.08.08 section 39 states PSD utilizes multiple protection measures such as housing changes or transfers, removal of alleged staff or offender abusers from contact with victims, and emotional support services. The PREA Compliance Manager confirmed she has the ability to implement protective measures, including moving staff or inmates or writing them up for disciplinary action if there is evidence of retaliation. The Institutional Division Administrator stated that facilities would implement housing changes, moves to different facilities, segregation as a last resort, and staff reassignment in response to retaliation.
- (c) PSD Policy No. ADM.08.08 section 39 states retaliation monitoring will continue for a minimum of 90 days and will act promptly to remedy and retaliation. The PREA Compliance Manager stated she would monitor for retaliation for a minimum of 90 days. She stated monitoring would include talking to the inmate, which would be done by line staff, looking for changes in behavior, disciplinary actions, and other possible issues. The auditor reviewed retaliation monitoring documentation which shows instances where staff noted their monitoring, including any issues or status updates.
- (d) PSD Policy No. ADM.08.08 section 39 states monitoring for offenders will include periodic status checks. The PREA Compliance Manager confirmed she talks to inmates periodically during retaliation monitoring but that line staff are responsible for daily and weekly checks. The auditor reviewed retaliation monitoring documentation which shows instances where staff noted their monitoring, including any issues or status updates.
- (e) PSD Policy No. ADM.08.08 section 39 states PSD will take appropriate measures to protect any other individual who cooperates with an investigation who expresses a fear of retaliation. The Institutional Division Administrator confirmed retaliation monitoring would take place for at least 90 days for anyone involved, including witnesses.

Based on review of policy, retaliation monitoring documentation and staff interviews, the facility is compliant with this standard.

## Standard 115.68: Post-allegation protective custody

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

### 115.68 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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See notes for 115.43. PSD Policy No. ADM.08.08 states any use of involuntary segregation to protect an offender post allegation, who is alleged to have suffered sexual abuse is subject to the requirements outlines under standard 115.43. The facility reports no inmates have been held in involuntary segregation in the last 12 months.

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

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

#### 115.71 (a)

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

#### 115.71 (b)

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

#### 115.71 (c)

- Do investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data?  Yes  No

- Do investigators interview alleged victims, suspected perpetrators, and witnesses?  
 Yes  No
- Do investigators review prior reports and complaints of sexual abuse involving the suspected perpetrator?  Yes  No

#### 115.71 (d)

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

#### 115.71 (e)

- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as inmate or staff?  Yes  No
- Does the agency investigate allegations of sexual abuse without requiring an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding?  Yes  No

#### 115.71 (f)

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

#### 115.71 (g)

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

#### 115.71 (h)

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

#### 115.71 (i)

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

#### 115.71 (j)



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

### 115.71 (k)

- Auditor is not required to audit this provision.

### 115.71 (l)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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- (a) PSD Policy ADM.08.08 section 41 states investigations will be completed promptly, thoroughly, and objectively for all allegations. The facility reports they had 15 allegations of sexual abuse or sexual harassment during the last 12 months. The auditor reviewed investigation documentation for five of those incidents. In all cases, the investigation was conducted: promptly as evident by the timelines in the reports; thoroughly as evident in the description of interviews, incident reports, evidence, etc.; and objectively as evident in the summary of each case. The Institutional Division Administrator, Warden, PREA Compliance Manager, and investigations staff all confirmed in interviews that all allegations, regardless of source, are investigated.
- (b) PSD Policy ADM.08.08 section 41 requires that agency investigators receive the specialized training required in 115.34. See notes for Standard 115.34.
- (c) PSD Policy ADM.08.08 section 41 requires the investigator to preserve evidence, interview victims, perpetrators, and witnesses, and review prior complaints. For criminal complaints, the local law enforcement agency is responsible for evidence collection and preservation. The facility has trained all staff in how to protect evidence until law enforcement arrives. This was verified in

staff interviews. For administrative investigations, as demonstrated in investigation documentation, the investigative staff interview victims, witnesses, and suspects, review prior complaints, and any other relevant information/evidence.

