

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

Interim Final

Date of Report July 19, 2019

Auditor Information

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Company Name: WA State Dept of Corrections	
Mailing Address: PO Box 41118	City, State, Zip: Olympia, WA 98504
Telephone: 360-986-6820	Date of Facility Visit: December 12-14, 2018

Agency Information

Name of Agency: Hawaii Department of Public Safety		Governing Authority or Parent Agency (If Applicable): Click or tap here to enter text.	
Physical Address: 919 Ala Moana Blvd, Ste 400		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"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Private not for Profit
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: http://dps.hawaii.gov/policies-and-procedures/pp-prea/			

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 Harrington	Title: Intake Service Center Administrator
Email: shelley.d.harrington@hawaii.gov	Telephone: 808-587-1260

PREA Coordinator Reports to: Director of Public Safety	Number of Compliance Managers who report to the PREA Coordinator 8
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Facility Information

Name of Facility:	Hawaii Community Correctional Center		
Physical Address:	60 Punahale Street, Hilo, HI 96720		
Mailing Address (if different than above):	Click or tap here to enter text.		
Telephone Number:	808-933-0428		
The Facility Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Private not for profit
<input type="checkbox"/> Municipal	<input checked="" type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
Facility Type:	<input checked="" type="checkbox"/> Jail	<input type="checkbox"/> 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:	Agency website noted above contains all PREA information		

Warden/Superintendent

Name:	Peter Cabrerros	Title:	Warden
Email:	peter.s.cabreros@hawaii.gov	Telephone:	808-933-8848

Facility PREA Compliance Manager

Name:	Marie Ahuna	Title:	ACO IV (Sergeant)
Email:	marie.e.ahuna@hawaii.gov	Telephone:	808-933-0305

Facility Health Service Administrator

Name:	Jennifer Lopez	Title:	Clinical Section Administrator
Email:	jennifer.d.lopez@hawaii.gov	Telephone:	808-243-1242

Facility Characteristics

Designated Facility Capacity:	226	Current Population of Facility:	394
Number of inmates admitted to facility during the past 12 months			212
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:			152
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:			143

Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:		0	
Age Range of Population:	Youthful Inmates Under 18: 0	Adults: 18+	
Are youthful inmates housed separately from the adult population?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
		<input type="checkbox"/> NA	
Number of youthful inmates housed at this facility during the past 12 months:		1	
Average length of stay or time under supervision:		171 days	
Facility security level/inmate custody levels:		Community, Minimum, Medium, Maximum	
Number of staff currently employed by the facility who may have contact with inmates:		221	
Number of staff hired by the facility during the past 12 months who may have contact with inmates:		22	
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:		0	
Physical Plant			
Number of Buildings: 5		Number of Single Cell Housing Units: 0	
Number of Multiple Occupancy Cell Housing Units:		2	
Number of Open Bay/Dorm Housing Units:		3	
Number of Segregation Cells (Administrative and Disciplinary):		3	
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.):			
Minimum video monitoring ability; cameras in hallways and common areas. Viewed by Central Command. Retention currently at 3 days.			
Medical			
Type of Medical Facility:		Ambulatory – Non-infirmary	
Forensic sexual assault medical exams are conducted at:		Hilo Medical Center Emergency Department	
Other			
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:		117	
Number of investigators the agency currently employs to investigate allegations of sexual abuse:		5 at HCCC; 6 IA	

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 onsite, 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.

Audit Team Information

Jeneva Cotton, a US Department of Justice (USDOJ) Certified PREA Auditor for adult facilities, conducted the Prison Rape Elimination Act (PREA) onsite audit of the Hawaii Community Correctional Center (HCCC) from 12/12-14/2018. HCCC is operated by the Hawaii Department of Public Safety (known as PSD). The audit was conducted as part of the Western States PREA Audits Consortium agreement. The Consortium participates in reciprocal audits and currently includes the Departments of Corrections from Oregon, Washington, California, Hawaii, Nevada, Montana, and New Mexico. The Auditor was assisted by Washington State Department of Corrections (WADOC) employees acting as support staff: Beth Schubach – WA PREA Coordinator and a USDOJ Certified Auditor, and Michelle Duncan – an Associate Superintendent at Coyote Ridge Corrections Center.

During the course of the audit, Ms. Cotton conducted the documentation review, informal interviews with random staff and inmates, formal interviews with random staff, specialized staff and random inmates, and authored this report. She also reviewed the most recent HCCC PREA Audit Report from 03/06/2016. The other team members conducted formal and informal interviews with random staff as well as random and specialized inmates. Ms. Cotton and the support staff, hereinafter referred to as the Audit Team, conducted the site review together.

Phase I: Pre-Onsite Audit

The Notice of Audit was sent to the HCCC PREA Compliance Manager (PCM), Sergeant Marie Ahuna, via email from a Program Specialist delegated as a representative for the PSD PREA Coordinator, on 10/15/2018, to be posted in every housing unit, facility access points, and other areas where staff and inmates congregate. All audit notice postings were dated in ink on either 10/25/2018 or 10/26/2018. While date-stamped photos were requested to reflect audit notices were posted in a timely manner, the PCM did not send photos until 11/30/2018 via email, and those photos were not date-stamped to reflect when the photos were taken. The audit notice read as follows:

*DOJ PREA AUDIT
HILO COMMUNITY CORRECTIONAL CENTER
DECEMBER 12, 2018 to DECEMBER 14, 2018*

During the dates listed above a U.S. Department of Justice Certified PREA Auditor will conduct a PREA audit at this facility. If you want to provide information or talk to the PREA Auditor, you can do so by sending a letter directly to the PREA Auditor.

Staff or Offenders with information to provide may write to:

Jeneva Cotton
Associate Superintendent
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen, WA 98520

All correspondence must include "for HCCC PREA Audit" on the envelope; otherwise it will not be considered confidential.*

***CONFIDENTIALITY** – *All written and verbal correspondence and disclosures provided to the designated auditor are confidential and will not be disclosed unless required by law. There are exceptions when confidentiality must be legally breached. Exceptions include, but are not limited to the following:*

- *If the person is an immediate danger to her/himself or others (e.g. suicide or homicide);*
- *Allegations of suspected of child abuse, neglect or maltreatment;*
- *In legal proceedings where information has been subpoenaed by a court of appropriate jurisdiction.*

In conversations with the Program Specialist, it was noted that inmates in Hawaii are not able to send mail without putting their own personal information on the envelope in the return address section. However, she did verify that mailroom staff at all facilities have been instructed to treat mail to PREA Auditors as Legal Mail, which means the mail is to be unopened and uninspected. No correspondence was received by the Auditor from any inmates at HCCC; therefore this information could not be verified.

While onsite, the Audit Team observed the audit notice (printed on white paper with a red, white and blue American flag in the background) posted in various locations throughout the facility, to include all inmate housing units, kitchen, offender services areas, and public access areas to include the lobby, ensuring that HCCC staff, inmates and visitors had the opportunity to contact the Auditor.

The Auditor received proof documents via flash drive from the Program Specialist on 10/29/2018. The flash drive contained documentation pertaining to the PREA standards and the audit, including the pre-audit questionnaire (PAQ), agency policies, memorandums of understanding and contracts, inmate posters, brochures and handbooks, and training documentation. Documentation also included a recent internal PREA audit of HCCC, a mapped layout of HCCC, an admission log and the list of security staff. Initial review allowed for some increased familiarity with PSD policy and assisted the Auditor in preparing her requests for documents to review during the onsite portion of the audit.

In addition, prior to the onsite review, the Auditor exchanged numerous emails with the Program Specialist and the HCCC PCM with follow-up questions and concerns regarding the received documentation. Answers were received in a timely manner, and further clarification was provided onsite as well. As noted above, the Auditor also reviewed the HCCC PREA Audit Report from their first, which was also their most recent, PREA Audit dated 03/06/2016. The Auditor reviewed the PSD public website and related PREA information which included the PSD Annual PREA Report from 2016 (the most recent posted) and the PSD Report to the 2017 Legislature regarding Sexual Assaults in Correctional Facilities for Hawaii. Prior to arrival, the Auditor conducted telephone interviews with the PSD Agency Contract Administrator, PSD Internal Affairs, PSD Human Resources Administrator and the PSD VolinCor Administrator. VolinCor is the Volunteer Services Program for PSD.

Additionally, the Auditor received clarification regarding the PSD PREA Coordinator position. It was confirmed that the PREA Coordinator is a dual role of the PSD Litigation Coordinator, who reports

directly to the PSD Director. The Litigation Coordinator supervises a Program Specialist V whose job description includes, "Reviews and revises departmental policies and procedures and conducts audits based on PREA for all PSD correctional facilities and law enforcement lock ups in compliance with the federal standards." However, the PREA Coordinator just recently promoted in the position and therefore has not taken over the PREA duties at the time of the writing of this report. Therefore, the former PREA Coordinator is still overseeing statewide PREA Audits.

There was initially some confusion regarding forensic examinations for HCCC inmates. Information provided during the pre-audit phase only indicated these were conducted at Hilo Medical Center in the Emergency Room. However, during a telephonic interview with the Hilo Medical Center Emergency Room Manager on 12/03/2018, she stated that forensic examinations are not completed by Hilo Medical Center staff. She clarified to state that if an inmate is brought in as a result of an alleged sexual assault, the staff will contact Hilo Police Department (Hawaii County), who will then make contact with a SAFE/SANE via YWCA Sexual Assault Support Services (SASS). SASS would then dispatch a SAFE/SANE to the hospital to conduct the examination. An Audit Team member attempted to make contact with SASS, and the phone number provided by both Hilo Police Department and the Hilo Medical Center was disconnected and noted as "temporarily unavailable." Several attempts were made, and the Program Specialist confirmed the phone number the Audit Team had. An Audit Team member was finally able to make contact with a SASS staff member on 01/07/2019. The SASS member confirmed that they would be contacted by Hilo Police Department, and would dispatch a SAFE/SANE who is contracted through their organization. The SAFE/SANE would be the one to provide Hilo Police Department with the exam results.

During the post-onsite audit phase, the Auditor was able to reach an advocate at the listed phone number, but they were unable to answer any questions regarding HCCC or the YWCA SASS services provided to HCCC other than that noted above. Instead, the Auditor was given another phone number to reach a supervisor. The Auditor attempted to call the supervisor on three separate occasions; however, there was no answer any time, nor any option to leave a voicemail message to request a return phone call.

An email was sent to Just Detention International (JDI) to ascertain about any complaints of sexual abuse or sexual harassment from HCCC inmates or community members. JDI responded via email on 11/29/2018 that there have been no reports of such complaints received at JDI.

Phase II: Onsite Audit

On Wednesday, 12/12/2018, the Audit Team arrived at HCCC at 0800. The PCM and the Program Specialist met the Team in the Administration Building lobby outside of the secure perimeter of the facility. Upon arrival, the Audit Team was provided a conference/break room area to congregate. The PCM provided the Team with a roster of security staff. The Auditor requested a listing of a roster for each post by shift for the duration of the onsite audit, as well as a list of non-security staff. These were both made available. A listing of all inmates was provided alphabetically. The Auditor asked for, and received, a listing of inmates by housing assignment as well. The PCM was not able to provide rosters indicating staff filling specialized staff roles, but verbally indicated who would fill these roles. The Auditor also requested full lists of all inmates meeting targeted interview criteria. A list was provided that reflected inmates that answered "yes" to being a victim of prison rape or sexual assault either within or outside of a correctional setting with the last 10 years, and those with a predatory history sexual abuse or sexual assault within or outside of a correctional setting. Another list was provided for those that had been determined to have a physical or developmental disability or a mental health condition.

The PCM was unable to provide a list of inmates with Limited English Proficiency (LEP), Lesbian/Gay/Bisexual/Transgender/Intersex (LGBTI) inmates, or inmates who had reported a sexual abuse allegation. The request for a list of inmates in segregated housing for risk of sexual victimization was not fulfilled as HCCC had no inmates meeting that criteria. This was verified by the reasons noted for housing in the three segregation cells at HCCC - none noted for imminent risk of sexual victimization. Therefore, additional targeted inmate interviews in other categories were conducted.

All rosters and lists noted above were used to select the staff and inmates to participate in random and specialized interviews throughout the onsite review. For random interviews of staff, every third staff name was chosen on the rosters separated by shift. The Auditor verified a varied sample of demographics (age, race, gender) and that all housing units were represented, as well as a variety of other posts. For random interviews of inmates, every tenth inmate was selected, with representation from all housing units, as well a varied sample of age, race, gender, housing type (pre-trial, pre-sentenced and sentenced), and length of sentence.

At 0815, an initial meet and greet was held in the Administrative Building conference/break room. In attendance were the following:

- P. Cabrerros, Warden
- M. Ahuna, PCM/Sergeant
- C. Evans, representative for PSD PREA Coordinator
- B. Schubach, Audit Team
- M. Duncan, Audit Team
- J. Cotton, Auditor

During this meet and greet, the Audit Team introduced themselves and the Auditor explained the entirety of the PREA Audit process, namely pre-onsite, onsite (including agenda), and post-onsite phases. The Auditor also answered questions from the facility administration. The Warden informed the Audit Team that the camera system was currently down in two of three housing units at HCCC (Komohana and Waianuenue) and discussed ongoing remodeling and construction projects occurring at HCCC (outside of inmate contact areas). Upon conclusion of the meet and greet, one Audit Team member returned to Hale Nani (see below) to finish the tour with the Program Specialist and begin conducting staff and inmate interviews. The other two Team members toured HCCC with the PCM.

According to the agency website and PAQ, HCCC is a 226-bed facility located on two separate properties. The "main" HCCC facility is situated on three acres in downtown Hilo. HCCC's reintegration program facility, Hale Nani, is located five miles away near the Panaewa Rainforest. Please note that throughout the report, unless otherwise indicated, when HCCC is mentioned, it will include both the main HCCC facility and Hale Nani.

It is unclear how the capacity is 226 for both locations, as the capacity numbers provided by the PCM indicate capacities as follows:

Hale Nani Makai – 59
Hale Nani Mauka – 100
HCCC Punahale – 48
HCCC Komohana – 64
HCCC Waianuenue – 44
Total – 315

While touring all areas, the Audit Team paid particular attention to camera placements (when applicable), lines of sight, potential blind areas, and privacy for inmates in appropriate areas. The Team also paid attention to areas that could potentially be isolated for staff and inmates, noticed placement, or lack thereof, of PREA and Advocacy posters, as well as Audit Notice postings in housing areas.

Hale Nani Tour

Audit Team members toured Hale Nani housing units on 12/09/2018 and one Team Member toured the remaining buildings on 12/12/2018. The following buildings are located at Hale Nani: Makai – the female dormitory, Mauka – the male dormitory, Programs Building, Programs Classroom, and Laundry. Team members were advised there are no cameras currently onsite at Hale Nani.

Makai, the female dormitory, has a capacity of 59 inmates split into two wings. At the time of the site review, there were 26 inmates on one wing and 31 in the other. One wing is reserved for pre-trial inmates and the other wing has inmates that are sentenced and participating in work furlough programs. Due to the distinction between inmates that are pre-trial and those that have been sentenced and are off-grounds for employment, the two halves of the dormitory are closed off from each other via a chain link “gate” with a padlock that is opened by Adult Corrections Officers (ACOs) when necessary.

In between the two halves of the unit is a bathroom with two entrance/exit doors with alternating 30-minute increments to be out in the dayroom and to use bathroom for each wing. There are separate shower stalls in the bathroom area that face the bathroom sinks. All regular sized shower stalls do have shower curtains, although it was recommended that these curtains be shortened in length as they almost reached the floor and it would be difficult to determine if more than one person was in the shower at a time. The handicapped shower stall, referred to by staff as the “ADA shower” did not have a shower curtain at all. It was recommended that this shower be provided with a shower curtain to allow for privacy, again ensuring that it was raised approximately 12” inches from the floor for appropriate visibility. The shower curtains were altered during the corrective action period to allow for visibility, and a curtain was added to the “ADA shower” area.

The toilets had barriers between them; however none of the toilets had a stall door to ensure privacy. The toilets are along the outer walls of the bathroom area, therefore those entering and leaving the bathroom area areas had clear sight of anyone using the toilet.

The staff restroom is located inside the inmate bathroom area in a locked (keyed) room with a toilet and sink. Because the inmates are only allowed into the restroom area by an ACO unlocking and opening the gate to their dormitory area, there is an allowance for staff privacy to use their restroom without disturbing inmates when the inmates are locked into their wing. Staff interviewed informally during the tour, both male and female, stated that a male staff would go to the other housing unit, Mauka, to use the restroom if they were assigned to Makai for their shift. They also stated the male staff would do this when the female inmates were secured in their wings so as to not create an issue with only one staff on their post in the unit. Female staff working in Makai would use the staff restroom in the inmate bathroom area when inmates were secured in their wings.

In Makai, the ACOs have a work area that has a door and windows, but indicated during informal interviews that they are usually working at the table outside the office area to be able to hear if anything is happening in either of the wings. The office area contains a computer that the ACOs said doesn't work, supplies, a microwave, a refrigerator, and supply lockers. There are tables in the common area between the two wings that inmates sit at to eat their meals. Again, the halves eat separate from one another to avoid any intermingling. There is always a female ACO assigned to the housing unit, even on graveyard. It is flagged as a “red” or mandatory post.

The women have a small yard that is currently only used for Visitation with a covered picnic table. It is not being used for recreation due to the need to repair the fencing following an offender's attempted escape. There is a small medical office/examination room attached to the outside of Makai at the end of the building that has to be accessed from the outside and is fenced off. Medical services consist of sick call and health assessment screenings conducted by a nurse, and a clinic with a nurse practitioner one to two times per month.

Mauka, the men's dormitory, is a significantly larger building and has a capacity of 100 with the ability to house up to 50 inmates in each wing. One wing is for sentenced/work-furlough male inmates and the other is for community status males. In Mauka, the common area separating the two halves holds an officer's station directly in the middle for the ACOs assigned to the posts in the unit. The inmate bathroom area is in between the two dorm halves and faces the officer's station, with clear windows across the entire front façade of the restroom allowing visibility by the ACO's working at the station. When the Audit Team came into the unit, the staff closed blinds that were in the bathroom to block all of the windows into the restroom. When asked why, staff in the area stated that anytime a female comes into the unit, they close the blinds to the bathroom "for PREA."