- (d) PSD Policy ADM.08.08 section 41 states PSD will consult with county law enforcement or prosecutors prior to conducting compelled interviews. Typically, this is not necessary for PSD as all criminal complaints are handled by local law enforcement who would be responsible for conducting compelled interviews.
- (e) PSD Policy ADM.08.08 section 41 states the credibility of an alleged suspect, victim, or witness will be assessed on an individual basis and will not be determined merely by the person's status as a staff member or offender. An Internal Affairs investigator and a facility investigator who were interviewed both stated they do not judge the person being interviewed and they look to ensure all information is supported with additional facts. PSD Policy ADM.08.08 states offenders will not be required to submit to a polygraph examination or other truth-telling device. The Internal Affairs investigator and facility investigator confirmed this.
- (f) PSD Policy ADM.08.08 section 41 requires administrative investigations to consider whether staff actions or failures to act contributed to abuse and requires written reports. Staff actions or failures to act are discussed and documented in incident reviews following an investigation. The Internal Affairs investigator stated that during an investigation he tries to determine if an incident could have been prevented and will initiate other investigations as needed.
- (g) Criminal investigations are conducted by an outside agency and are documented by that agency. The PREA Coordinator stated that PSD receives the information they need from the investigating agency to complete any administrative tasks such as informing an offender of the outcome of an investigation. She affirms the good working relationship between PSD and local law enforcement and prosecutors allows for information sharing and the ability to conduct administrative and criminal investigations simultaneously.
- (h) Since criminal investigations are conducted by an outside agency, it is up to that agency to refer a substantiated allegation for criminal prosecution. Investigative staff confirmed they would report any criminal conduct revealed during an administrative investigation to law enforcement.
- (i) PSD Policy ADM.08.08 section 41 requires PSD to retain all written reports for as long as the alleged abuser is incarcerated or employed by PSD, plus five years.
- (j) PSD Policy ADM.08.08 section 41 states the departure of the alleged abuser or victim from employment or custody is not a basis for terminating an investigation. The Internal Affairs investigator confirmed that all investigations will be completed regardless of if the abuser or victim is no longer employed or in custody.
- (k) n/a
- (l) PSD Policy ADM.08.08 section 41 requires facility staff to cooperate with outside investigators and remain informed of the progress of the investigation. The PREA Coordinator affirms they work with law enforcement and the prosecutors to make the investigation and any court proceedings as easy as possible. The facility PREA Compliance Manager stated she requests information from law enforcement investigations and has a good working relationship with local law enforcement to get the information she needs.

Based on policy, investigation documentation, and interviews, the facility is compliant with this standard.

## Standard 115.72: Evidentiary standard for administrative investigations

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

### 115.72 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

PSD Policy ADM.08.08 section 42 state PSD will not impose a standard higher than a preponderance of the evidence in determining if an allegation is substantiated. An Internal Affairs investigator was interviewed, and he stated the evidentiary standard is preponderance of the evidence. He then accurately defined this as anything over 50% of the evidence. The facility investigator who was interviewed also verified the evidentiary standard is preponderance of the evidence and accurately defined the standard. Investigation reports were reviewed and demonstrate the facility does not impose a standard higher than a preponderance of the evidence. Based on policy, document review, and interviews, the facility is compliant with this standard.

## Standard 115.73: Reporting to inmates

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

### 115.73 (a)

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

#### 115.73 (b)

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

#### 115.73 (c)

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

#### 115.73 (d)

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

#### 115.73 (e)

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

### 115.73 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy ADM.08.08 section 43 requires the facility to inform an offender as to whether an allegation was determined to be substantiated, unsubstantiated, or unfounded. The PREA Mandated Reporting form is used for this purpose. Documentation for five of the cases over the last 12 months was reviewed and it shows inmates were notified of the findings in all five cases. The Warden and the PREA Compliance Manager confirmed notifications are made in accordance with this standard.
- (b) PSD Policy ADM.08.08 section 43 states PSD will request relevant information from the external investigative agency to inform the offender of the results. The facility PREA Compliance Manager stated she requests information from law enforcement investigations. She confirmed she has a good working relationship with local law enforcement and that she gets the information necessary to make the required reports.
- (c) PSD Policy ADM.08.08 section 43 requires the offender be informed of the status of the staff member as described in this substandard. The facility reports there were no criminal or administrative investigations of alleged inmate sexual abuse by a staff member in the past 12 months, therefore there were no notifications to inmates to review.
- (d) PSD Policy ADM.08.08 section 43 requires the offender be informed of the status of the inmate abuser as described in this substandard.
- (e) PSD Policy ADM.08.08 section 43 requires these notifications be documented. This is done on the PREA Mandated Reporting form. Applicable notifications for the last 12 months were documented and reviewed by the auditor.