The toilet stalls in Mauka also did not have doors on them, similar to Makai, with the exception of one stall closest to each of the two entrance/exit doorways. These two stalls are noted as "ADA stalls" and have curtains on them for privacy as they can be seen into from the common area. This is also where male inmates returning from work furlough are strip-searched upon arrival back to the dorm. There were individual shower stalls, each with curtains. These curtains did not appear to be as long as those in the Makai dorm, but it was again recommended to ensure they are at least 12" from the ground to ensure visibility to see how many legs are in the stall. The shower curtains were altered during the corrective action period to allow for visibility.

When asked how accommodations are made for transgender or intersex inmates to shower or use the restroom separately, the ACOs working in the unit pointed to the "ADA stalls" and said, "They'd use those, I guess." The staff did state that if a transgender inmate were to be housed in the unit, they would typically shower at a different time from other inmates. Inmates in Mauka generally have specific times they are permitted to use the showers with the exception of those returning from work, who are allowed to shower at any time they return.

There is a Sergeant's office located on the opposite wall from the restroom that houses the Sergeant on each shift that oversees the Hale Nani complex. In the common area, there is a large TV and lockers. Inmates are allowed to bring chairs from the dining area to watch TV during common area hours which are 0830 – 1030, 1230 – 1430, and after dinner until lockdown at the 2215 count.

The dining area is separated from the common area by a wall of windows that can easily be seen into from the common area and ACO station. The dining area also holds the staff bathroom for the unit which had its door propped open. Staff stated the door cannot be unlocked from the outside, but that it "automatically locks when the door is shut." However, on 12/12/2018, an Audit Team member was informed that the staff bathroom doesn't lock at all, "but everyone knows that when the door is completely closed, someone is using it." During the corrective action period, the PCM provided photographs verifying a new locking mechanism had been installed so that staff would be able to lock the door appropriately both when in use, and when vacant.

There is also a "UA" room located on the outside wall of the chow hall; however no staff onsite had a key to this area. The Audit Team was told only the Watch Commander would have a key to this area.

However, the Watch Commander is housed at HCCC and only makes spot check visits to Hale Nani each day. Audit Team members attempted to enter this room again on 12/12/2018, but were again unable to locate staff with the ability to unlock the door. There is also a nurse's office along the wall of the dining area. This office had blinds on it that prohibited visual access to the office, and it was recommended that these blinds be removed. According to the Program Specialist, these blinds have since been removed.

The dining area is attached to the kitchen. It is interesting to note that the kitchen here prepares all food for both Hale Nani and the main HCCC facility. Male inmates escorted by ACOs take meals down to the Makai unit for the female inmates three times a day. Audit Team members witnessed this practice as the staff from Makai would retrieve the meal carts from outside the Makai unit and the male inmates would return to Mauka. While touring, there were seven inmates working in the kitchen, preparing dinner, with one Food Services staff. The kitchen area had adequate viewing into corner areas and storage rooms. There is a kitchen manager's office with a window in the door as well as a separate window; however there is a closet space inside the office. The closet door has been removed, but there is still a blind spot from outside of the office window. During the corrective action period, a mirror was added to the office area to provide visibility from outside the office area to the closet area.

The Programs Building houses three case managers and one administrator. There is one office adjacent to an open area with a staff restroom and three cubicles. Inmates are called down to the area to meet with case managers who then call the housing unit to return the inmate after their meeting.

There is a Programs Classroom next to the Makai unit, which is fenced off from the housing unit and staff and inmates are able to gain access through padlocked gates from the outside only. The classroom door was locked and only the Program Administrator has the key, which must be checked out from him for use. There are sufficient windows to allow visibility.

All laundry from both HCCC and Kulani Correctional Facility (KCF – a small male prison located in Hilo) come to the laundry building at Hale Nani to be processed. At the time the building was toured, there were no inmates working in the area. Staff indicated, "There was one yesterday, but he decided he didn't want to come back." There is a storage area with supplies and tools which is clearly marked as "No inmate access." There is also a storage area above the office/storage area (loft) where no inmate is allowed access. Staff and inmates share a bathroom in this area, and there is a sign outside that says "Staff in use" on one end and "Inmate in use" on the other. There is a closed off room in the back that is a work area with a sewing machine and labeler. There is a mirror to allow visibility into the corner and the door automatically locks when closed. During the site review, the door shut and the other worker on the outside had the key (there is only one key in the area at any time). There is a door in the work room to the outside that is used as a fire escape door that is open quite frequently to allow air movement in the area, so Audit Team members walked around the outside of the building to get back in the front.

Only male inmates are permitted to work in the laundry area. It should be noted that there are not always two staff in the area. One may stay back and do laundry while the other delivers and picks up laundry at HCCC and KCF. It was estimated by onsite staff that about 80% of the time there are two staff in the area unless one called in sick or is on vacation. The person who does the deliveries takes an inmate with him on the truck to help unload.

HCCC Tour

Following the meet and greet at HCCC, two Audit Team members entered the secure perimeter of the facility next to Central Control. As noted earlier, HCCC has a capacity of 226 inmates; however at the time on the onsite tour, HCCC was housing 394 inmates due to overcrowding issues. There are three

living units, Punahale (the main housing unit), Komohana, and Waianuenue. Facility wide, there are approximately 50-60 cameras; however during this audit the only cameras that were operational were in the administrative area and Punahale living unit. The issues with the camera system at HCCC appear to be ongoing; therefore it is highly recommended that supervisors continue to conduct unannounced rounds, even on a more frequent scale than required, and log those appropriately.

Central Control is the manned security booth that monitors the living unit and also monitors the main entry to the facility. There are also viewing monitors here for the rest of the facility, when those cameras are operational. From Central Control is a hallway leading to Punahale. The hallway, referred to as "M Corridor" consists of a "kitchen area" (where food is distributed for Punahale inmates), two medical screening rooms, a nursing staff room, and an extra office used for "doctor visits, attorney visits, or as an extra suicide watch room when needed." There are two cells that are being used for female inmate overflow, and there are no toilets in these cells. The inmates are secured in these cells and must knock on the door to request to use the restroom. In M Corridor is a bathroom that's used by both staff and inmates but the door does not currently lock. During the corrective action period, the PCM provided photographs to verify that a locking mechanism was added to this door, as well as better signage to indicate whether a staff or inmate was using the restroom. The M Corridor also has a shower and strip search area for new admissions to HCCC. This hallway did have good mirror placement.

Directly in from M Corridor is the Intake Area for new inmate processing. Inmates are brought into the intake area and placed in a chain link area that staff referred to as the "kennel." A PREA orientation video was showing on a TV screen in the "kennel" during the onsite tour, yet the sound had been placed on mute. Directly behind the "kennel" is the Records office. The door to the Records area was unlocked with two staff inside, and the windows in the office had blinds. Records staff stated inmates are never allowed in their area, even for cleaning. Also in the Intake Area is a desk for the Intake Services staff person who conducts PREA 72-hour risk assessments during work hours. The desk is surrounded by clear partitions, and the risk assessment interviews are held with the Intake Services staff on one side of the partition and the inmate on the other side, closest to the "kennel." Intake Services staff and an ACO in the area both stated they were sure inmates in the "kennel" could hear the information discussed during the PREA risk assessments. When the Intake Services staff is unavailable during business hours, another Intake Services staff person conducts the risk assessment via the telephone. Outside of normal business hours, the 72-hour risk assessments are to be completed by the Intake ACO assigned to the area. During the corrective action period, the Warden distributed a memo to the Intake ACOs working on evenings and weekends, reiterating the requirement for staff to complete intakes during hours when Intake Services administrative staff are not on site.

From the Intake Area, the tour led to Punahale. The capacity for Punahale, including M Corridor, is listed as 48. During the onsite visit, the count for this area was 98. Punahale is considered the "main" unit, which is a housing unit designated for pre-trial inmates with celled-areas called D, E, F, G, H and K. All of these areas circle a common dayroom area that is used for "recreation", television viewing and telephone use. D, E, G, and H each have three cells that currently hold three males each (two on bunks and one on the floor). There was at least one inmate housed in G that was on "suicide watch" which meant he was wearing a security smock and laying on the floor directly outside the cells on G. The PCM indicated this meant he was to be under direct observation and staff were seen sitting in the area observing the inmate. F has six cells that each currently hold three inmates each in the same manner. K has four cells holding three inmates same as noted above. There is also a "Fishbowl" area that is a modified recreation room currently used for overflow housing, with inmates sleeping on the floor. There were 24 inmates, called "floor sleepers", housed in the Fishbowl during the onsite review, but staff indicated they have held "over 50 at a time before." The Fishbowl is separated from the common area by blankets over a windowed wall with an open doorway.

Punahale has a Visit Room area currently being used as overflow housing for four female inmates that sleep on mattresses. Staff stated female inmates use the common area for an hour each day when the male inmates are secured in their housing areas, and the rest of the time it is used for male inmates.

The next housing unit, Komohana, is separated by a fenced walkway, which has a capacity of 64 inmates. Inmates housed here are males who are also on pre-trial status, but may either be higher risk or management issues. There are 32 double-cells on two tiers in Komohana, and there were 99 inmates assigned at the time of the onsite visit. All inmates were celled-in during the site visit, with the exception of eight inmates who were in a classroom with an Education staff on the lower tier of the unit. Also on the lower tier was an unsecured storage room. The dayroom of the unit is used as recreation for the inmates, and is open to one tier at a time during certain times throughout the day. There are 3 "segregation" cells in Komohana that are held for inmates designated as the highest risk for violence or other management concerns.

Each cell has its own toilet, and there is a shower area at the end of each tier with four shower stalls. On the bottom tier, two of the four shower stalls did not have shower curtains, and the PCM said this was due to those two showers being broken at the time. All four showers on the upper tier appeared to be in working order and had shower curtains. On the upper tier, there is an office shared by Mental Health staff, the Grievance Coordinator and a Case Manager. There is also a "Staff Room" on the upper tier with a mirrored door and window that is utilized by the Training Sergeant and "Warden Select" ACOs. Warden Select ACOs are those assigned special duties by the Warden, to include Security Threat Group (STG) monitoring and investigations.

The Education building held the shared library/law library and an education classroom. Upon entering the library area, there is an office for the Librarian which has a window. There is a mirror on the back wall which provides good visibility. In the hallway is a porter closet with a door with no window that was locked, but propped open. There was also a staff bathroom and a storage area utilized by Records, but the Audit Team was told only the Captain and Warden had a key to the area. The classroom area had mirrors which allowed for clear visibility throughout the area. Court-required classes such as Victim Impact, Thinking for a Change, and KOKA (Hawaiian-based parenting) are offered here. There was clear visibility in this area. Off to the side from the classroom is an office for Education staff which has a window to the classroom allowing full view. There was one camera noted in the library area and one in the classroom. There is typically one ACO and one Education staff present in the area, along with a Librarian at times.

The third housing unit, Waianuenu, is dormitory style with two sections, A and B side, designated to hold 44 inmates. At the time of the onsite review, there were 78 inmates assigned. Only male, sentenced inmates are housed here. Upon entry into the unit is a hallway with a staff restroom. There is also a kitchen in this living unit that has been deemed non-operational and is under construction; therefore meals are brought into the living unit and the offenders eat in the dayroom. On both A and B sides, there are bunks surrounded the dayroom, along with overflow "floor sleepers". At the center of the living unit, between the two sides, is a control booth and an office area which houses the PCM, who is also a Sergeant. There is a visitation room off from B side that is approximately 6x6 feet and can hold up to 10 people at a time. The entrance for visitors to this area is attached to the hallway at the entry of the unit. There is one camera in each side's dayroom, another upon entry to living unit, and one in the B side visitation room. There were no concerns with shower or toilet areas, and a mirror had recently been installed to view blind spots in entering the bathroom on both sides. A side storage room was locked with the door propped open, the light in the room was not working and there was no window on

door. It was highly recommended that a camera or large mirror be added on the far wall of each side near the Exit Sign (near A1 and B1) as there a large blind spot in that corner in both areas.

The only other remaining building at HCCC was an old Maintenance Building that had been partially condemned. Staff onsite have confirmed that since the onsite portion of the audit, the building has been torn down and is in the process of being replaced.

Interviews:

After the HCCC tour was completed, one Audit Team member began interviews with random and specialized inmates and the Auditor began the onsite documentation review and specialized staff interviews. At HCCC, the inmate interviews were held in each specific housing unit in a private office area and at Hale Nani, inmate interviews were held in the office areas of each unit and staff interviews were conducted in private offices in administration areas.

As noted earlier, random staff and inmates were selected to ensure equitable representation from all shifts, housing units, and programming / operational areas of the facility. For the random staff, interviews were selected by choosing every third name on each shift, while ensuring all housing units were represented. Random staff were equally chosen for a fair and adequate representation of both security and non-security staff. For non-security staff, the Auditor chose representation from intake, food services, physical plant, health services, and clerical support staff. For random inmate interviews, every tenth inmate was chosen from each housing unit roster, with specific attention to ensure a variety of demographics were included (age, gender, race, ethnicity and length of stay).

A notable concern is that a youthful inmate was housed per court order at HCCC during the audit documentation period, which was verified by the PCM, the Program Specialist, the former PSD PREA Coordinator and the Warden. This issue will be discussed further under PREA standard 115.14; however, once the former PSD PREA Coordinator was made aware of the youthful inmate that had been housed at HCCC, she emailed the Judge who had signed the order placing the youthful inmate at HCCC, and informed him of a previously approved process with the First Circuit Court of Hawaii to ensure future orders related to a "waived juvenile" would mandate that the juvenile be housed at DH Hale Ho'omalua Juvenile Detention Facility or the Hawaii Youth Correctional Facility until the individual's 18th birthday. A thorough review of all inmate rosters since 11/01/2018 did reflect that no other youthful inmate was housed at HCCC.

The total of staff interviews conducted: 50 onsite plus 7 during pre- and post-onsite phases

- Agency Head/Designee = 1
- PREA Coordinator = 2
- Agency Contract Administrator = 1
- Superintendent/Warden = 1
- PREA Compliance Manager = 1
- Administrative (HR) Staff = 2
- Contractors = 0 – No contractors were listed as working with inmates. Only contractors noted by HCCC administration were those conducting renovation work, and have no inmate contact.
- Supervisors who conduct rounds = 4
- Medical and Mental Health staff = 2 Medical staff and 1 Mental Health staff
- Non-medical staff who conduct searches = 2
- SAFE/SANE = 1
- Victim advocate = 0 (Unable to make contact after several attempts)

- Investigators = 3
- Staff who conduct screenings = 1
- Staff who supervise inmates in segregation = 2
- Staff who participate in incident reviews = 1
- Staff responsible for monitoring for retaliation = 1
- Staff who serve as first responders = 3
- Intake staff = 1
- Volunteers = 2
- Random staff = 25

The number of inmates housed at HCCC and Hale Nani on the first day of the onsite review was 394. A total of 47 inmate interviews were conducted:

- Youthful inmates (NOTE – the facility currently houses none) = 0 – Confirmed via inmate rosters, PSD policies, and random interviews (see 115.14)
- Physically disabled / blind / deaf / hard of hearing = 1
- LEP inmates = 0
- Cognitively disabled inmates = 1
- LGB = 4
- Transgender / intersex inmates = 2
- Inmates in segregation for high risk of victimization (NOTE – the facility has had no applicable inmates in the last 12 months) = 0 – Confirmed via DSU rosters and interviews with staff who supervise segregated housing and PCM
- Inmates who reported sexual abuse = 3
- Inmates who reported sexual abuse during an assessment = 1
- Random inmates = 26
- Inmate who wrote to Auditor prior to onsite audit = 0

During random and targeted interviews, inmates confirmed understanding about the facility’s rules against sexual abuse and sexual harassment as well as information about their rights to not be sexually harassed or abused and how to report. Every interviewed inmate was able to detail several different ways to report PREA allegations to include via third party. Most indicated they would report to an ACO, as a lot of them know each other due to Hawaii being a “small island and folks know each other.” Inmates were unsure about making a report via the PREA hotline, as sometimes the phone wouldn’t work, and several didn’t believe the calls were not recorded.

PSD recently contracted with a new phone service provider and has been having issues. There are several “shortcut” codes that are supposed to be able to link inmates directly with certain services without inputting their Inmate Phone Identification Number (IPIN). However, tests at both Hale Nani and HCCC resulted in several errors. At HCCC, the Team member had to have an inmate enter him IPIN and use his voice (for voice recognition) to make all calls. There was an option for #55 at the beginning of the phone recording that you are to press if filing a PREA complaint. However, after pressing #55, it rang several times with no answer and no option to leave a message. This happened several times. The call to the Ombudsman’s Office at #06 rang, but again there was no answer and no option to leave a message. To reach the PREA Coordinator, you can press #05. At this number, a message was played stating the call is recorded and monitored. There was no answer, but the recording stated if you wanted to leave a private message to press #. However, upon pressing #, the original message replayed and again there was no option to leave a message. The last attempt was to the Advocacy line at #03. The phone rang several times and there was no answer, with no option to leave a message.

This information was shared with the former PREA Coordinator, who indicated she would immediately be in touch with the phone service provider. Since the onsite portion, it appears that the phone system issues with the vendor have been resolved and telephone calls are going through appropriately. As the Auditor has not been back to HCCC, this is not verified.

All male inmates interviewed at HCCC and Hale Nani stated that female staff announce themselves prior to entering housing units on a consistent basis. However, females housed in M Corridor/Punahale at HCCC and Makai at Hale Nani stated male staff rarely, if ever, announce their presence in the units. Audit Team members did see female staff making announcements, but did not witness male staff making announcements at Hale Nani. The male ACO at Hale Nani made an announcement after he was already on the unit and unlocked the gate area to a wing, and several female inmates laughed. When asked why, they said that was the first time they'd heard a male make an announcement about coming into the wing, or onto the unit. All inmates stated they are not seen by staff of the opposite gender while they are using the toilet, changing clothes or showering.

Team members discovered that to request a grievance form, an inmate has to ask the officer and sign in a logbook, as grievances are numbered and assigned. This indicates inmates are unable to file an anonymous report via a Grievance form. When asked about kites, staff at Hale Nani said an inmate could come ask for a kite that is kept at the ACOs station area. Staff at HCCC stated inmates "can just take a piece of paper and drop it in a box" to send a kite to any area. Informal interviews with inmates confirmed that most felt they could not report an allegation anonymously because they had to sign for forms and input their IPIN for phone calls.