Based on policy, document review, and interviews, the facility is compliant with this standard.

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

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

#### 115.76 (a)

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

#### 115.76 (b)

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

#### 115.76 (c)

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

#### 115.76 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 section 44 states staff are subject to disciplinary sanctions up to and including termination for PREA sexual abuse or sexual harassment policy violations. The facility reports no staff members have violated agency sexual abuse or sexual harassment policies in the last 12 months. However, the facility provided termination letters for a violation of a PREA policy from previous years at a different agency facility.
- (b) PSD Policy No. ADM.08.08 section 44 states termination is the presumptive disciplinary sanction for all staff, who, after an investigation and a pre-disciplinary process hearing, have been found to have engaged in sexual abuse. In interviews with the Warden, HR representative, and PREA Coordinator, they confirmed disciplinary sanctions would be pursued with termination being the presumptive disciplinary action.
- (c) PSD Policy No. ADM.08.08 section 44 states disciplinary sanctions will be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and sanctions imposed for comparable offenses by other staff.
- (d) PSD Policy No. ADM.08.08 section 44 states all terminations for violations of PREA sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated, will be reported to law enforcement unless the conduct was clearly not criminal. It also states PSD will report to any relevant licensing body. The PREA Coordinator stated that correctional officers do not have a licensing or certification body. However, the PREA Coordinator and an Internal Affairs investigator both stated the information regarding a violation of PREA policies would be placed in the employee's file for future reference and review. Other staff, such as medical and mental health staff, will be reported to licensing boards.

Based on policy review, interviews, and supporting documentation showing the agency response to staff violations of sexual abuse and sexual harassment policies, the facility is compliant with this standard.

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

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

### **115.77 (a)**

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



### 115.77 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 section 45 states contractors or volunteers who engage in sexual abuse will be prohibited from contact with inmates and will be reported to county law enforcement and relevant licensing bodies.
- (b) PSD Policy No. ADM.08.08 section 45 states PSD will take appropriate remedial measures and consider whether to prohibit contact with offenders in the case of any other violations such as sexual harassment.

The facility reports that no contractors or volunteers have engaged in sexual abuse or sexual harassment in the last 12 months. The warden stated volunteers or contractors who engage in such behavior would be banned from the facility and criminal conduct turned over to the Maui Police Department. Based on policy and the warden's statements, the facility is compliant with this standard.

### Standard 115.78: Disciplinary sanctions for inmates

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

### 115.78 (a)

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

#### 115.78 (b)

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

#### 115.78 (c)

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

#### 115.78 (d)

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

#### 115.78 (e)

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

#### 115.78 (f)

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

#### 115.78 (g)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

- a) PSD Policy No. ADM.08.08 section 46 states offenders are subject to disciplinary action pursuant to a formal disciplinary process following an administrative finding that the offender engaged in offender-on-offender sexual abuse or harassment.
- b) PSD Policy No. ADM.08.08 section 46 states sanctions will 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.
- c) PSD Policy No. ADM.08.08 section 46 states the disciplinary process will consider whether an offender's mental disability or mental illness contributed to the behavior in determining the sanction.
- d) PSD Policy No. ADM.08.08 section 46 states PSD medical and mental health staff will provide counseling designed to address and correct underlying reasons or motivations for abuse. However, since this is jail, they are not required under the standards to provide mental health treatment to inmate-on-inmate abusers.
- e) PSD Policy No. ADM.08.08 section 46 states PSD will discipline offenders for sexual contact with staff only upon finding that the staff member did not consent to such contact. The facility had no examples from the past 12 months where an inmate was disciplined for contact with staff in accordance with this standard. However, they did provide an example from another PSD facility which was in compliance with this standard.
- f) PSD Policy No. ADM.08.08 section 46 states PSD will not discipline offenders for reporting sexual abuse made in good faith.
- g) PSD Policy No. ADM.08.08 section 46 states PSD prohibits sexual activity or contact between offenders and will discipline them for such activity.