Audit Team members were told there were no inmates at either facility that required interpretation services. However, the PCM did state they would use the telephonic Language Line for Limited English Proficient (LEP) offenders and a video American Sign Language (ASL) interpreting site ran by Language Line to conduct interviews with inmates that are deaf or hard of hearing. Interviews with staff regarding utilizing inmate interpreters for PREA reporting and investigations was split – several indicated they felt they could use inmate interpreters for this, and others said they are not able to do so.

Upon initial onsite documentation review, the Auditor noticed several discrepancies on the PAQ (i.e, items were unanswered or information did not coincide with documentation provided onsite). Therefore, the Auditor requested to see additional documentation onsite. A list of all inmates screened for risk of sexual abuse victimization and/or predation during the documentation period by the Auditor, and was provided. Documentation review consisted of reviewing additional information from what was provided during the pre-onsite phase. For the risk screenings, the Auditor randomly chose 37 inmates to review documentation to include their intake date, PREA education dates, risk screening completion dates and any necessary follow up appointments for both initial and follow up assessments (mental health and/or medical referrals).

During the documentation period (09/01/2017 – 08/31/2018), HCCC received 13 total allegations. The Auditor reviewed all PREA allegations and related investigations from the documentation period. Documentation was provided for 13 total investigations as follows: there was one allegation of inmate-on-inmate sexual harassment that resulted in an unfounded finding; there was one allegation of staff sexual harassment which was also determined to be unfounded; there was one allegation of staff sexual misconduct with two findings - a substantiated finding for "overfamiliarity" as well an unsubstantiated finding for "sexual contact;" and there were 10 allegations of inmate-on-inmate sexual abuse, with two substantiated findings, one unsubstantiated finding, three unfounded findings, and four cases pending investigation (of which three are with local county law enforcement). From the

investigations, the Auditor reviewed all completed investigation files for all categories of both inmate and staff sexual abuse and sexual harassment.

The Auditor requested but did not receive camera/video schematics for HCCC's facility cameras. Onsite, the Warden indicated there were between 50 and 60 cameras at HCCC and none at Hale Nani, but there was a capital project allowing the addition of cameras facility-wide. He was unsure of when those cameras would be implemented. The Auditor toured the HCCC Central Command, where all security doors and camera monitoring and recording systems are operationalized. This is where verification was made that two of the housing units were without video monitoring while the Team was onsite. It was concerning that several staff came in and out of Central Command to visit with other staff while the Team members were inside, as this could reflect an unsecure command center.

The Audit Team concluded the onsite portion of the audit on 12/14/2018 and conducted an out brief that was attended by:

- P. Cabrerros, Warden
- P. Kahapea, Captain
- M. Ahuna, Sergeant and PCM
- K. Rowe, Offender Services
- J. Kay, Psych Social Worker
- S. Harrington, Former PSD PREA Coordinator
- C. Evans, Program Specialist
- B. Schubach, Audit Team Member
- M. Duncan, Audit Team Member
- J. Cotton, Auditor

Phase III: Evidence Review

After the onsite portion of the audit, the Auditor utilized the Auditor Compliance Tool for Adult Prisons and Jails, the Site Review Checklist and the Checklist of Documentation as guides to determine compliance with each standard. The Auditor utilized information from the PAQ as provided from HCCC prior to the audit, information and practices observed from the onsite review, documents collected and reviewed while onsite, and lastly, information obtained from both the staff and inmate interviews to complete the review and determination of compliance.

In the Interim Report, the Auditor identified 9 standards requiring corrective action. As of the writing of this Final Report, corrective action has been completed and all standards have been met.

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.

According to the official Hawaii Department of Public Safety (PDS) website, the Hawaii Community Correctional Center (HCCC) is a 226-bed jail facility located on two sites. The primary facility is situated on three acres in downtown Hilo. HCCC's reintegration program, Hale Nani, is located five miles away

near the Panaewa Rainforest. Hale Nani offers offenders reintegration services and a work release program for sentenced inmates who will be released on the island of Hawaii. HCCC also contracts transitional community residential program services for female offenders. As a jail, the inmates are pre-trial, pre-sentenced and short-term sentenced misdemeanants, as well as felons that are transitioning back to the community. Both locations house both male and female inmates in separate areas, and house a variety of sentence types to include pre-trial, pre-sentenced, sentenced, and community levels.

As noted, the listed designated facility capacity is 226 across both locations, yet the capacity numbers provided by the PCM indicate 315. The total population count on the first day of the onsite audit was 394. According to population reports supplied with the PAQ, during the audit documentation period (09/01/2017 – 08/31/2018), the average daily population was 390.

There are 5 distinct general population housing units, which consist of a combination of dormitory style units and double-celled units. At the main facility, there is only an Administration Building and an unused Maintenance Building outside the secure perimeter. At Hale Nani, the only building with a secured perimeter is the female dormitory unit, as half of the inmates housed therein are awaiting their trial.

There are no cameras at Hale Nani, and 50-60 cameras located at HCCC. The Warden indicated they are in the process of a capital project to secure additional cameras and he was unable to provide an accurate count at the time of the onsite review. The only cameras in cells at HCCC are in those that have no toilets. This was confirmed in the Central Command center viewing camera monitors. It should be noted that while onsite, cameras in two of the three HCCC units were not working and a vendor had been called for repair. Most of the cameras at HCCC are in hallways, common areas, programming areas and the library. According to Central Command staff and the PCM, the current retention rate is 3 days. Staff are unsure why, as they indicated it was previously 60 days, had reduced to 30 days and is currently at 3. Video monitoring is accessed at Central Command, as well as in the booths of each of the HCCC housing units. Staff have unlimited access to these areas, which is somewhat concerning; however, none of the cameras viewed allowed visibility of inmates in a state of undress, in the shower, or using a toilet.

As noted previously, HCCC is split into two locations – the main HCCC facility and Hale Nani.

HCCC maintains the following units within a secure perimeter:

- Punahale (including M Corridor) – Celled unit. Also has overflow in “Fishbowl” with inmates sleeping on the floor. Unit capacity is noted as 48, with a population of 98 during the onsite. Houses males and females (overflow). All inmates housed here are pre-trial.
- Komohana – Celled unit on two tiers, with 32 double cells. Unit capacity is 64 inmates, with a population of 99 inmates during the onsite. Inmates housed here are males who are also on pre-trial status, but may either be higher risk or management issues.
- Waiianuenue – Dormitory style with two sections, A and B side, designated to hold 44 male, sentenced inmates. Population of 78 during the onsite.

Hale Nani maintains the following units:

- Makai – Female dormitory with a unit capacity of 59 inmates split into two wings, and a population of 57 during the onsite. One wing is reserved for pre-trial inmates and the other wing has inmates that are sentenced and participating in work furlough programs. This unit is inside a secure perimeter due to pre-trial status inmates.
- Mauka – Men’s dormitory with a unit capacity of 100 with the ability to house up to 50 inmates in each wing. One wing is for sentenced/work-furlough male inmates and the other is for community status males. This unit does not contain a perimeter.

The Inmate Kitchen is located in Mauka, which provides all meals for inmates housed at Hale Nani and HCCC. This facility also does all laundry for inmates housed at both locations.

HCCC contracts with University of Hawaii - Hilo to provide education services at the HCCC. These services include GED classes and court-ordered classes such as Thinking for a Change and parenting programs. There are no other contracted program services available to inmates at HCCC as it is a jail with mostly short-term inmates. Other providers that come to HCCC to assist with transitional resources upon release, such as the Veterans Affairs, are considered visitors.

117 volunteers provide services to inmates at HCCC, to include AA/NA, religious services, and non-violent communication skills. The facility maintains the services of 0 contractors that have contact with inmates or to provide inmate services.

The average length of stay at HCCC is 171 days. The age of inmates is 18 and older. As noted previously, there was one known incident wherein a youthful offender was ordered to HCCC by the Court. He was a few days shy of his 18th birthday; however he was housed with adult male inmates. The former PREA Coordinator has communicated with the Court system to ensure this does not happen again at HCCC.

The facility has no findings of inadequacy from an internal or external oversight body, regarding PREA or any other known issues.

HCCC and Hale Nani currently employ 221 total staff, consisting of both security and civilian staff. The total also includes staff not hired by HCCC but providing services, such as Intake Services. One Warden oversees both locations, with one Captain (also referred to as Chief of Security), eight Lieutenants (known as Watch Commanders), 19 Sergeants and 119 ACOs. Additionally, there are a variety of operational support positions throughout the facility's organizational structure. These include, but are not limited to, medical, mental health, case managers, records, food services, maintenance, offender services, clerical support, and administration. There are 11 health services staff at HCCC which include both medical staff and mental health staff.

One of the HCCC Sergeant's, reporting directly to the Warden, has been designated as the PREA Compliance Manager. Her regular duties also include monitoring and working with the Security Threat Group (STG) inmates.

Both security and civilian staff are covered under the American Federation of State, County, and Municipal Employees (AFSCME), each under a separate branch. Security staff are covered under United Public Workers Local 646 and civilian staff are represented by Hawaii Government Employees Association Local 152.

All forensic medical examinations are performed by SAFE/SANE staff at Hilo Medical Center located in Hilo, close to HCCC. However, they are performed by staff from YWCA that are contracted via the local police department. Advocacy support services are provided by contracted services with the Sex Abuse Treatment Center.

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

Number of Standards Met: 43

Prevention Planning: 115.11; 115.12; 115.13; 115.14; 115.15; 115.16; 115.17; 115.18

Responsive Planning: 115.21; 115.22

Training and Education: 115.31; 115.32; 115.33; 115.34; 115.35

Screening for Risk of Sexual Victimization and Abusiveness: 115.42; 115.43

Reporting: 115.51; 115.52; 115.53; 115.54

Official Response Following an Inmate Report: 115.61; 115.62; 115.63; 115.64; 115.65; 115.66; 115.67; 115.68

Investigations: 115.71; 115.72; 115.73

Discipline: 115.76; 115.77; 115.78

Medical and Mental Care: 115.81; 115.82; 115.83

Data Collection and Review: 115.86; 115.87; 115.88; 115.89

Number of Standards Not Met: 0

Summary of Corrective Action (if any)

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.

115.11(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017), section 6.0 (page 11 – 12), states, “PSD has a zero tolerance policy concerning all forms of sexual abuse, sexual harassment, and retaliation for reporting incidents. . .A ‘zero tolerance’ policy means that sexual abuse and sexual harassment in any form is strictly prohibited and all allegations of such conduct will be investigated. Any retaliation against individuals for reporting an incident is also prohibited and will be investigated. This policy is intended to set forth the procedures to implementing and managing a ‘zero tolerance’ policy.” Interviews with both staff and inmates indicated they understood the agency’s zero-tolerance policy and that they are to report all PREA allegations immediately.

115.11(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 7.0 (page 12) indicates that, “PSD has designated the Litigation Coordination Office, a branch of the Director’s Office, to manage PREA. One of the Litigation Coordination Officer’s functions is to fulfil the role of the upper-level staff member designated to serve as the Department’s PREA Coordinator. The Department PREA Coordinator shall have sufficient time and authority to develop, implement, and oversee PSD’s efforts to comply with the PREA standards in all PSD facilities, lockups, inclusive of monitoring at privately contracted facilities and community correctional centers. The Department PREA Coordinator reports directly to the Director of the Department of Public Safety.”

The Auditor was provided with the Office of the Director Organization Chart dated 06/30/2017. It was confirmed that the Litigation Coordination Officer reports directly to the PSD Director via the position description, as well as that the Litigation Coordinator “functions as the departmental lead coordinator on the federal Prison Rape Elimination Act (PREA) through ensuring compliance with the PREA Standards at all prisons, jails and lock ups under the purview of PSD.” The Litigation Coordinator supervises a Program Specialist V whose job description includes, “Reviews and revises departmental policies and procedures and conducts audits based on PREA for all PSD correctional facilities and law enforcement lock ups in compliance with the federal standards.”

While the position descriptions clearly indicate who the PREA Coordinator is for PSD, there is a misconception among staff at HCCC and Hale Nani, as well as with inmates, about who acts as PREA Coordinator. Several staff indicated they believed it the Program Specialist. Additionally, the current Litigation Coordinator only recently came into the position, and the actions associated with the PREA functions of the position have remained with the previous Litigation Coordinator pending transition of duties. It is recommended that the Litigation Office provide information to educate staff and inmates at PSD facilities so they are aware of who the PREA Coordinator is, and the separate functions of that position and that of the Program Specialist.

115.11(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 7.0 (page 12) requires that, “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, which may be part of their related duties. The Department PREA Coordinator will monitor the relevant PREA duties of the Facility PREA Compliance Managers in conjunction with the Warden or Sheriff.”

At HCCC, the PREA Compliance Manager (PCM) duties have been assigned to a Sergeant. Her duties also include monitoring and oversight of the facility’s Security Threat Group (STG) inmates. She reports

directly to the Warden. Interviews with random facility staff indicated a basic knowledge of PCM responsibilities.

Documentation provided for this standard: Agency Policy ADM.08.08, agency and facility organization charts, Litigation Coordinator (PREA Coordinator) position description and Program Specialist position description.

Based on this information, PSD and HCCC are in full compliance with all elements of standard 115.11.

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.

115.12(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) states, “PSD mandates that any new contracts or contract renewals with private agencies or other entities for the confinement of PSD’s offenders shall include language that the private entity is required to adopt and comply with PREA, specifically the finalized PREA Standards.

PSD has contracted with CoreCivic (formerly Corrections Corporation of America [CCA]) for the confinement of inmates in the Saguaro Correctional Center in Arizona, as well as the USDOJ Federal Bureau of Prisons (BOP) for the confinement of inmates in the Federal Detention Center (FDC) Honolulu, both for overflow housing for inmates.

The PSD contract with CoreCivic (fka CCA), dated 07/19/2016 states in Section 6.t., “The PROVIDER [CoreCivic] 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 public website of CoreCivic (www.corecivic.com) contains general PREA-related information and a link to PREA Standards. On the CoreCivic site for Saguaro Correctional Facility is a link to the most recent PREA audit finalized on 12/06/2017, wherein the facility was determined to be in full compliance with PREA Standards.

USDOJ BOP and PSD have maintained a contract to house PSD offenders in the FDC Honolulu facility beginning in 2001, with updates to the contract to increase the number of inmates housed at FDC Honolulu in 2005, 2007, and 2009. There have been no contract updates since that time, and therefore prior to the August 2012 date requiring provisions regarding PREA and compliance with PREA Standards. However, the Auditor did review the public website of FDC Honolulu at <https://www.bop.gov/locations/institutions/hon/> and was able to review the most recent PREA audit, finalized on 04/23/2018, wherein the facility was determined to be in full compliance with PREA standards.

115.12(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) also states, “The private entity shall be subject to PSD monitoring/audits as part of its contract with PSD to ensure compliance with the PREA Standards. The private entity is responsible with complying with the audit requirements of the PREA Standards and any cost associated with audits...”

As noted above, the contract between PSD and CoreCivic provides language for ongoing compliance with PREA standards. A contract monitoring team from PSD’s Mainland Branch Unit visits the Saguaro Correctional Facility on a quarterly basis to monitor compliance with several different areas, including PREA. This was confirmed in interviews with both the former PREA Coordinator and PSD’s Mainland Branch Unit Administrator.

Again, the contract between USDOJ BOP and PSD does not speak to PREA Standards, nor monitoring for compliance with the Standards due to the most recent update to the contract being in 2009. However, PSD does maintain records of PREA Audit Reports for FDC Honolulu on their agency website.

Documentation provided for this standard: Agency Policy ADM.08.08, Contracts with CoreCivic (Saguaro Correctional Facility) and USDOJ BOP (FDC Honolulu), public website for CoreCivic, public website for USDOJ FDC Honolulu, and most recent PREA Audit Reports for both Saguaro Correctional Facility (12/06/2017) and FDC Honolulu (04/03/2018).

Based on this information, PSD is in full compliance with all elements of standard 115.12.

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.

115.13(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 0.9.1 (page 12-13) requires, "The Department PREA Coordinator in conjunction with the Institutions Division Administrator (IDA) shall ensure that each facility developed, documents, and makes its best efforts to comply on a regular basis with a written staffing plan that provides for adequate levels of staffing, and where applicable, video monitoring, to protect inmates against sexual abuse."

Documentation provided to the Auditor during the pre-onsite audit phase reflects the most staffing analysis occurring on 06/18/2018. The Warden confirmed via his interview that while he would like additional staffing to assist with the overcrowding at HCCC, he does feel their current staffing plan does accommodate for sufficient staffing.

Audit Team members were able to review camera placement throughout HCCC, with the knowledge shared by the Warden that a capital project request was in place to place the video monitoring system at HCCC and utilize the current HCCC cameras to add video monitoring to Hale Nani, which currently has none. HCCC currently has cameras located throughout the institution both inside and outside to include dayroom areas in housing units, law library, education, visitation areas, and exterior areas. Areas without video monitoring are currently all of Hale Nani, to include the kitchen and laundry areas, as well as the HCCC maintenance area which currently is partially condemned and no inmates are present. The PCM verified that placement of cameras are reviewed routinely when incident reviews are completed. Auditors reviewed video monitoring from Central Command, the main control access point for the facility and found that cameras for two housing units at HCCC were currently non-operational. The vendor for the camera system had been called to come in and repair the system; however this was not completed while the audit team was onsite.

115.13(b): Agency Policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017) section 9.0.2 requires, "In circumstances where the facility's written staffing plan is not complied with, the facility shall document by utilizing the PREA Mandated Reporting Form (PSD 8317) and justify all deviations from the plan." Interviews with the Warden, PCM and former PREA Coordinator all confirmed that if a "green" post (gender-specific post requiring a female staff) was unable to be filled by a female, then two males would work in the area and not complete any searches of female inmates. This would be noted on the PREA Mandated Reporting Form. The PAQ indicated zero occurrences of this during the documentation period. The former PREA Coordinator reviewed documents with the Auditor and verified there were no Mandated Reporting Forms during the documentation period indicating any deviations from the staffing plan.

115.13(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 0.9.3 (page 13) requires, "The Warden shall review the facility's written staffing plan annually in the month of July at the start of the fiscal year, and submit his/her assessment to the Department PREA Coordinator via email, fax, or mail by the end of the month. The Department PREA Coordinator will schedule a formal meeting to review the written staffing plan which shall consist of assessing, determining, and documenting whether adjustments are needed to: (a) The written staffing plan...; (b) The facility's deployment of video monitoring systems and other monitoring technologies; and (c) The resources the facility has available to ensure adherence to the staffing plan."

The Auditor was provided with the HCCC Staffing Plan dated 06/18/2018, which included an analysis of the requirements to meeting PREA standard 115.13, an assessment of the inmate housing units and programs at HCCC and Hale Nani, current video monitoring systems, the staffing plan, and funded versus roster staffing reconciliation.

115.13(d): Agency Policy AMD.08.08, *Prison Rape Elimination Act* (09/22/2017) section 9.0.4 (page 14) requires that, "The Warden shall ensure that lieutenants, captains, and correctional supervisors conduct and document unannounced walk-through on all watches to aid in identifying and deterring staff sexual abuse and sexual harassment. This shall be documented in the housing unit Informer/Log Book and in the Supervisor's watch summary." Further, Section 9.0.5 specifies, "PSD staff is prohibited from alerting other staff members of the above unannounced walk-throughs by supervisors, unless such an announcement is related to the legitimate operational functions of the facility."

Interviews conducted with intermediate and higher-level facility staff confirmed that unannounced rounds are conducted in all areas of the facility. Supervisors interviewed indicated that they varied the course and times of rounds to ensure that staff were not alerted to these rounds. No examples of housing unit Informer/Log Books were submitted during the pre-onsite audit phase, and reviews of Log Books onsite were inconsistent regarding unannounced rounds by supervisors. Inmates at both locations did state they routinely saw Sergeants and Watch Commanders in their housing units. It is recommended that intermediate and higher-level facility staff increase compliance with entering their rounds into the Informer/Log Books for all areas.

Documentation provided for this standard: Agency Policy ADM.08.08, examples of HCCC Daily Rosters indicating supervisors assigned to each shift, HCCC Staffing Plan dated 06/18/2018, and housing unit Informer/Logbook random samples viewed onsite.

Based on this information, HCCC is in full compliance with all elements of standard 115.13.

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.

115.14(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 10.0.1 and .5 (page 14) state that, "According to §HRS 706-667, The Court has the authority to commit a young adult defendant, who is sentenced to a term of imprisonment exceeding a period of 30 days to PSD...If PSD does receive a youthful offender as defined by PREA ... then the youthful offender shall not be housed in a housing unit in which the youthful offender shall have sight, sound, and physical contact with any adult offender through the use of a shared dayroom or other common space, shower area, or sleeping quarters. The facility shall document by utilizing the PREA Mandated Reporting Form (PSD 8317) any non-compliance with the above requirement."

115.14(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 10.0.6 (page 15) requires, “PSD staff shall maintain sight, sound, and physical separation between the youthful offenders and adult offenders in areas outside of the housing units, or shall provide direct supervision, when youthful offenders and adult offenders have sight, sound and physical contact. The facility shall document by utilizing the PREA Mandated Reporting Form (PSD 8317) any non-compliance with the above requirement.”

115.14(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 10.0.7 and .8 (page 15) require that, “PSD shall document the exigent circumstances for each instance in which a youthful offender’s access to large-muscle exercise, legally required educational services, other programs, and work opportunities re denied in order to separate them from adult offenders by utilizing the PREA Mandated Reporting Form (PSD 8317) ... PSD shall make its best efforts to avoid placing youthful offenders in isolation to comply with this provision.”

During the audit documentation period, there was one youthful inmate housed per Court order at HCCC, which was verified by the PCM, the former PREA Coordinator and the Warden. The inmate was 17 when admitted to the facility on 09/18/2018, and turned 18 six days later (09/23/2018), and therefore was confined as a youthful inmate for less than one week. On 09/20/2018, upon notification of the youthful inmate housed at HCCC, the PCM emailed the Warden, Captain, and Lieutenants with the information contained within PREA standard 115.14 regarding youthful inmates and the requirement for sight, sound and physical separation of these individuals from adults. According to the PSD Mandated Reporting Form, the inmate was housed in the Visit Room with other inmates (adults) during his stay at HCCC (from 09/18/2018 – 11/01/2018). The Visit Room is an area that is monitored by video cameras, which the Warden felt met a requirement for direct supervision.

On 10/11/2018, the former PSD PREA Coordinator was made aware of the youthful inmate that had been housed at HCCC. On 10/13/2018, she emailed the Judge who had signed the order placing the youthful inmate at HCCC, and informed him of a previously approved process with the First Circuit Court (Hawaii) to ensure future orders related to a “waived juvenile” would mandate the juvenile be housed at DH Hale Ho’omalua Juvenile Detention Facility or the Hawaii Youth Correctional Facility until the individual’s 18th birthday. A thorough review of all inmate rosters for the entire documentation period, as well as since 11/01/2018, did reflect that this was a one-time incident, and no other youthful inmate was housed at HCCC.

Documentation provided for this standard: Agency Policy ADM.08.08, Correspondence from former PSD PREA Coordinator to First Circuit Court judge, PREA Mandated Reporting Form, Inmate file for youthful offender housed at HCCC, and facility population reports.

Based on the correspondence to the Court, and no further youthful inmates housed at HCCC, PSD and HCCC are in full compliance with standard 115.14.

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.

115.15(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 11.0.1 (page 15) requires, "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."

HCCC's PAQ indicated no such searches at HCCC during the documentation period. Interviews with staff and inmates confirmed this information as well. Also, a review of strip logs onsite also verified no cross-gender strip searches or body cavity searches occurred at HCCC.

115.15(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 11.0.2 and .3 require, "PSD staff shall not conduct cross-gender pat-down searches of female offenders, absent exigent circumstances ... Facilities shall not restrict female offenders' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision."

Hawaii PSD does not allow any cross-gender pat searches, including prohibiting male inmates being pat searched by female staff. Interviews with both male and female staff confirmed they are prohibited from pat searching inmates of the opposite gender. Interviews with male and female inmates also confirmed no cross-gender pat searches occur at HCCC or Hale Nani.

115.15(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 11.0.1, 11.0.2 and 11.0.3 require, "An incident of cross-gender strip searches and cross-gender visual body cavity searches shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317) ... All cross-gender pat-down searches of female offenders shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317)."

The former PREA Coordinator verified no PREA Mandated Reporting Forms were received from HCCC documenting cross-gender strip or body cavity searches. Strip searches reviewed onsite also confirmed no cross-gender strip searches or cross-gender visual body cavity searches. Additionally, PREA Mandated Reporting Forms were reviewed, and none contained information regarding cross-gender strip searches, cross-gender visual body cavity searches, or cross-gender pat searches.

115.15(d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 11.0.4 and .5 (pages 15–16) state, “An offender shall 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 ... Staff of the opposite gender are required to ‘knock and announce’ their presence when entering an offender housing unit and ensure this notice is logged in the Informer or Log Book.”

Inmates at both HCCC and Hale Nani have privacy and the ability to shower, perform bodily functions and change their clothing without non-medical staff of the opposite gender viewing them. At HCCC, in Punahale, all cells (except for those in M Corridor) have toilets. Those in M Corridor do not have toilets, and the inmates must knock on the door for staff to let them out to use the restroom. The shared inmate/staff single toilet restroom in M Corridor did not have a lock and it was recommended onsite to add a keyed lock to this door, along with better signage to indicate whether it was in use by an inmate or a staff member. Showers in Punahale were separate stalls with adequate curtains. In Komohana, each cell has its own toilet, and there are shower areas at the end of each tier with four shower stalls with appropriate curtains. In Waianuenue, there were no concerns with shower or toilet areas, and a mirror had recently been installed to view blind spots in entering the bathroom on both sides.

At Hale Nani, both the male and female dormitories have a shared bathroom area with individual shower stalls. It was recommended onsite that the shower curtains in these areas be raised so they are at least 12” from the ground for visibility into the shower enough to ensure only one inmate is using the shower at a time. Of concern is that toilet stalls in both dormitories do not have stall doors on them, with the exception of the “ADA” toilets at Mauka. When interviewed, staff onsite said they were unsure of why the toilet stalls did not have doors, but also stated when inmates were in the restroom, they would not go in the area to avoid seeing anyone using the toilet. In both units, the toilets are along the outer walls of the restroom, starting upon both entries into the bathroom area. This could cause a security issue if inmates are aware staff will not enter the area. It is strongly recommended that toilet doors be added to the stalls for both the female and male dormitories.

HCCC and Hale Nani only operate four female gender-specific posts, two of which are 24-hour/7-day posts and two are 8-hour/5-day posts. The 24-hour posts include a housing ACO at Makai (female housing unit at Hale Nani) and the Medical Rover position at HCCC that works in the M Corridor/Punahale where female inmates are housed. The 8-hour posts are for a transportation/intake ACO and a female community service work-line post.

Male inmates at Hale Nani indicated they were familiar with female staff announcing their presence when coming into the Mauka unit. Audit Team members witnessed this consistently while onsite as well. However, at Makai, the female inmates indicated male staff rarely announce themselves. They believed this was because there was a female staff always present as well. Audit Team members only observed one male staff working in Makai, and he did make an announcement when opening the gate into a wing area. Staff in both areas indicated they always make cross-gender announcements when entering into a unit other than their own gender.

Male inmates in all units at HCCC stated that female staff consistently announce their presence when coming onto one of the housing units. This was also observed regularly by the Team. The Team did not observe male staff announce themselves in M Corridor; however there were male and female staff already working in the area when the team was present. Female inmates were inconsistent in their responses as to whether they heard male staff announce themselves when coming onto the Corridor. Reviews of the Informer/Logbooks again were inconsistent in regards to cross-gender announcements. It was recommended that staff working in the control booths enter this information on a more consistent basis.

115.15(e): Agency Policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 12.0.1 states, "PSD 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 Auditor reviewed PSD's training curriculum for PREA that is presented to staff. There is information regarding this standard and policy prohibitions surrounding searching or physically examining a transgender or intersex offender solely to determine their genital status. Training records requested and reviewed verified staff have received this training. Interviews with staff also confirmed knowledge and understanding about this policy prohibition.

115.15(f): Agency Policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* sections 12.0.3 and .4 require that, "PSD staff are to ensure that cross-gender pat-down searches and searches of transgender and intersex offenders are conducted in a professional, respectful, and in the least intrusive manner, while ensuring security and operational needs for the good government and orderly running of the facility. The professional and respectful pat-down search of a transgender and intersex offender may be achieved by using the back of your hand instead of the front of your hand."

Training curriculum reviewed entitled PREA Corrections & Law Enforcement Training (02/02/2017) contained required elements, include, but not limited to the prohibition of "dual" searches where the staff of one gender searches the top half of the inmate and staff of the other gender searches the bottom half of the inmate; use of the back of the hand to search an inmate's chest area; using the blade of the hand to sweep across the side and bottom of the inmate's chest; and requiring the inmate to shake out the bra. Again, interviews with staff clearly reflected understanding of how to search identified transgender and intersex offenders, as well as how to be professional and respectful. Interviews with identified transgender inmates also reflected that staff were appropriate and respectful during their interactions, as well as during pat searches.

Documentation provided for this standard: Agency Policy ADM.08.08, PREA Corrections & Law Enforcement Training (02/02/2017), and HCCC training rosters.

Based on this information, HCCC is in full compliance with all elements of standard 115.15.

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.

115.16(a-b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 13.0.1 (page 16) requires that, "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."

PREA posters throughout HCCC and Hale Nani are in multiple languages (English, Tagalog, Ilocano, and Samoan) to accommodate the multi-cultural inmates at the facility that are Limited English Proficient (LEP). Several staff indicated they often get inmates housed in the facility who are Micronesian, which can include several different languages. Several staff interviewed also speak many of the Micronesian languages.

PSD published a LEP Plan (09/01/2017 – 10/31/2019) which details steps to be taken to ensure LEP inmates are able to gain meaningful access to PSD's services and programs. This document defines LEP persons, the Departmental reporting tool designed to obtain key information about the LEP population, a compilation of a multi-lingual listing of PSD staff volunteers, provision of oral interpreter and written translator services, and the role of the LEP Plan Coordinator. The plan also requires that

the LEP Coordinator continue to provide regularly scheduled training for PSD staff which is to "...include the LEP Plan, the Department's policy and procedure, the application of the developed information and statistical forms the reporting requirements of the staff to the LEP Coordinator." In documents provided via the PAQ, it is noted the Civil Right Compliance Office (CRCO) has designated procedures for the use of authorized interpreters. Effective August 20, 2013, Pacific Interpreters, a Language Line service provider, is the contracted interpreter service for PSD.

Unfortunately, while onsite, the PCM was unable to provide a list of inmates who are deemed to meet the LEP definitions. While touring, Audit Team members were unable to identify any LEP inmates as well, and asked staff to assist. No HCCC staff were able to identify any current LEP inmates either.

While onsite, the Team observed the PREA educational video being shown in the "kennel," but the volume was muted and there was no closed-captioning. According to documentation provided via the PAQ, the HCCC Internal PREA Audit conducted by PSD prior to the actual audit (October 2018) reflected the same issue. Inmates interviewed at both HCCC and Hale Nani that viewed the educational video at HCCC also confirmed the TV was on during their intake, but there was no volume. This educational video is what is relied on to provide PREA information to the inmates received at HCCC, along with a brochure about PREA. During the corrective action period, the facility was provided with another education video with closed-captioning and the Warden sent a memo to all staff requiring the volume be kept on at all times the video was being shown. Additionally, the Warden sent the Auditor a memo verifying he had completed random checks of the area and the volume was turned on at an appropriate level for inmates to hear during intake.

While onsite, the inmate roster provided to fulfill the request of "physical or cognitively disabled inmates, and those that are deaf or hard of hearing" consisted of a one-page report provided that is a Health Services report created during the inmate intake, with a category column for "Physical or Developmental Disability/Mental Health Condition." The Auditor was told onsite there was no tracking system specifically for "deaf" or "blind" inmates, but that they would be included and marked as "Y" for YES in the category noted above. Random inmate interviews from this list did not include any inmates that would appear to have deficits in these areas, as they were able-bodied, had no issues with sight or sound, and were articulate. Those interviewed stated they saw the PREA video in the kennel but there was no sound on the TV. They did however state they received the PREA brochure.

Team members conducting informal interviews with staff throughout the site review asked staff if they were aware of any current inmates that may be deaf, hard of hearing, or blind. None were identified. The former PREA Coordinator did state that if a blind inmate were to come to HCCC, the PREA brochure would be read to the inmate during intake. Additionally, the former PREA Coordinator verified that Purple Communications is in the process of being installed at PSD facilities to provide American Sign Language (ASL) services for deaf and hard of hearing inmates. In interviews with both the PCM and mental health staff, it appears the two areas work together to ensure that if an inmate is identified to have intellectual, psychiatric, or speech disabilities, he or she would be met with by Mental Health staff who would go through the PREA brochure in a way for the inmate to understand all aspects of PREA and how to report.

Staff training information presented via the PREA Corrections & Law Enforcement Training (02/02/2017) included in the PAQ does include a PowerPoint slide that stated, "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." However, the remaining four PowerPoint slides are in reference to how to utilize

interpreter services, and how to fill out the PREA Mandated Reporting Form if an inmate interpreter must be used.

115.16(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 13.0.2 and .3 (page 16) states, "The use of offender interpreters, or other types of offender assistance is prohibited, except in limited exigent circumstances where an extended delay in obtaining an effective interpreter could compromise an offender's safety. In the limited circumstances where offender interpreters, or other types of offender assistance is utilized, it shall be documented utilizing the PREA Mandated Reporting Form (PSD 8317)."

The PAQ indicated zero instances where inmate interpreters were utilized for PREA reporting or investigations during the documentation period. However, during interviews with staff, a few stated they would use an inmate interpreter for this purpose, "if there was no staff available to interpret." However, staff interviewed said they had not had to use an inmate interpreter in the past for circumstances surrounding PREA. Further discussion with these staff about the policy requirements appeared to assist them in understanding this was not appropriate, other than in an exigent circumstance. Additionally, the Warden sent out an informative memo reminding staff of the contracted interpretive service through Pacific Interpreters.

The Auditor continues to recommend that HCCC / PSD implement a system to identify and track LEP inmates to ensure they are receiving all services needed, to include information regarding PREA.

Documentation provided for this standard: Agency Policy ADM.08.08, PREA posters in English, Tagalog, Ilocano, and Samoan, 06/07/2013 memo from Civil Rights Compliance Officer verifying an account with Pacific Interpreters, "How to Access a Telephonic Interpreter" brochure by Pacific Interpreters, PSD Limited English Proficiency Plan (09/01/17 to 10/31/2019), and PREA Corrections & Law Enforcement Training (02/02/2017).

Based on this information, PSD and HCCC are in full compliance with all elements of standard 115.16.

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.

115.17.(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 14.0.1 (page 17) states, "PSD prohibits the hiring or promoting of anyone, who may have contact with offenders, and shall not utilize the services of any contractor or volunteer, who may have contact with offender, if that person: a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution owned, operated, or managed by the state as defined by 42 U.S.C. 1997, for example the Hawaii State Hospital or other state skilled nursing, intermediate, long-term care, custodial, or residential care institution; b. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threat of force, or coercion, or if the victim did not consent or was unable to consent or refuse; c. Has been civilly or administratively adjudicated to have engaged in the activity described in the paragraphs above."

The Auditor was provided with a blank PSD application packet, which included a mandatory self-disclosure form for the applicant to complete regarding the elements of misconduct as noted in their Policy ADM.08.08.

There were 28 new hires and no promotions at HCCC during the documentation period. There were two individuals that transferred from other agency facilities.

In an interview with the agency Human Resources (HR) Administrator, she indicated that no individuals with a history of engaging in sexual abuse in any institution, nor anyone with a conviction or adjudication for sexual abuse in the community would be hired or promoted in the PSD system. She verified the application and criminal background check process, and indicated that HR is centralized in PSD with major functions, including criminal background checks, occurring at their main Oahu office.

115.17(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 14.0.2 (page 17) states, "PSD shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to utilize the services of any contractor or volunteer, who may have contact with offenders."

The Auditor has reviewed the updated PSD application packet's self-disclosure form (PSD 8318) from 01/2019 and found that previous wording that was contradictory to the standard has been removed. This form is now in use throughout PSD and meets this element of standard 115.17.