Facility staff confirmed disciplinary sanctions would be pursued in accordance with PSD policy and noted that any substantiated criminal behavior would most likely result in placement in prison if the inmate was found guilty. The auditor reviewed disciplinary documentation for the three substantiated cases and the criminal indictment for the one criminal finding of guilt from the last 12 months. Based on policy, staff interviews, and disciplinary documentation, the facility is compliant with this standard.

## **MEDICAL AND MENTAL CARE**

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

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

### 115.81 (a)

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

### 115.81 (b)

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

### 115.81 (c)

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

### 115.81 (d)

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

### 115.81 (e)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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- (a) Not applicable as this facility is not a prison.
- (b) Not applicable as this facility is not a prison.
- (c) PSD Policy No. ADM.08.08 section 47 states any offender who discloses prior victimization will be offered a follow-up meeting with a medical or mental health practitioner within 14 days. At MCCC all inmates are seen by medical staff within the first two weeks of their arrival. Policy COR.10.1E.02 states a receiving screening will be completed immediately on all inmates entering a facility prior to placement in facility housing. This screening includes asking the inmate if they have ever been a victim of sexual violence. Policy COR.10.1E.04 states an initial health assessment will be implemented within the first 14 days for jail inmates. Medical staff have access to, and review, the PREA risk assessment and know whether an inmate reported abuse during that assessment. During the assessment, medical staff ask about sexual history, including whether the offender is a victim of sexual assault/abuse. This is all documented in a medical intake record. The auditor reviewed this record for 16 offenders. All were completed within one to two days of intake. The record also has a place to document referrals to mental health.
- (d) PSD Policy No. ADM.08.08 section 47 states any information related to sexual victimization or abusiveness that occurred in an institutional setting is strictly limited to medical and mental health practitioners and other staff, as necessary, to formulate treatment plans and/or security management decisions. Medical staff interviewed, as well as other facility staff, confirmed that information is only shared on a need to know basis.
- (e) PSD Policy No. ADM.08.08 section 47 states medical and mental health staff will obtain informed consent from offenders before reporting information about prior sexual victimization that did not occur in a facility. The facility has a standard authorization to release medical information form. The facility health services administrator was interviewed, and confirmed inmates are advised of confidentiality policies and staff duty to report during intake. There is a place on the intake medical record to note if written informed consent was obtained to report sexual abuse.

Based on policy and document review, and staff interviews, the facility is compliant with this standard.

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

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

#### **115.82 (a)**

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

### 115.82 (b)

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

### 115.82 (c)

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

### 115.82 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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- (a) PSD Policy No. ADM.08.08 section 47 states offender victims of sexual abuse will receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which will be determined by medical and mental health staff according to their professional judgment. The psychiatric social worker and the facility health services administrator were interviewed and both confirmed inmates will receive emergency medical treatment and crisis intervention services. This occurs as soon as it is safe to do so. Both stated these services are determined by the medical staff's professional judgement.
- (b) PSD Policy No. ADM.08.08 section 47 states if qualified medical or mental health staff are not on duty at the time of a report of a recent sexual abuse, the security staff will take preliminary steps

to protect the victim and will immediately notify the on-call physician. In emergent cases, the inmate is transferred to the local medical center.

- (c) PSD Policy No. ADM.08.08 section 47 states offender will be offered timely information about and access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with the professionally accepted community standards of care. The facility health services administrator confirmed all these services are provided to victims in accordance with professionally accepted standards of care.
- (d) PSD Policy No. ADM.08.08 section 47 states treatment services are provided to every victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

Based on policy and document review and interviews with staff, the facility is compliant with this standard.

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

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

### **115.83 (a)**

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

### **115.83 (b)**

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

### **115.83 (c)**

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

### **115.83 (d)**

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

### **115.83 (e)**

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



### 115.83 (f)

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

### 115.83 (g)

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

### 115.83 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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- (a) PSD Policy No. ADM.08.08 section 48 states PSD will offer medical and mental health evaluations and treatment, as appropriate, to all offenders who have been victimized by sexual abuse in a facility.
- (b) PSD Policy No. ADM.08.08 section 48 states treatment will include follow-up services, treatment plans, and referrals as appropriate. The psychiatric social worker and facility health services administrator confirmed in interviews inmates are provided medical and mental health evaluations and treatment. This includes evaluations by facility medical staff, transport to the emergency room when necessary, mental health and medical follow-up services, STD checks, emergency contraception and referrals to outside services.