115.17(c-d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/201) section 14.0.3 (page 17) states, "Before new employees, contractors or volunteers, who may have contact with offenders are hired, PSD shall (a) Perform criminal background records checks, consistent with federal, state, and local law; and (b) Utilize a "best effort" to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation, due to a pending investigation of an allegation of sexual abuse."

The Auditor was provided with a blank Request, Consent and Notification for Fingerprint Clearance for State Civil Service, Non-Civil Service and Exempt Employment form. The applicant is required to complete this form to provide information needed for the completion of criminal background checks. This is done for all new employees and promotions.

Contractor and volunteer documentation is maintained by the statewide VolinCor Coordinator. She utilizes background checks via Criminal Justice Information Services (CJIC) along with the National Crime Information Center (NCIC). The Coordinator maintains separate databases for volunteers and contractors throughout the state. The records are maintained centrally as contractors and volunteers may provide services in multiple facilities.

The Coordinator did state that criminal background checks are completed for contractors and volunteers every two years or upon request, and are done after the contractor has completed their training. At HCCC, the only contractor services in the past 12 months are for maintenance projects outside of areas where inmates are located. However, the documentation for these contractors were provided. A review of Volunteer and Contractor Clearance Data from 01/24/2019 was provided by the Program Specialist and revealed that criminal background checks were completed every two years for volunteers. No HCCC contractors were noted on the list.

115.17(e): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 14.0.4 (page 17) requires that, "PSD shall conduct criminal background records checks at least every five years for current employees, contractors, and volunteers, who may have contact with offenders. (a) PSD's Personnel's Office is responsible for ensuring compliance with the five year cycle of background checks for employees. (b) It is noted that PSD does conduct Lautenberg type of background checks on those employment positions that are required to carry a firearm."

In the interview with the HR Administrator, she stated that background checks are completed each year for uniformed staff as part of the Lautenberg Amendment (as they are able to carry a weapon as part of their job). For all other employees, a background check is completed every five years and logged. As noted above, volunteers and contractors undergo a background check every two years. Documentation provided by the former PREA Coordinator reflected criminal background checks were completed in a timely manner for all staff, contractor and volunteer names submitted for review.

115.17(f-g): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 14.0.7 (page 18) states, "Any PSD staff, who materially omits reporting such misconduct or provide materially false information shall be subject to discipline based on the just and proper cause standard, up to and including discharge."

The HR Administrator indicated during her interview that all staff have a duty to disclose any previous misconduct. Staff are also reminded in their yearly in-service training of their duty to report such information. A review of the PSD application forms also reflected this information as well. In addition to PSD policies, staff must also follow the State of Hawaii Department of Corrections Standards of Conduct which were last published in August 1988. She also could not recall any employee failing to report such misconduct.

115:17(h): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 14.0.8 and .9 (page 18) requires that, "PSD shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a current or former employee, upon receiving a request from an institutional employer conducting a background check on the employee, preferably with a signed consent to release information form. If the Department Personnel Officer receives such a request from an institutional employer, the request will be forwarded to the Department PREA Coordinator for review and drafting a response."

The PSD HR Administrator indicated that when a request regarding a former employee was received from a potential outside institutional employer, she would notify the PREA Coordinator who would inform her of any PREA-related allegation findings, which the HR Administrator would then provide to the potential employer. She stated that while they do disclose the outcome of an allegation, they will not disclose allegation specifics. She also confirmed that a release of information is not required as it's within their power to give provide the information.

During the last 12 months, HCCC hired 28 staff who may have contact with inmates, and two ACOs transferred from other PSD facilities. The Auditor received a list of all HCCC employees and randomly selected 15 staff, including both custody and non-custody, to review their HR files to confirm background investigations were completed in a timely manner. All documents reviewed, to include required documents relative to sexual misconduct reporting, criminal background checks, and institutional employer verification, were completed in a timely manner as required by PSD policy.

Documentation provided for this standard: Agency Policy ADM.08.08, PSD application packet including the PREA self-disclosure form (PSD 8318), Blank Request, Consent and Notification for Fingerprint

Clearance For State Civil Service, non-civil Service and Exempt Employment form, Applicant's Consent, Authorization, and Request to Release Information and Waiver form, Standards of Conduct for Corrections (August 1988), Volunteer and Contractor Clearance Data from 01/24/2019, and recruitment / background check records.

Based on this information, PSD and HCCC are in full compliance with all elements of standard 115.17.

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.

115.18(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 15.0.1 (page 18) requires, "When designing or acquiring any new facility, and in planning any substantial expansion or modification of existing facilities, PSD shall consider the impact that the design, acquisition, expansion, or modification will have on PSD's ability to protect offenders from sexual abuse."

PSD has not acquired any new facilities since the last PREA audit conducted at HCCC (final report dated 03/06/2016). There are no current funded plans for expansion at HCCC; however there are several modifications in work and upcoming in the immediate future. One project is the renovation of the Kitchen facilities at HCCC. Another is demolition of the current Maintenance building at HCCC and construction of a new one. There is also a HCCC Intake project which will create a larger Intake and Processing area to include a separate interview room for Intake Services to complete their inmate intake assessments, to include the initial 72-hour PREA Risk Assessment. The Warden, former PREA Coordinator and Agency Head's designee all indicated that the former PREA Coordinator has been involved in conversations regarding all of the projects noted above, and that consideration has been given for inmate sexual safety.

The interview with the Agency Head designee confirmed that facilities evaluate impact during any expansion or modification project. This evaluation includes, but is not limited to, blind spots, areas of potential low visibility, staffing patterns, the number of inmates and what activities are occurring in the area, and privacy for showers, toilets, and common areas. The evaluation is a comprehensive study involving multiple disciplines and always includes the agency PREA Coordinator.

115.18(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 15.0.2 (page 18) requires that, "When installing or updating a video monitoring system, electronic surveillance system. Close circuit television (CCTV), or other monitoring technology, PSD shall consider how such technology may enhance the agency's ability to protect offenders from sexual abuse."

The Warden stated several times during his interview that HCCC is in the process of requesting capital funding to replace the current video monitoring system, and to move the current video monitoring system to be utilized at Hale Nani, where there is currently none. He was unable to provide any documentation that these requests had been approved, and stated, "Funding is always an issue. We just wait and see."

Auditors did not receive schematics for HCCC, but did confirm cameras were in all hallways, common areas and dayroom areas. The only cells with a camera inside are located in M Corridor, and do not have toilets in them. There are clearly issues with the current video monitoring system, as during the onsite audit, cameras in two of the three housing units at HCCC were non-operational. This was also the case during the HCCC Internal PREA Audit (October 2018). In follow-up conversations during the corrective action period, it appears this is an ongoing, continual issue.

Documentation provided for this standard: Agency Policy ADM.08.08, Floor plans for HCCC Intake project, email correspondence, and building schematics.

Based on this information, HCCC is in full compliance with all elements of standard 115.18.

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 onsite 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.

115.21(a-b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 16.0.3 (page 19) states, "PSD utilizes departmental evidence protocols that maximize the potential for obtaining usable physical evidence for administrative proceedings and preserves the crime scene for criminal investigations and prosecutions."

During the pre-onsite audit, the Auditor was provided with a PowerPoint presentation titled, "Administrative Investigation" which was developed by PSD Internal Affairs. The presentation addresses items such as how to conduct an administrative investigation, management of a crime scene, crime scene preservation, and how to label and inventory evidence, along with several other related topics.

115.21(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 16.0.4 through .7 (page 19) indicate, "The Health Care Division staff shall determine, based on evidentiary or medical needs, whether a victim of sexual abuse will be transported for a forensic medical examination at the Sex Abuse Treatment Center (SATC) or at a hospital emergency unit. This shall be at no financial cost to the victim. In facilities without twenty-four (24) hour medical, then the on call physician shall be contacted. The use of Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) are utilized at SATC. On the outer islands, a comparable program is utilized. If a SAFE or SANE is not available the examination may be performed by other qualified medical practitioners. The SATC and its contracted representatives on the out islands have indicated that victim advocates are available during an examination."

For HCCC, the emergency medical center is identified as the Hilo Medical Center. The SATC contracted representative for the island of Hawaii is the YWCA. Upon notification that an inmate from HCCC is in need of a forensic medical examination, the facility will transport the inmate to the Hilo Medical Center and call the Hawaii Police Department (HPD). HPD then calls YWCA, as HPD also has a MOU with YWCA to provide SAFE / SANE services. A SAFE / SANE reports to Hilo Medical Center, conducts the examination for the HCCC inmate, and then releases all evidence to HPD. This process was confirmed in separate interviews with the PCM, former PREA Coordinator, Warden, staff at Hilo Medical Center, and staff at YWCA.

115.21(d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 16.0.8 (page 19) indicates, "At the request and approval of the victim, a victim advocate from the SATC or SATC contracted provider on the outer islands shall be provided to support the victim through the forensic medical examination process and the investigatory interview. The purpose of a victim advocate is to provide emotional support, crisis intervention, information, and referrals."

As noted in agency policy, PSD has contracted with the SATC (Contract #18-HAS-01) to provide services for victim advocacy and forensic examinations. The current contract has been in effect since 07/01/2017 and is set to expire on 06/30/2019. SATC contracts with providers on the islands outside of Oahu, and YWCA is their contracted provider for the island of Hawaii.

Included in the PSD/SATC contract is the following language, "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. Support will be offered to the victim's family/support system as well. Prior to ending the medical-legal contact, the program worker will discuss follow-up care and provide information about ongoing counseling services available."

As noted previously, The Auditor made several attempts to make contact staff at YWCA SASS and was unable to. However, interviews with inmates who had reported a sexual abuse did indicate an advocate was at the hospital with them during the forensic examination.

115.21(e): Agency Policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 16.0.8 (page 19) requires, "At the request and approval of the victim, a victim advocate from the SATC or SATC contracted provider on the outer islands shall be provided to support the victim through the forensic medical examination process and the investigatory interview. The purpose of a victim advocate is to provide emotional support, crisis intervention, information, and referrals."

The PSD/SATC contract includes language to support policy as follows:

- Legal systems advocacy will be provided to support individuals as they face the criminal justice process. Program staff will inform victims of their legal rights and options, and will be available to support during the police reporting process, if desired.
- 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 ... Prior to ending the medical-legal contact, the program worker will discuss follow-up care and provide information about ongoing counseling services available.

115.21(f-g): Agency Policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 16.0.9 (page 19) requires that, "PSD shall ensure that internal investigations comply with the above requirements [regarding evidence protocols and forensic examinations] and external investigative entities (County LE) have procedures in place to comply with the above requirement."

Criminal investigations for HCCC are conducted by HPD, which was confirmed in interviews with a PSD Internal Affairs representative, the former PREA Coordinator and member of HPD. The PCM and Warden indicated that they maintain contact with HPD in regards to criminal investigations initiated from PREA allegations.

115.21(h): This provision is not applicable as PSD has a contract with SATC which includes in-person services available to sexual assault victims at all times, 24 hours per day, 365 days per year.

Documentation provided for this standard: Agency Policy ADM.08.08, Administrative Investigation training PowerPoint developed by PSD Internal Affairs, and the current contract between PSD and SATC (Contract #18-HAS-01).

Based on this information, PSD and HCCC are in full compliance with all elements of standard 115.21.

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.

115.22(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act*, (09/22/2017), sections 17.01, .2, and .4 (pages 19 – 20) state, “PSD ensures that an internal administrative investigation and an external referral for criminal investigation are 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 ... If an allegation of sexual abuse or sexual harassment involves potentially criminal behavior, then the allegation shall be immediately referred to a county LE agency.”

During the documentation period (09/01/2017 – 08/31/2018), HCCC received 13 total allegations, resulting in 13 total investigations as follows. There was one allegation of inmate-on-inmate sexual harassment that resulted in an unfounded finding. There was also one allegation of staff sexual harassment which was also determined to be unfounded. There was one allegation of staff sexual misconduct with two findings - a substantiated finding for “overfamiliarity” and an unsubstantiated finding for “sexual contact.” There were 10 allegations of inmate-on-inmate sexual abuse, with two substantiated findings, one unsubstantiated finding, three unfounded findings, and four cases pending investigation (of which three are with local county law enforcement). At the time of writing the final report, all three cases were ultimately declined by local prosecutors and were resolved administratively.

An email was received from Just Detention International (JDI) dated 11/29/2018 confirming that JDI has not received any allegation information or reports of issues regarding offender sexual safety at HCCC during the documentation period.

115.22(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 17.0.4 and .6 require that, “If an allegation of sexual abuse or sexual harassment involves potentially criminal behavior, then the allegation shall be immediately referred to a county LE agency ... PSD publishes the Department policy, ADM.08.08, *Prison Rape Elimination Act* on the official department website at www.hawaii.gov/psd.”

115.22(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.11 (page 40) details responsibilities for the completion of administrative and criminal investigations, including that “...procedures for criminal investigations conducted by county LE shall be dictated by their policies ... The county LE shall refer substantiated allegations of conduct based on their investigative process that appears to be criminal for prosecution.”

The Auditor confirmed that this policy is posted to the agency’s public website at www.hawaii.gov/psd. Interviews with the PCM and Warden also confirmed that HPD conducts any PREA-related criminal investigations that may arise from allegations at HCCC. Interviews with IA staff and facility investigators confirmed that all criminal investigations are conducted by HPD and administrative investigations are completed by specially trained investigators from either HCCC or IA. An interview with the Agency Head designee confirmed that all allegations are investigated in accordance with agency policy.

Documentation provided for this standard: Agency Policy ADM.08.08, investigation reports, Email from JDI dated 11/29/2018 confirming no reports of PREA allegations at HCCC, and PSD agency website.

Based on this information, HCCC is in full compliance with all elements of standard 115.22.

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.

115.31(a) Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 18.0.1 (pages 20 – 21) states, "PSD provides a comprehensive training module for all staff emphasizing PSD's zero-tolerance policy and the importance of preventing sexual abuse / sexual assault and sexual harassment toward offenders. PSD educates staff about the serious impact of offender sexual victimization within a correctional setting. All PSD staff who may have contact with offenders trained on (a) PSD's zero-tolerance policy for offender sexual and sexual harassment; (b) How to fulfill their responsibility under PSD's sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures; (c) Offenders' rights to be free from sexual abuse and sexual harassment; (d) The right of offenders and staff to be free from retaliation for reporting sexual abuse and sexual harassment; (e) The dynamics of sexual abuse and sexual harassment in confinement; (f) The common reactions of victims of sexual abuse and sexual harassment; (g) How to detect and respond to signs of threatened and actual sexual abuse; (h) How to avoid inappropriate relationships with offenders based on staff

over familiarity and fraternization; (i) How to communicate effectively and professionally with offenders, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming offenders; and (j) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.”

Prior to the onsite review, the Auditor was provided with the PREA Corrections & Law Enforcement Training (02/02/2017). PSD provides the training each year to staff needing the biennial training. The required standard elements are included in the 2017 PowerPoint training as follows:

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

Random staff interviewed were able to articulate topics covered in the training, especially in the areas of first responder duties and how to detect and respond to signs of sexual abuse and sexual harassment.

115.31(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 18.0.2 (page 21) states, “PSD’s staff training is tailored to address all genders of offenders in a correctional facility; therefore, additional training is not required when a staff member transfers to a different gender facility.” This was verified via a review of the training provided to PSD staff that does address issues regarding both male and female inmates. Therefore, staff do not require additional training if they are transferred or reassigned to another PSD facility.

115.31(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 18.0.3, .6 and .7 (pages 21 - 22) require, “The Warden, PSD Administrators, or Sheriff shall ensure that all current staff have received PREA training. The Warden or Sheriff shall notify the Department’s Training and Staff Development Office (TSD) and the PREA Coordinator of any individual who requires training ... The Warden, Sheriff, or TSD staff shall provide each staff member with a refresher PREA training every two (2) years to ensure that the staff member is aware of PSD’s PREA policy related to offender sexual abuse, offender sexual harassment, and any retaliation for reporting or assisting in an investigation. In years when the staff member does not receive the refresher training, the agency shall provide refresher information on current sexual abuse and sexual harassment policies through the PSD website, handouts, posters, memorandums, etc.”

According to the PAQ provided prior to the onsite audit, there are 221 staff assigned to HCCC and Hale Nani. The Auditor requested training records for 14 staff. Of those staff, the time of employment with PSD ranges from less than one year to 28 years. Of the training records pulled, five staff last received PREA training in 2018, eight staff last received PREA training in 2017, and one staff last received PREA training in 2015.

The PSD Director sent an Inter-Agency Memorandum for all PSD on 10/25/2018 regarding PREA that was to be considered as refresher information in between training years. All employees were to “acknowledge written receipt” of the memorandum and forward that acknowledgement to the PREA Coordinator by 11/05/2018.

115.31(d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 18.0.4 and .5 (page 21) state, “PSD training sign-in sheets are verification that the staff member received and understood the PREA training. The sign-in sheet shall include the following statement, ‘By signing this attendance sheet you acknowledge receipt of PREA Training and that you understood the PREA Training materials.’ The sign-in sheet documentation substantiates that the staff member has completed the required training and his/her completion shall be entered on the staff member’s record with TSD.”

The Auditor received Inter-Office memorandum Acknowledgement of Training forms for 13 of the 14 requested staff PREA training records. These 13 received their last training in 2017 or 2018, while the remaining staff member last received PREA training in 2015, and no acknowledgement form was received. The forms that were received do not include the statement, “By signing this attendance sheet you acknowledge receipt of PREA Training and that you understood the PREA Training materials,” required by policy. The Inter-Office memorandum Acknowledgement of Training has the following statement: , “I understand that I have a duty to report any suspicious or actual sexual misconduct to my immediate supervisors and to report factual information as required by the departments Standards of Conduct.” Upon discovery of this issue, the PREA Coordinator immediately contacted the PSD Training Department and had the PSD Training Sign-In Sheets corrected to include the language as required by policy. Verification of the corrections to the form was received by the Auditor.

Documentation provided for this standard: Agency Policy ADM.08.08, PREA Corrections & Law Enforcement Training (02/02/2017) PowerPoint, Inter-Office Memorandum from PSD Director dated 10/25/2018, Inter-Office memorandum Acknowledgement of Training forms, PSD Training Sign-In Sheets, and staff training reports.

Based on the following information, HCCC is in full compliance with all elements of standard 115.31.

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.

115.32(a-c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 19.0.1, and .2 (page 22) states, "All volunteers and contractors who have contact with offenders shall be trained on PREA, PSD's policy, and their responsibilities regarding the prevention, detection, and how to respond to a report of offender sexual abuse and sexual harassment ... The level and type of training provided to volunteers and contractors shall be tailored to the level of contact and services provided to offenders. All current volunteers and contractors have been notified of PSD's zero-tolerance policy regarding offender sexual abuse and sexual harassment, as well as how to report such incidents ... PSD maintains documentation confirming that volunteers and contractors received an appropriate level of training and that they understood the information provided. A copy shall be maintained with the PSD Volunteer Coordinator and is available to the PSD PREA Coordinator upon request."

Per the Program Specialist, "Any volunteer or contractor who works in the institutions for 20+ hours a week must attend a full PREA training session, which is the required training for all staff members. Volunteers and contractors that work less [than] the 20 hours a week in the institutions are only required to attend the VolinCor training which is a shorter version of the full." Therefore, volunteers and contractors providing 20 hours of more of service per week at PSD facilities participate in the PREA Corrections & Law Enforcement Training (02/02/2017) PowerPoint training that staff also receive.

As noted previously in 115.31, the required standard elements are included in the 2017 PowerPoint training as follows:

- (1) Its zero-tolerance policy for sexual abuse and sexual harassment;
- (2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
- (3) Inmates' right to be free from sexual abuse and sexual harassment;

- (4) The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
- (5) The dynamics of sexual abuse and sexual harassment in confinement;
- (6) The common reactions of sexual abuse and sexual harassment victims;
- (7) How to detect and respond to signs of threatened and actual sexual abuse;
- (8) How to avoid inappropriate relationships with inmates;
- (9) How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates; and
- (10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

During the post-onsite audit portion, the Auditor was provided with sample documentation that is required for all volunteers and contractors to review and sign. The documents include a summary of PREA legislation indicating prohibitions and requirements, a Mandatory Reporting Form outlining requirements for mandatory reporting of all allegations, and child and/or vulnerable adult abuse or neglect, a Confidentiality form with definitions and requirements, a Volunteer Services Notice of Consent to Search form, and a Code of Ethics form outlining duties and requirements. All forms include a statement of acknowledgement and understanding which have to be signed by the volunteer or contractor.

HCCC currently has a total of 117 volunteers providing services within both locations of HCCC. As noted, they receive PREA training during their orientation. However, for some, this may have been several years ago. Audit Team members reviewed training records and a sampling of signed forms acknowledging understanding of requirements surrounding PREA, confirming that volunteers have completed training as required and understand PSD's policy on zero-tolerance of sexual abuse and sexual harassment. However, interviews with volunteers indicated that some are not truly familiar with their responsibilities in regards to PREA, although they do recall having PREA training in the past. They were unsure of who to report an allegation to, and voiced a desire to have training on PREA on a more regular basis. While this is not a compliance issue, as the training for volunteers does meet the requirements of the standard, it is strongly recommended to provide additional refresher PREA training to volunteers.

HCCC did not employ the services of any contractors who may have contact with inmates during the documentation period. Therefore, no interviews were conducted with contractors. The former PREA Coordinator did provide a sample of signed forms acknowledging understanding of requirements surrounding PREA from contractors who are providing construction services to HCCC, although not having any contact with inmates.

In reviewing the Volunteer and Contractor Clearance Data from 01/24/2019 list, it appears the majority of volunteers have been trained or retrained within the past three years. Several overdue training dates were prior to HCCC's last PREA Audit, and have been trained since that time.

Documentation provided for this standard: Agency Policy ADM.08.08, Forms for volunteers and contractors to sign acknowledging understanding of PREA information, Mandatory Reporting, Confidentiality, Notice of Consent to Search, and Code of Ethics, PREA Corrections & Law Enforcement Training (02/02/2017) PowerPoint, and log of volunteer and contractor training records.

Based on this information, HCCC is in full compliance with all elements of standard 115.32.

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.

115.33(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 20.0.1 (page 22) requires that, "Offenders shall receive verbal and written information at the time of intake by Intake Service Center (ISC) staff about PSD's zero tolerance policy and how to report incidents or suspected incidents of sexual abuse or sexual harassment."

During the audit documentation period, 212 inmates were admitted to the facility and received PREA information upon intake. An interview with a staff who provide intake services verified verbal and written information in the form of a brochure is given to inmates upon their arrival to HCCC. The staff member indicated he gives the inmate a "verbal rundown" about PREA, tells them who the PCM is at the facility, and hands him/her the brochure and asks if there are any questions. The brochure, entitled, "An Informational Guide for Offenders – Offender Sexual Abuse and Sexual Harassment by Offenders Staff Volunteers and Contractors" discusses PSD's "Zero Tolerance" policy against PREA in any form, defines sexual abuse and sexual harassment and contains sections on what to do if you are sexually abused, how to avoid sexual abuse, what happens after a report of sexual abuse, and information about external/confidential/ anonymous reporting options and emotional support counseling services. It was verified that the inmate does not have to sign anything indicating they received this information,

and that inmates usually don't want to keep the brochure. Random inmates interviewed confirmed meeting with an Intake ACO upon arrival at HCCC, and recalled being given a PREA brochure.

115.33(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 20.0.2 (page 22 - 23) requires that, "Within thirty (30) days of intake, PSD Facility shall provide comprehensive PREA education via video (PRC video) or classroom instruction to offenders that addresses (a) Prevention and intervention; (b) Self-protection; (c) Reporting sexual abuse, sexual harassment, and protection from retaliation, including information on the options to report the incident to a designated staff member other than an immediate point-of-contact line officer; (d) Treatment and counseling; (e) PSD's zero tolerance for sexual abuse/sexual assault, sexual harassment, and retaliation."

During the onsite review, the PREA educational video was on the TV monitor in the "kennel", but with the volume off and no closed-captioning. According to documentation provided during the pre-onsite phase of the audit, the HCCC Internal PREA Audit conducted by PSD prior to the actual audit (October 2018) reflected the same issue. This educational video is what is relied on to provide formal PREA educational information to the inmates received at HCCC. During the corrective action period, the Warden distributed a Inter-Office Memorandum (dated 04/18/2019) directing Intake Staff to ensure that "all new admissions [sic] view the PREA video with the close caption All new custodies shall review this video while in holding cage during intake." Further, the Warden submitted a memo to the Auditor verifying that he completes unannounced walkthroughs of the Intake area several times a week and has confirmed that the video is playing in the Intake area both with the volume on and with the closed-caption in operation.

115.33(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 20.0.3 (page 23) states that, "Effective August 2013, all current offenders should have received information on PREA. PSD requires that offenders who are transferred from one facility to another be re-educated only to the extent that the policies and procedures of the new facility differ from those of the previous facility."

As HCCC is a jail and policies and procedures throughout PSD are identical, there is no additional orientation provided for transfers. However, all inmates transferring into HCCC are treated as intakes and will receive the same information as all other inmates.

115.33(d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 20.0.4 through .6 (page 23) state, "It is PSD's policy to make appropriate provisions, as necessary, for offenders with limited English proficiency through CRCO's [Civil Rights Compliance Office] identification of authorized interpreters. Accommodations for offenders with disabilities (including offenders who are deaf or hard of hearing, those who are blind or who have low vision, or those who have intellectual, psychiatric, or speech disabilities) and offenders with low literacy levels shall be made on the facility level. ISC staff shall document by utilizing the PREA Mandated Reporting Form (PSD 8317), if an inmate requires accommodation and this form shall be forwarded to the Facility PREA Manager and Department PREA Coordinator via email fax, or mail within three (3) days."

While onsite, the PCM and the Program Specialist were unable to provide lists of inmates who are considered LEP that would require interpretation services. The Program Specialist indicated this would be listed on the HCCC PREA Health Care Report under "Physical or Developmental Disability/Mental Health Condition." However, there is no report that is kept that would just indicate those that cannot read, speak or understand English. It is somewhat concerning that those who are LEP are being tracked as having a physical or developmental disability or a mental health condition, simply because they do not speak, read or write English.

While touring, Audit Team members were unable to identify any LEP inmates, and asked staff to assist. No HCCC staff were able to identify any current LEP inmates either. The facility was unable to provide any written documentation of the use of either a staff interpreter or Pacific Interpreters to provide intake services to a LEP inmate, but staff interviewed were very familiar with these options. Provided with the PAQ were PREA posters and the brochure, "An Informational Guide for Offenders – Offender Sexual Abuse and Sexual Harassment by Offenders Staff Volunteers and Contractors" in alternative languages. These posters were seen throughout HCCC, and the Intake Staff indicated the alternative language brochure would be provided to an inmate upon intake if they discovered the inmate was LEP.

As noted above, the PREA education video is shown in the kennel for all intake admissions. This is considered the formalized information regarding PREA. Now that the video is played with the volume on and with closed-captioning, inmates who are blind or have low vision can hear the information, and those who are deaf or hard of hearing can read the information on the screen.

The former PREA Coordinator verified that Purple Communications is in the process of being installed at PSD facilities to provide American Sign Language (ASL) services for deaf and hard of hearing inmates. She also verified that those with intellectual, psychiatric, or speech difficulties would meet one-on-one with a mental health staff to receive their orientation in a way it could be understood by the inmate. The former PREA Coordinator also stated the brochure provided to inmates was written "to be understood at a fifth-grade level."

115.33(e): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 20.0.7 (page 23) requires that, "Each facility shall maintain electronic or written documentation of an offender's participation in the educational session (video or classroom). This documentation shall be forwarded to the Facility PREA Manager and the Department PREA Coordinator via email, fax, or mail within three (3) days."

While onsite, the PCM provided verification that inmates chosen at random had signed that they had received the PREA education via watching the video. The list, PREA Class Completions Sept 1 – Dec 31, 2018, showed signature verification and computerized attendance rosters including all inmates received during those dates received PREA education.

115.33(f): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 20.0.8 (page 23) states that, "PSD shall ensure that key information on PSD's PREA policies are continuously and readily available or visible through posters, handouts, offender handbooks, and resources in the offender library."

There does not appear a statewide PSD handbook, and the Auditor was unable to receive a HCCC Offender Handbook while onsite. There were posters in the library and additional PREA brochures (the ones received in intake). Posters throughout living units and common areas displaying information about PREA to include phone numbers and outside reporting information. During the corrective action period, several posters were relocated to be in closer proximity to the inmate phone areas.

Documentation provided for this standard: Agency Policy ADM.08.08, HCCC Internal PREA Audit report (October 2018), PREA Class Completions Sept 1 – Dec 31, 2018, PREA educational video, PREA brochure titled "An Informational Guide for Offenders – Offender Sexual Abuse and Sexual Harassment by Offenders Staff Volunteers and Contractors," Inter-Office Memorandums distributed by the HCCC Warden, and PREA posters.

Based on this information, HCCC is in full compliance with all elements of standard 115.33.

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.

115.34(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 21.0.1 (page 23) requires that, "IA, or facilities, if authorized by the Director, shall conduct the internal administrative investigation for any allegations of sexual abuse. In addition to general training provided to all employee under §18.0 of this policy, PSD investigators shall receive training on conducting sexual abuse investigations in confinement settings."

At HCCC, all Lieutenants are specially trained to conduct administrative PREA investigations. The PCM, who is a Sergeant, is also trained. Allegations that appear to potentially have a criminal action involved are immediately referred to Internal Affairs (IA), who refer for a criminal investigation by local law enforcement. As of the writing of this report, all HCCC staff who have completed a PREA investigation have been properly trained.

115.34(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 21.0.2 (page 23 - 24) states, "PSD's specialized training includes techniques for interviewing sexual abuse victims, proper use of Miranda (not applicable) and Garrity warnings, preserving sexual abuse evidence for collection in confinement settings, and an understanding of the criteria and evidence required to substantiate a case in an administrative proceeding or for a referral by a county LE agency for criminal prosecution."

PSD relies on the "PREA Investigating Sexual Abuse in a Confinement Setting" specialty training offered on the PRC website and the National Institute of Corrections (NIC) websites. This curriculum was reviewed and includes, but is not limited to, PREA investigative standards, evidence collection and preservation, the role of medical and mental health staff, the forensic medical examination process, the role of the victim advocate, working with victims, interviewing developmentally disabled, LEP, and minority inmates, managing biases, and red flags.

Attached to the PAQ was the curriculum for specialized training provided via Wicklander-Zulawski & Associates called Interview with Integrity. The content included defining trauma, the potential reactions and responses to trauma, interviewing victims of sexual assault, rationalizations, and assumptive questions.

115.34(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 21.0.3 (page 23 – 24) states, "PSD shall maintain documentation substantiating that investigators have completed

the required training and it shall be documented on the staff member's training record with TSD [Training and Staff Development]."

The Auditor received NIC Certificates of Completion for PREA: Investigating Sexual Abuse in a Confinement Setting" for all Lieutenants at HCCC and the PCM. However, just because a staff has attended the specialized training does not mean they actually complete investigations. The Warden selects those that will conduct investigations, after ensuring they have been appropriately trained to do so.

115.34(d): Agency Policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 17.0.7 states, "County LE 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." It does not appear that any state entity conducts administrative or criminal investigations for HCCC.

Documentation provided for this standard: Agency Policy ADM.08.08, curriculum for PREA Investigating Sexual Abuse in a Confinement Setting provided via NIC, Interview with Integrity PowerPoint training provided via Wicklander-Zulawski & Associates, NIC Certificates of Completion, and training rosters for standard PSD PREA training.

Based on this information, HCCC is in full compliance with all elements of standard 115.34.

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

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

115.35(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 22.0.1 (page 24) requires that, "All full-time and part-time medical and mental health practitioners, who work regularly in PSD facilities should be trained in: (a) How to detect and assess signs of sexual abuse and sexual harassment; (b) How to preserve physical evidence of sexual abuse; (c) How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and (d) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment."

Interviews onsite with both medical and mental health staff confirmed their completion of both the specialized training offered via NIC (either PREA: Medical Health Care of Sexual Assault Victims in a Confinement Setting or PREA: Behavioral Health Care for Sexual Assault Victims in a Confinement Setting), as well as the PREA training scheduled for all PSD staff every other year. All interviewed were able to discuss elements of both the standard training and specialty training curriculums.

115.35(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 22.0.2 (page 24) states, “PSD medical and mental health staff are not responsible for conducting forensic medical examinations.”

PSD policy mandates that community providers rather than agency staff conduct all forensic medical examinations. For inmates at HCCC, these examinations are completed by SAFE/SANE provided via YWCA and done at Hilo Medical Center. This was confirmed in interviews with medical practitioners as well as staff at Hilo Medical Center and YWCA. It was also confirmed in interviews with inmates who had undergone a forensic medical examination while housed at HCCC.

Documentations reviewed in the form of investigations and medical follow-up also confirmed that forensic medical examinations were completed at Hilo Medical Center.

115.35(c-d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 22.0.3 and .4 (page 24) state, “PSD shall maintain documentation substantiating that medical and mental health practitioners have completed the required training and it shall be documented on the staff member’s training record with TSD. Medical and mental health practitioners shall receive the training mandated for employees under §18.0 or §19.0 of this policy, based on the practitioner’s status. Medical and mental health practitioners may comply with this provision through the webinars for Specialized PREA Training for Medical and Mental Health Practitioners offered at the PRC website and the National Institute of Corrections (NIC) website.”

HCCC currently has 11 medical and mental health practitioners who work regularly with inmates. The Auditor was provided with documentation during both the pre-onsite and post-onsite phases confirming 100% of medical and mental health staff working at HCCC have completed either a) PREA: Medical Health Care of Sexual Assault Victims in a Confinement Setting or b) PREA: Behavioral Health Care for Sexual Assault Victims in a Confinement Setting, based on their position. Both of these specialty trainings for medical and mental health practitioners are offered on the PRC website and the NIC website.

Documentation provided for this standard: Agency Policy ADM.08.08, PREA: Medical Health Care of Sexual Assault Victims in a Confinement Setting training curriculum via NIC website, PREA: Behavioral Health Care for Sexual Assault Victims in a Confinement Setting training curriculum via NIC website, NIC Certificates of Completion, and training rosters for standard PSD PREA training.

Based on this information, HCCC is in full compliance with all elements of standard 115.35.

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.

115.41(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.1 (page 25) indicates, "The ISC [Intake Service Center] is required to screen offenders at the intake screening process, which occurs upon admission to a facility, by utilizing the PREA Screening Tool (PSD 8314) and the accompanying instructions for the PREA Screening Tool."

Interviews with intake staff and the PCM indicate that upon arrival at HCCC, regardless of whether coming in as a new admission or a transfer, inmates are screened for their risk of potential sexual victimization and/or potential sexual predation. This was confirmed via interviews with inmates as well. Those that are housed at Hale Nani come through the intake processing area of the main HCCC facility prior to being housed at Hale Nani, so they would fall under the same process. HCCC's process is noted below.

115.41(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.2 (page 25) requires, "The intake screening by ISC shall occur within seventy-two (72) hours of intake/arrival." Per interviews with ISC staff, the PCM and ACOs, the "Intake" PREA risk screening typically occurs immediately upon an inmate's arrival during the intake and booking process. According to ISC staff who provide intake services for HCCC, all inmates are supposed to be brought in through the kennel area to meet with ISC staff (or the Intake ACO if ISC staff are not present or available) for the risk screening and other intake processes. They are supposed to watch the PREA educational video in the kennel, receive an informational PREA brochure, and then meet with ISC staff, who are supposed to ask detailed questions to the inmate to properly complete the PREA Screening Tool to determine any risks

for potential victimization or predation. It should be noted that while they provide intake services to HCCC, ISC staff are not HCCC staff and report through a separate chain of command statewide.

Staff interviewed stated that if an admission is brought in after business hours or over the weekend, the Intake ACO is supposed to complete the intake PREA risk screening. However, several staff indicated this does not typically occur, and ISC staff will complete the risk screening upon their next working business day. Policy does require the intake screening to be completed by ISC staff, and therefore it is recommended that either a) policy be amended to indicate that property trained Intake ACOs can complete the intake screening if ISC staff are not available, or b) that Intake ACOs not complete the risk screenings, and instead they will be completed by ISC per PSD policy.