- (c) PSD Policy No. ADM.08.08 section 48 states PSD will provide offender victims with medical and mental health services consistent with the community standard level of care. The psychiatric social worker and facility health services administrator confirmed the level of care is consistent with, and in some cases better than, the community level of care.
- (d) PSD Policy No. ADM.08.08 section 48 states victims will be offered pregnancy tests. The facility health services administrator confirmed that tests will be offered.
- (e) PSD Policy No. ADM.08.08 section 48 states if pregnancy results from sexual abuse, offender victims will receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services. The facility health services administrator confirmed these services will be provided.
- (f) PSD Policy No. ADM.08.08 section 48 states victims will be offered tests for sexually transmitted infections as medically appropriate. The facility health services administrator confirmed this.
- (g) PSD Policy No. ADM.08.08 section 48 states services will be provided without financial cost regardless of whether the offender names the abuser or cooperates with any investigation. The facility health services administrator confirmed this.
- (h) Not applicable as this facility is not a prison.

Based on policy review and interviews, the facility is compliant with this standard.

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

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

#### 115.86 (a)

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

#### 115.86 (b)

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

#### 115.86 (c)

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

#### 115.86 (d)

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

#### 115.86 (e)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 section 49 states the warden and PREA Compliance Manager will schedule a sexual abuse incident review at the conclusion of every sexual abuse investigations with a finding of substantiated or unsubstantiated.

- (b) PSD Policy No. ADM.08.08 section 49 states the incident review will occur within 30 days of the conclusion of the investigation.
- (c) PSD Policy No. ADM.08.08 section 49 states the review team will include upper-level management officials with input from line supervisors, investigators, and medical or mental health staff. The PREA Compliance Manager and Warden were interviewed regarding incident reviews. Both confirmed reviews are completed. However, the PREA Compliance Manager stated that line supervisors are not usually included. Also, documentation of incident reviews shows all staff members required by this standard are not included.
- (d) PSD Policy No. ADM.08.08 section 49 requires the documentation of the review to include all elements as required by this substandard and be submitted to the PREA Compliance Manager and the warden. The auditor reviewed incident review documentation. It includes all elements required by this substandard.
- (e) PSD Policy No. ADM.08.08 section 49 requires the warden to review the team's report and decide whether the recommendations will be implemented and if not, why they are unable to implement the recommendations. The form utilized to document incident reviews includes a section to approve or not approve recommendations with the requirement that an explanation be included when not approving recommendations.

**Corrective Action Plan:**

- (c) The facility will formalize their incident review team to include all parties required by (c) of this standard. Documentation can be provided to the auditor in the form of a memo or email establishing the team. This must be provided to the auditor no later than 150 days from the facility's receipt of the interim report to allow the auditor sufficient time to review the provided document. The facility will provide documentation of incident reviews for any completed cases demonstrating compliance with this standard.

**Corrective Action Completed:**

A memo dated March 12, 2018 was sent from the Warden to the four staff members who will make up the incident review team. These members include the Warden, medical staff, upper level security supervisor, a case manager, and the PREA compliance manager. There were no other current, relevant cases for the auditor to review.

The facility completed corrective action and is compliant with this standard.

## **Standard 115.87: Data collection**

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

#### **115.87 (a)**

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

#### **115.87 (b)**

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

#### 115.87 (c)

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

#### 115.87 (d)

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

#### 115.87 (e)

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

#### 115.87 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 section 50 requires the PREA Coordinator to collect data from facilities for every allegation. The agency uses a set of definitions consistent with those in the standards.
- (b) PSD Policy No. ADM.08.08 section 50 requires the PREA Coordinator to aggregate the incident based data at least annually.

- (c) PSD Policy No. ADM.08.08 section 50 requires the data collected at a minimum be consistent with questions in the Survey of Sexual Victimization. The agency submits the Survey of Sexual Victimization summary form annually.
- (d) PSD Policy No. ADM.08.08 section 50 requires the PREA Coordinator to maintain, review, and collect data as needed from all available incident based documents.
- (e) PSD Policy No. ADM.08.08 section 50 requires the Mainland Branch Unit to report to the PREA Coordinator all incident-based and aggregated data from any private facility with whom PSD contracts. The PSD annual report includes data from contracted facilities.
- (f) PSD Policy No. ADM.08.08 section 50 requires PSD to provide all data from the previous year to the DOJ Survey of Sexual Victimization each year.

The PREA Coordinator confirmed in her interview the agency follows all state and federal standards for data collection and all data is submitted to her and reviewed on an annual basis. She also confirmed the agency submits the Survey of Sexual Victimization each year and complete the annual report required in standard 115.88. The PREA Compliance Manager also confirmed she is required to submit data to the PREA Coordinator. Based on policy review, review of the PSD annual report, and interviews, the facility is compliant with this standard.

## Standard 115.88: Data review for corrective action

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

#### 115.88 (a)

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

#### 115.88 (b)

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

### 115.88 (c)

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

### 115.88 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 outlines requirements for collecting and aggregating data and creating an annual report consistent with this standard. The PREA Coordinator confirmed data is reviewed from all facilities to look at trends and patterns and adjust as needed the agency's approach to prevention, detection, and response policies and practices. The auditor reviewed the PSD 2016 Annual Prison Rape Elimination Report. The report outlines facility specific information and collective agency data.
- (b) The PSD 2016 Annual Prison Rape Elimination Report includes data for each facility and a comparison of the current data to the previous year's data. It includes an assessment of the agency's progress including staff training, completed audits, etc.
- (c) The Institutional Division Administrator confirmed the annual report is approved by the agency head. Annual reports can be found at <http://dps.hawaii.gov/policies-and-procedures/pp-prea/>.
- (d) The agency has redacted all personally identifiable information from the annual report.

Based on review of policy and the PSD annual report and interviews with staff, the facility is compliant with this standard.



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

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

#### 115.89 (a)

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

#### 115.89 (b)

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

#### 115.89 (c)

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

#### 115.89 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

- (a) PSD Policy No. ADM.08.08 section 52 states incident-based data is securely retained.
- (b) PSD Policy No. ADM.08.08 section 52 requires the PREA Coordinator to make all aggregated data readily available to the public at least annually. This is done through the website at: <http://dps.hawaii.gov/policies-and-procedures/pp-prea/>.

- (c) PSD Policy No. ADM.08.08 section 52 requires the PREA Coordinator to remove all personal identifiers and comply with federal and state statutes for publishing data.
- (d) PSD Policy No. ADM.08.08 section 52 requires the PREA Coordinator to maintain data for at least 10 years.

Based on policy review and the PREA Coordinator's interview regarding data collection (see comments for standards 115.87 and 115.88), the facility is compliant with this standard.

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

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

#### 115.401 (a)

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

#### 115.401 (b)

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

#### 115.401 (h)

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

#### 115.401 (i)

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

#### 115.401 (m)

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

#### 115.401 (n)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

- (a) MCCC was previously audited with a final audit report dated 7/5/15. PSD has eight facilities. All were audited within the last three years. The two facilities PSD contracts with have also been audited.
- (b) Based on audit years (August-August), the agency has audited facilities in each audit year, with at least one-third in each year. Based on final audit reports, four were completed in Cycle 2, Year 1 and two have been completed in Cycle 2, Audit Year 2. The auditor precludes the previous audit cycle from this analysis as many agencies had to wait until the final year of that cycle to conduct all audits. PSD ensured all its facilities were audited by the end of the first cycle.
- (h) The audit team was granted access to all areas relevant to the audit.
- (i) The auditor was given all documents requested during pre-audit and onsite portions of the audit.
- (m) The audit team used private rooms to conduct all inmate interviews without staff present.
- (n) Notifications were posted throughout the facility as required for the audit process. The auditor received one letter in response to the notification and that inmate was included in the interviews.

## Standard 115.403: Audit contents and findings

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

#### 115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports within 90 days of issuance by auditor. The review period is for

prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. In the case of single facility agencies, the auditor shall ensure that the facility's last audit report was published. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.)  Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

MCCC was previously audited with a final audit report dated 7/5/15 which is posted at <http://dps.hawaii.gov/policies-and-procedures/pp-prea/>. There are 14 audit reports for all PSD facilities dating back to 2015 posted on the website. Contract facilities are also posted on the website.

## AUDITOR CERTIFICATION

I certify that:

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

### Auditor Instructions:

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

Michele Morgenroth

06/01/18

**Auditor Signature**

**Date**

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

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