During the onsite review, there were no inmates being processed for intake whenever Team members were in the intake/kennel location so they were unable to witness this process. Some of the random inmates that were interviewed could recall being asked "some questions" but could not recall what they were. However, most that could remember being asked questions stated they believed this occurred "within a day or two" of arrival at HCCC. A review of a random sample of 37 inmate PREA risk screening assessments showed that "Intake" assessments were completed within the 72-hour deadline 81% of the time, with 30 being completed within 72 hours and 7 being completed after the timeframe allotted.

As part of the corrective action period, the Auditor requested records to show that intake assessments were being completed in a timely manner at least 95% of the time with monthly documents being submitted for review. Unfortunately, all documentation was submitted in one large batch at the end of the corrective action period. Approximately one-third of all intakes were completed on "hard copy" via paper format and then later entered into the computer system. Some of those were entered up to two months after the intake assessment had occurred. While it does appear that intake assessments are being completed more timely, it is extremely concerning that the information is not getting entered into the PSD computer system in a quick manner. Those that refer to the computer documentation to make housing decisions and other safety decisions will not have the information available to them immediately. While that is not a reason for non-compliance, the Auditor strongly recommends data entry occurring in a much more timely fashion. It is unknown how many issues may have arisen because the information was not readily available, even though it was completed.

115.41(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.6 (page 26) requires that, "ISC and facility staff shall utilize the PREA Screening Tool (PSD 8314) to conduct PREA risk assessments."

Interviews with the Program Specialist, PCM and HCCC staff verified that PREA risk assessments are all to be completed utilizing the policy-designated PREA Screening Tool (PSD 8314). A review of a random sample of 37 inmate PREA risk screening assessments all showed the PSD 8314 in use for the PREA risk screenings that have been completed.

115.41(d-e): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 24.0.7 and 24.0.8 (pages 26 and 27) indicate, "The PREA Screening Tool (PSD 8314) evaluates an offender's vulnerability factors and predatory factors. The PREA Screening Tool considers the following criteria to assess offenders for risk of sexual victimization: a. Whether the offender has a mental, physical, or developmental disability; b. The age of the offender; c. The physical build of the offender; d. Whether the offender has been previously incarcerated; e. Whether the offender's criminal history is exclusively nonviolent; f. Whether the offender has prior convictions for sex offenses against an adult or child (see predatory factors); g. Whether the offender is or is perceived to be gay, lesbian, bisexual, transgender,

intersex, or gender nonconforming; h. Whether the offender has previously experienced sexual victimization, in a correctional and/or non-correctional setting, within the last ten (10) years; i. The offender's own perception of vulnerability (oral feedback); and j. Whether the offender is detained solely for civil immigration purposes, which normally does not occur at PSD facilities." And "The PREA Screening Tool considers prior predatory acts of sexual abuse, prior convictions for violence offenses, and history of prior institutional violence or sexual abuse, if known to the facility, in assessing offenders for risk of being sexually abusive."

Inmates interviewed during the onsite audit acknowledged they were asked "some questions" but could not recall what all they were asked. With asked about specific criteria items as noted in the standard, most inmates said they didn't think they were asked "those questions." An ISC staff interviewed acknowledged she does not ask all questions as noted on the PREA Screening Tool. When asked why, she stated she could "pull up most of it" on the computer, such as whether or not this was the inmate's first incarceration, criminal history to include physical abuse convictions, and infraction history. She stated she only asked three questions for the 72-hour risk assessment: "1) Have you been assaulted? 2) Are you straight? And 3) Do you feel vulnerable?" When the Team member pressed further for more information, the ISC staff stated, "I'm not comfortable just asking them those things. I don't think people really need to know all that."

The former PREA Coordinator gave direction, which was verified via email on 12/27/2018, to ISC staff to ensure they are asking questions in their entirety to ensure an accurate risk assessment, as well as finishing assessments in a timely manner and conducting overrides as appropriate.

115.41(f): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 24.0.4 and .5 (page 26) indicate, "The facility shall reassess an offender's risk for victimization or abusiveness within thirty (30) days of intake screening, if additional relevant information is received about the offender's victimization or abusiveness, subsequent to the intake screening, by utilizing the PREA Screening Tool (PSD 8314). If no additional relevant information is received by the facility when reassessing the intake screening, then check the appropriate box on the intake screening tool processed within seventy-two (72) hours of admission."

Per an interview with the PCM, she completes the 30-day reassessment screening by reviewing the intake (72-hour) screening, and if there is no new information that she has been made aware of, she marks a box on the PREA Screening Tool that states, "No additional relevant information received in 30 days for a new intake," and then enters her name and the date. When asked if she meets with the inmate for the reassessment, she states the only time she does is if she has information that was not known at the time of the intake assessment, or if there has been a referral, request to be seen, or a PREA allegation made.

In a review of the 37 sampled 30-day risk reassessments from HCCC, 13 of them (35%) were within 30 days of the intake assessment at the time of the reviewing and therefore were not yet reassessed, leaving 24 that should have been completed already. Of those 24, 11 were completed on time, for a successful completion rate of 46%. The remaining 13, or 54%, were between 1 and 60 days late.

As noted previously, as part of the corrective action period, the Auditor requested records to show that 30-day assessments were being completed in a timely manner at least 95% of the time with monthly documents being submitted for review. Unfortunately, all documentation was submitted in one large batch at the end of the corrective action period. After reviewing all records, it does appear that a majority of the 30-day assessments are being completed. However, some are being done within 10 days of the intake assessment, some are being done approximately two weeks after, and some closer

to 30 days. It does not appear that there is any consistency as to when or how these are being completed. Additionally, the HCCC PCM and PSD PREA Coordinator indicated they do not do a full "reassessment;" rather, they indicate that there was no additional information received within 30 days that would indicate the need for a new intake assessment. This does put the onus on the inmate to report additional information rather than the PCM or other staff checking back with the inmate for new or additional information. The standard is vague in this area, so this does appear to minimally meet the requirements, although the Auditor does have concerns about how much information is, or is not, truly being gathered in regards to the sexual safety of the inmates housed at HCCC.

Also, as previously noted, approximately one-third of all intakes were completed on "hard copy" via paper format and then later entered into the computer system. Some of the 30-day assessments were entered timely, while others were not entered until weeks later. The same concern is noted that the information is not getting entered into the PSD computer system in a quick manner, which reduces the availability of viewing this information for staff to make housing decisions and other safety decisions. While that is not a reason for non-compliance, the Auditor strongly recommends data entry occurring in a much more timely fashion.

It should be noted that at HCCC, the PCM is an additional duty for a Sergeant that also has other full-time duties. The PREA Coordinator has provided information that funding for a full-time PCM has been requested through the state legislature. At the time of the writing of this report, it is unknown whether this request was approved.

115.41(g): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.9 (page 27) requires, "The offender's risk of victimization or abusiveness shall be reassessed; when a referral, request, incident of sexual abuse, or receipt of additional information which may impact the offender's risk level by utilizing the PREA Screening Tool (PSD 8314)."

As noted above, in an interview with the PCM, she stated she meets with inmates for the reassessment if there has been a referral, request to be seen, or a PREA allegation made.

115.41(h): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.10 (page 27) states "An offender shall not be disciplined for refusing to answer, or for not disclosing complete information, related to, the questions asked pursuant to §24 of this policy." In the review of the 37 sample risk screening assessments, there was one that reflected "Refused to be interviewed" and therefore items on the Scoring Tool were marked as appropriate based on other information available. There is no indication in a review of records that the inmate was disciplined in any way for not participating in the risk screening.

115.41(i): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.3 and .11 (pages 26 and 27) require that, "The facility staff shall review the offender's risk of sexual abuse victimization (vulnerability factors) or sexual abusiveness (predatory factors) toward other offenders, by reviewing the 'Intake' PREA Screening Tool ... The information on the PREA Screening Tool (PSD 8314) is subject to confidentiality requirements; therefore, professional and ethical rules shall be enforced to avoid any negative impact to the offender. The information should not be exploited to the detriment of the offender."

As noted in previous areas, inmates coming in for intake are located in the kennel, which is a chain link gated area. Less than 10 feet away on either side of the kennel is the Intake ACO's desk on one side and the ISC staff person's desk on the other. Surrounding the ISC desk is a Lexan/clear partition with an open slot approximately 8 inches long and 4 inches high to be able to pass paperwork through, and

for the ISC staff and inmate to hear one another. During the onsite review, all staff in the area indicated inmates in the kennel could clearly hear an inmate participating in the intake questions as they are so close to the ISC staff and Intake ACO desks. Intake staff stated they knew the inmate being assessed knew the other inmates could hear their answers, so she would try to speak quietly.

Interviews with the PCM and other staff said that any HCCC staff member could “pull up OffenderTrak and see the PREA Screening Tool for information that was entered. However, the Program Specialist said this information is limited to a select number of staff, and that all unauthorized users could see on OffenderTrak would be the PREA Designator, if applicable, and any necessary alerts for housing safety.

Documentation provided for this standard: Agency Policy ADM.08.08, PREA Screening Tool (PSD 8314), PREA Screening Tool Instructions, and Sample of 72-hour Intake PREA Screening Assessments and 30-day PREA Screening Reassessments both during onsite audit and additional records during corrective action period.

Based on this information, HCCC is in full compliance with all elements of standard 115.41.

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.

115.42(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 2.0.1 (page 27) requires that, "PSD shall use the information from the risk assessment screening for housing designations, work line, program assignment, or scheduling to keep separated those offenders at high risk of being sexually victimized from those at high risk of being sexually abusive."

PSD created PREA Screening Tool Instructions (07/2015) which state, in part, "When an offender is designated as a 'victim, potential victim, sexual predator, or potential sexual predator ... the Facility COS or Watch Commander shall complete Section VIII: Housing Status to ensure that the offender is appropriately housed based on the PREA Screening Tool scoring designation by checking the relevant housing placement: general population, separate status, protective custody unit, or administrative segregation ... The housing assignment shall consider the offender's scoring and the designated housing assignment shall consider how the offender's placement may impact the offender or other offenders, while ensuring the requirements of the PREA Standards."

In interviews with staff, it was verified that PREA designators and/or alert warnings, such as notifications of transgender or intersex status, are reviewed prior to making housing assignments. Also reviewed are gang affiliations. Interviews with inmates in specialized categories also verified that they feel they are housed accordingly and mostly feel safe. The PCM stated she prefers to house transgender and/or intersex inmates in cells rather than in open dormitory/overflow settings so they have more privacy. She carefully screens the cells when making housing assignments to ensure the inmates are being housed in a safe environment.

115.42(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 25.0.2 (page 27) requires that, "PSD shall use the risk screening tool information to make an individualized assessment about how to ensure the safety of each individual offender."

As noted above, considerations are made regarding the housing of each individual for safety.

115.42(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 26.0.1, .2, and .3 (page 27 – 28) indicate, “A transgender or intersex offender 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 to a facility for male or female offenders will be determined by medical and mental health practitioners with input from program and security staff initially at the intake process. In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, PSD shall consider on a case-by-case assessment of whether a placement would ensure the offender’s health and safety, and whether the placement would present a management or security concern.”

Per the PCM, there were no deviations from housing inmates apart from their legal status during the documentation period. A review of intake screenings and Health Status reports also verified that while there were transgender inmates housed at HCCC, all were housed according to their legal status as a male or female. However, the PCM indicated each case is reviewed on its own merit to determine the most appropriate housing.

115.42(d-e): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 26.0.3, .4, and .5 (page 28) state, “Biannually, designated facility staff identified by the Warden shall reassess the placement and programming assignment of each transgender and intersex offender for the purpose of assessing any threats to the safety of the offender. This biannual assessment shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317) and/or may be conducted as part of a classification review for the transgender or intersex offender. A transgender or intersex offender’s own views with respect to his or her own safety shall be given serious consideration.”

The PCM verified she has been designated by the Warden to review housing and programming assignments every six months for transgender and/or intersex inmates if they are at HCCC for that long of a time period. She was able to provide PREA Mandated Reporting Forms confirming completion. She meets with the inmate to ascertain as to their own feelings in regards to personal safety as well. Inmates interviewed stated they feel as though their identification as a transgender inmate has led to additional safety screenings during their confinement at HCCC.

115.42(e): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 26.0. (page 28) requires that “Transgender and intersex offenders shall be given the option to shower separately from other offenders in dorm situations, if so requested.”

115.42(f): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 26.0. (page 28) requires that, “Transgender and intersex offenders shall be given the option to shower separately from other offenders in dorm situations, if so requested. This provision is applicable only when individual showers are not available at the offender’s assigned housing unit.”

All transgender inmates interviewed stated they have access individual shower stalls with curtains for privacy. This was verified during the onsite review of each unit at both the main HCCC facility and Hale Nani. All units had individual showers with plastic or cloth curtains, which were all raised to an appropriate height to allow for visibility during the corrective action period. The curtains are high enough to prohibit viewing from below the neckline, and provide privacy for the breast area.

115.42(g): Agency Policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 26.0.7 (page 28) states, "PSD facilities shall not place LGBTI offenders in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is established in connection with a consent decree legal settlement, or legal judgement for the purpose of protecting such offenders."

There are no designated facilities, units or wings at HCCC to house inmates based on their LGBTI identification or status. This was verified during the onsite tour, and during interviews with the Warden, PCM, former PREA Coordinator, and inmates.

Documentation provided for this standard: Agency Policy ADM.08.08, Review of OffenderTrak system for alerts and PREA designators, review of housing assignments, and Health Status reports.

Based on this information, HCCC is in full compliance with all elements of standard 115.42.

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.

115.43(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 27.0.1 and .2 (page 28) indicate, “PSD discourages the placement of offenders in involuntary administrative segregated housing solely because of their high risk of sexual victimization status, unless an assessment of all available alternatives has been made and it is concluded that there is no available alternative for separating the victim from a likely abuser. This shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317), which shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. If the PSD facility is unable to conduct the above assessment immediately, the facility may hold the offender in involuntary administrative segregated housing for a period of less than twenty-four (24) hours pending the completion of the mandated assessment.”

While onsite at HCCC, the Audit Team reviewed logbooks for segregated housing cells over the documentation period and found that no inmate had been placed there solely for risk of being sexually victimized. Also, an interview with a supervisor working in the same unit as HCCC’s segregated housing cells stated there were “always other options available.” Additional interviews with staff who supervise segregated housing confirmed that no inmates at HCCC had been placed in segregated housing for risk of sexual victimization. Interviews with specialized inmates deemed at a potentially higher risk for sexual victimization also confirmed they had not been placed in restricted or segregated housing due to their potential risk. Reviews of random PREA Mandatory Reporting Forms also did not reflect any placement in segregated housing for risk of sexual victimization.

115.43(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 27.0.3 and .4 (pages 28 – 29) state, “Offenders placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible, as dictated by the facility’s schedule and operational needs. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document this by utilizing the PREA Mandated Reporting Form (PSD 8317). This shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. The documentation shall include: (a) The programs, privileges, education, or work opportunities that have been limited; (b) The duration of the limitation; and (c) The reasons for such limitations.”

Interviews with staff and inmates, and a review of PREA Mandated Forms for HCCC, did not show that any inmates had been placed in segregated housing for this purpose.

115.43(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 27.0.5 (page 29) states, “If a PSD facility assigns an offender at risk of sexual victimization to involuntary administrative segregated housing as an alternative means of separation from the likely abuser, than such as assignment should not normally exceed a period of thirty (30) days.”

Again, interviews with staff and inmates, and a review of PREA Mandated Forms for HCCC did not show any inmates that had been placed in segregated housing for this purpose.

115.43(d-e): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 27.0.6, .7, and .8 (page 29) require, “If an involuntary administrative segregated housing is made pursuant to paragraph (1) of this section, the facility shall document this by utilizing the PREA Mandated Reporting Form (PSD 8317), which shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. (a) The basis for the facility’s concern for the offender’s safety; and (b) The reason why no alternative means of separation can be arranged. If placement in involuntary administrative segregated housing exceeds the initial thirty (30) days, the facility shall conduct follow-up reviews as dictated by COR.11.01 *Administrative Segregation and Disciplinary Segregation*, but no less

than every thirty (30) days to assess the offender's continued separation from the general population. This shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317), which shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days."

As referenced in Agency Policy ADM.08.08, COR.11.01, *Administrative Segregation and Disciplinary Segregation* (11/28/2014) section 4.0.1.g (page 7) requires that every 30 days after an inmate's initial placement in administrative segregation, the inmate shall be interviewed, their case management action plan reassessed, and a written decision must be deemed to confirm ongoing placement in administrative segregation or release back to general population. The policy also requires that the inmate be provided a copy of the written decision.

The Auditor was able to confirm via logbooks that HCCC did not place any inmates at risk for victimization in administrative segregation housing. As such, there was no secondary documentation to review to confirm compliance with policy and administrative rule specifications. As noted, interviews were conducted with staff that supervise segregated housing, as well as the PCM and the Warden, and all confirmed this information.

Documentation provided for this standard: Agency Policy ADM.08.08, COR.11.01 *Administrative Segregation and Disciplinary Segregation*, PREA Mandatory Reporting Forms, and logbooks for unit holding segregated housing cells.

Based on this information, HCCC is in full compliance with all elements of standard 115.43.

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.

115.51(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 28.0 (pages 29 – 30) states, "PSD provides multiple internal and external ways for offenders to privately report sexual abuse and sexual harassment; retaliation by other offenders or staff for reporting sexual abuse and sexual harassment; and staff neglect or violation of responsibilities that may have contributed to such incidents." The policy further articulates that offenders may report in the following manners:

- Using available means of communication, including but not limited to verbal or written reports to any PSD employee, contract employee or volunteer;

- Calling or writing the Ombudsman or the Department of the Attorney General, the Sex Abuse Treatment Center, the agency PREA Coordinator, the Director, a relevant Deputy Director;
- Writing to a legislative or political representative or Internal Affairs;
- Contacting the facility warden or investigator at the relevant facility;
- Notifying a family member;
- Filing an emergency grievance; and/or
- Contacting the relevant county law enforcement agency.

Interviews with inmates confirmed they were aware of several of the options to report as noted in agency policy. Many remembered seeing the information for reporting in the brochure they were given upon intake. The brochure, entitled “An Informational Guide for Offenders: Offender Sexual Abuse and Sexual Harassment by Officers, Staff, Volunteers, and Contractors” (10/2018) gives the above information, as well as indicating inmates can report via submitting a kite (which can be anonymous) and through the regular grievance system. The former PREA Coordinator confirmed that a grievance and an emergency grievance are both submitted on the same grievance form, and either method can be used to report a PREA allegation.

Most inmates interviewed stated they felt comfortable reporting PREA allegations to staff. There were particular staff that many of the inmates felt safe reporting to, including the PCM. The PCM did verify that several of the PREA allegations made at HCCC have been done by inmates reporting directly to staff members, including herself.

Inmates did report that phone methods to report PREA were not working properly. This was confirmed by Audit Team members attempting to dial the Sex Abuse Treatment Center (SATC), the Ombudsman, and the PREA Coordinator. During the corrective action period, the former PREA Coordinator worked with the agency’s contracted telephone system vendor to correct issues that were discovered. It was then confirmed via testing that phone methods to report PREA allegations were working properly.

Audit Team members tested written reporting methods by sending letters on 11/29/2018 to SATC, the Ombudsman, PREA Coordinator and the PSD Director. Responses were received, or verification was made via the PREA Coordinator that all letters were received. While onsite, an Audit Team member placed a kite in a mailbox asking for verification of receipt for PREA processing, which was received prior to the completion of the onsite portion of the audit.

115.51(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 28.0.4 and .5 (page 30) state “PSD provides notification to offenders how to report abuse or harassment to a public entity, or an external agency, who is able to receive and immediately forward offender reports of sexual abuse and sexual harassment to agency officials, such as the Department PREA Coordinator and may allow the offender to remain anonymous upon request ... If an offender is detained solely for civil immigration purposes, the offender shall be provided with information on how to contact the relevant consular officials and relevant Department of Homeland Security officials. It should be noted that PSD does not normally house offenders solely for civil immigration purposes.”

In the brochure noted above, SATC is also listed as an external reporting resource wherein reporting can be confidential and anonymous. The phone list placed next to inmate phones indicated that the caller was required to enter their PIN number to make this call. However, the former PREA Coordinator indicated this was something that was being corrected by the vendor. She stated even though they currently have to enter their IPIN, they can still tell SATC they want to remain anonymous. A conversation with SATC staff verified that if an inmate does not consent to release their name or other identifying information, it will not be released to the PREA Coordinator with the reported allegation.

The other outside reporting entity has been listed as the Ombudsman. Information obtained while reviewing their official website states, "We are authorized by law to receive inquiries on a confidential basis. If we can, we will investigate your identity, although this is not always possible." The Auditor's concern with this is that inmates do not have internet access. It is recommended that this information be printed in the brochure noted above with the Ombudsman contact information so inmates are aware that although they may wish to remain anonymous, this may not occur.

Documents reviewed while at HCCC for admissions confirmed no inmates were housed at HCCC solely for civil immigration services.

115.51(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 28.0.6 (page 30) state, "PSD mandates that staff accept reports of sexual abuse, sexual harassment, or retaliation made verbally, in writing, anonymously, and from third parties. Staff shall immediately document all verbal reports of sexual abuse, sexual harassment, or retaliation by immediately notifying superiors through the chain of command."

All staff interviewed were aware of their duty to report any allegation of sexual abuse, sexual harassment, or retaliation immediate and confidentially. They understood that inmates are able to report in several ways, as are third parties. Staff also verified they complete an Incident Report once they report the allegation to either their supervisor or the Watch Commander. During the review of investigation files, Incident Reports from staff regarding PREA allegations reported to them were included in the file to verify this process is being used appropriately at HCCC.

115.51(d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 28.0.7 (page 30) indicates, "A staff member may privately report incidents of offender sexual abuse, offender sexual harassment, or retaliation as indicated in paragraph (4) of this section." It is noted that paragraph (4) details all the venues available for offenders to report.

It should be noted that this information is included in the policy section on offender reporting, but there is nothing included in the policy section on staff reporting regarding how to privately report. It is recommended to include information about private reporting options for staff in the next policy revision and/or update.

The PAQ provided options for private reporting for staff, to include contacting the PREA Coordinator, Attorney General, PSD Director, PSD Deputy Director, or Internal Affairs. However, when interviewed, most staff were unaware of this. Several stated that if they could not report to their supervisor, or felt the need to report in privately, they would go directly to the Warden. This may be appropriate, but it is recommended that this information be shared with staff during one of the refresher information Inter-Agency Memorandums sent out by the PSD Director in between training years.

Documentation provided for this standard: Agency Policy ADM.08.08, PREA Mandatory Reporting Forms, "An Informational Guide for Offenders: Offender Sexual Abuse and Sexual Harassment by Officers, Staff, Volunteers, and Contractors" brochure (10/2018), and written verification that letters sent to the SATC, the Ombudsman, PREA Coordinator and the PSD Director were received.

Based on this information, HCCC is in full compliance with all elements of standard 115.51.

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

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115.52(a-b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 29.0.1 and .2 (page 31) state, "PSD's policy COD.12.03: Inmate Grievance Program outlines the administrative procedures available to offenders for reporting incidents of sexual abuse, sexual harassment, or retaliation. This section is an addendum to COR.12.03: *Inmate Grievance Program* as it related to PREA incidents. PREA mandates that there shall be 'no time limits or deadlines' for filing a grievance that is reporting an alleged incident of sexual abuse. (a) PSD shall not restrict the processing of an offender grievance regarding an allegation of sexual abuse. (b) The filing period set forth in COR.12.03: *Inmate Grievance Program* is still applicable to any portion of the grievance that does not allege an incident of sexual abuse. The offender must still comply with appeal filing requirements as set forth in COR.12.03. (c) PSD shall not require an offender to utilize the informal grievance process for grievances alleging incidents of sexual abuse. (d) The statutory or legal provisions to the statute of limitations are applicable to any civil action in a court proceeding."

Documentation reviewed both during the onsite and post-onsite audit phases verify that HCCC inmates, and PSD inmates as a whole, utilize the Inmate Grievance Program, as 5,006 grievances were filed statewide during the audit documentation period (09/01/2017 – 08/31/2018). HCCC received no grievances containing any type of PREA-related allegations or issues during the same timeframe. Therefore, for most elements of this standard, the Auditor was unable to review secondary documentation.

Additionally, all staff and inmates interviewed knew of the ability for inmates to report allegations via the grievance process.

115.52(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 29.0.3 (page 31) allows that, "An offender may submit an offender grievance alleging sexual abuse without

submitting it to the staff member who is the subject of the complaint. This grievance shall not be referred to the staff member, who is the subject of the grievance complaint.”

Testing of processes by the Audit Team while onsite verified that to receive a grievance form at HCCC, an inmate has to approach a staff member, request the form, and sign for it. This is due to grievance forms being numbered and assigned to a specific inmate. The inmate does not have to indicate what they are requesting the grievance form for, nor do they have to turn it in during any specific time. When the Team member submitted the grievance form for testing, the staff member took the triplicate document, initialed the top corner without reviewing the form or reading for information, folded it in half, stapled it and returned it to the Team member, who put it into the grievance mailbox.

115.52(d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 29.0.4 (page 31) states, “PSD’s grievance policy and timelines may differ from the PREA requirement that a decision on the merits of the grievance or portion of a grievance alleging sexual abuse be made within ninety (90) days of the filing of the grievance. (a) Computation of the PREA 90-day time period does not include time consumed by offenders in preparing any administrative appeal. (b) PSD may claim an extension of time to respond, of up to seventy (70) day, if the normal time period for responding is insufficient to make an appropriate decision. PSD shall notify the offender in writing of any such extension and provide a date by which a decision will be made. (c) At any level of the administrative process, including the final level, if the offender does not receive a response within the time allotted for reply, including any properly noticed extension, the offender may consider the absence of a response to be a denial at that level.”

115.52(e): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 29.0.5 (page 32) states that, “PSD permits third parties, including fellow offenders, staff members, family members, attorneys, and outside advocates, to assist offenders in filing requests for administrative remedies relating to allegations of sexual abuse and they may file such requests on behalf of offenders.”

115.52(f): Agency Policy COR.12.03, *Inmate Grievance Program* (07/01/2015) section 8.0.3.c (page 6) indicates, “Grievances of an exigent nature requiring an immediate resolution or a more expedited process may be given emergency status, and put on a fast-track status. No stage of the grievance program should be deleted as each step provides a level at which administrative action can be taken however ... each step can be accelerated. Emergency grievances might include, but would not be limited to grievance related to: (1) Emergency medical treatment; (2) Fire/life safety issues; (3) Claims concerning missed release dates; (4) The risk of death or serious harm, and (5) Other matters for which delay would significantly prejudice or harm the inmate, if not immediately resolved.”

Policy section 28 only identifies emergency grievances as a reporting option which appears contrary to the information in section 29 that details regular grievances. Section 29.6 indicates emergency grievance are only for substantial risk for imminent sexual abuse. Conversations with the former PREA Coordinator indicated this would be corrected in the next scheduled revision of both the agency’s PREA policy and the Inmate Grievance Program policy.

115.52(g): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 29.0.7 (page 32) indicates that, “PSD may initiate a misconduct violation against an offender for filing a grievance or reporting related to alleged sexual abuse or sexual harassment, when PSD demonstrates that the offender filed the grievance or report in bad faith.”

Documentation provided for this standard: Agency Policy ADM.08.08, Agency Policy COR.12.03, and PSD Statewide Grievance Statistics from documentation period reflecting zero PREA-related grievances.

Based on this information, HCCC is in full compliance with all elements of standard 115.52.

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.

115.53(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 30.0.1 (pages 32 – 33) indicates that, "PSD shall provide offenders with access to outside victim advocates for support services related to sexual abuse by doing the following: (a) Providing offender with the mailing addresses and telephone numbers (including toll-free hotline numbers where available) for local, state, or national victim advocacy or rape crisis organizations. PSD's service provider is the SATC and its relevant outer island providers. (b) Providing inmates with mailing addresses and telephone numbers (including toll-free hotline numbers where available) for immigrant services agencies for persons detailed solely for civil immigration purposes. (c) Enabling reasonable communication between offenders and these organizations in as confidential a manner as possible, while balancing the good government and orderly running of the facility."

PSD contracts with SATC (Contract #18-HAS-01) to provide services for victim advocacy. The current contract has been in effect since 07/01/2017 and is set to expire on 06/30/2019. SATC contracts with providers on the islands outside of Oahu, and YWCA is their contracted provider for the island of Hawaii. This contract includes core crisis response services available to sexual assault victims; a hotline to enable victims to access crisis intervention 24 hours a day, 365 days a year; ongoing crisis phone support; in-person crisis counseling; legal advocacy; and presence with crisis stabilization during forensic medical exams.

Posters throughout both the main HCCC facility and Hale Nani included the phone number for SATC, as well as the address to send written mail to. The phone list located in housing units included the "hot button" line to be connected with SATC. The brochure noted above, "An Informational Guide for Offenders: Offender Sexual Abuse and Sexual Harassment by Officers, Staff, Volunteers, and Contractors" (10/2018), also provides the telephone numbers for SATC. During the corrective action period, the phone system was updated to meet the requirements of corrective action and are now working appropriately.

When Audit Team members first attempted to call YWCA from an outside line to test their reporting system and to ask questions, the number noted on their website, which was also the number noted on the posters for the inmates, had a recorded message indicating the phone number was no longer in service.

During the post-onsite audit phase, the Auditor was finally able to reach an advocate at the listed phone number for YWCA, but they were unable to answer any questions regarding HCCC or the YWCA services provided to HCCC. Instead, the Auditor was given another phone number to reach a

supervisor. The Auditor was finally able to make contact during the corrective action period with a SASS supervisor, who verified there had been issues with the phone line, but all had been corrected now.

115.53(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 30.0.2 (page 33) states, "PSD medical and mental health staff shall inform offenders, prior to giving them access to outside support services, of the extent to which such communications will be monitored. PSD shall inform the offenders of the mandatory reporting rules governing privacy, confidentiality, and/or privilege that apply for disclosures of sexual abuse made to outside victim advocates, including any limits to confidentiality under relevant federal, state, or local law."

Interviews with medical staff revealed that while they do meet with inmates upon intake, they do not discuss outside support services with them. Mental health staff stated they do not provide this information as well, as they believed they received the information during their intake with ISC. ISC staff stated the information was in the informational brochure they receive about PREA. The Auditor reviewed the brochure and noted there is nothing in it that refers to the extent of confidentiality with outside support services, only that the calls to SATC and the Ombudsman are "confidential and external."

Additionally, as inmates are able to utilize phone services, and the phone numbers are provided to them in different formats, it is clear they are not informed of limits to confidentiality as required by PSD policy prior to being able to access the services.

115.53(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 30.0.3 (page 33) states, "PSD maintains agreements with community service providers through SATC based on the awarded contract by the Executive Branch. The SATC provides offenders with emotional support services related to sexual abuse. PSD maintains a copy of the grant award to SATC to document the relationship and obligations for SATC and PSD."

As noted previously, PSD contracts with SATC (Contract #18-HAS-01) to provide services for victim advocacy. The current contract has been in effect since 07/01/2017 and is set to expire on 06/30/2019. SATC contracts with providers on the islands outside of Oahu, and YWCA is their contracted provider for the island of Hawaii.

Documentation provided for this standard: Agency Policy ADM.08.08, Current contract between PSD and SATC (Contract #18-HAS-01), and "An Informational Guide for Offenders: Offender Sexual Abuse and Sexual Harassment by Officers, Staff, Volunteers, and Contractors" brochure (10/2018).

Based on this information, HCCC is in full compliance with all elements of standard 115.53.

Standard 115.54: Third-party reporting

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

115.54 (a)

- Has the agency established a method to receive third-party reports of sexual abuse and sexual harassment? Yes No
- Has the agency distributed publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate? Yes No

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

115.54(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 31.0 (page 33) states, “PSD provides the public notice via PSD’s website of the methods for third-party reports of offender sexual abuse or sexual harassment. PSD publicly distributes information on how to report information on how to report offender sexual abuse or sexual harassment on behalf of offenders by posting on PSD’s website the Department PREA Policy, PREA Handout, PREA poster, etc.”

The Auditor reviewed the agency’s public website at www.hawaii.gov/psd and typed “PREA” into the search bar. Three links appeared on the screen. The first, “PREA” led to a page with a link to the brochure given to inmates upon intake, “An Informational Guide for Offenders: Offender Sexual Abuse and Sexual Harassment by Officers, Staff, Volunteers, and Contractors” brochure (10/2018)” that provides information for “concerned individuals” to report PREA allegations, a link for “How to report PREA Incident,” as well as a list of links for current and past PREA Annual Reports and PREA Audit Reports for PSD facilities, and a link to the PREA poster that is also inside PSD facilities with reporting information.

The reporting options listed under the How to report PREA Incident link listed addresses and phone numbers for PSD PREA Coordinator, PSD Internal Affairs, The Office of the Ombudsman, PSD Director, Deputy for Corrections, or Institutions Administrator; Sex Abuse Treatment Center; and Facility Administrators, Facility PREA Compliance Manager, and the County Police Departments. The second link, “PREA Brochure” is a direct link to the brochure noted above. The third link, “Policies and Procedures” goes to a page with links for Administrative Division, Corrections Division, Law Enforcement Division, and PREA. When the PREA link is clicked, it returns to the same page as the first “PREA” link. It should be noted that while the policy states there is a link on the website to the PREA policy, the Auditor was unable to locate the PREA policy under any of the PREA links on www.hawaii.gov/PSD. It is recommended that the policy be added to the “PREA” page under the “Policies and Procedures” link.

As noted previously, test letters were sent to the options noted above and responses were received, or the letters were verified to be received by the former PREA Coordinator.

Documentation provided for this standard: Agency Policy ADM.08.08, PSD website, letters and emails verifying receipt of test letters sent to reporting options, and "An Informational Guide for Offenders: Offender Sexual Abuse and Sexual Harassment by Officers, Staff, Volunteers, and Contractors" brochure (10/2018).

Based on this information, HCCC is in full compliance with all elements of standard 115.54.

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.

115.61(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 32.0.1, .2, and .3 (page 33) state, "PSD requires that all staff immediately report any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, or a non PSD facility. PSD requires that all staff immediately report, any knowledge, suspicion, or information they receive regarding retaliation against offenders or staff, who reported such an incident. PSD requires that all staff immediately report any knowledge, suspicion, or information, they receive regarding staff neglect or violation of responsibilities that may have contributed to a PREA incident or retaliation."

Staff interviewed at HCCC were knowledgeable about the requirement to report all allegations of sexual abuse and sexual harassment, retaliation due to submitted a report of a PREA allegation, and staff neglect or violation of responsibilities that may have contributed to a PREA incident.

115.61(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 32.4 (page 34) indicates, "PSD prohibits staff from revealing any information related to a sexual abuse report to anyone other than and to the extent necessary to manage treatment, investigation, and other security decisions, inclusive of reporting to the designated supervisors or officials and designated State or local service agencies."

During interviews both formally and informally, every staff member that was spoken to stated they would report all allegations of sexual abuse and sexual harassment, retaliation due to submitted a

report of a PREA allegation, and staff neglect or violation of responsibilities that may have contributed to a PREA incident either to their direct supervisor or the Watch Commander. They all confirmed they would do so confidentially, such as in person or over the telephone, and immediately upon receipt of the allegation and after ensuring the alleged victim was safe.

115.61(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 32.0.5 (page 34) states, "Unless otherwise precluded by federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to paragraphs (1-3) of this section and to inform offenders of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services."

Interviews with both medical and mental health staff indicated that practitioners were not disclosing their duty to report and limitations of confidentiality until an inmate began to make a report of a potential PREA violation. During the corrective action period, an Inter-Agency Memorandum was distributed to all medical and mental health staff reminding them of the requirement to disclose this information during all intake sessions, regardless of whether or not an inmate was making a report. This information was also put onto new posters and placed throughout medical and mental health areas at all PSD facilities. The Auditor received verification of this from the Program Specialist.

115.61(d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 32.0.6 (page 34) indicates, "If the alleged victim is under the age of eighteen (18) or considered a vulnerable adult under a state or local 'vulnerable person's statute,' PSD shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.

Interviews with the Warden, the PCM and supervisory staff reflected they were all aware of this requirement. There was only one inmate under the age of 18 housed at HCCC during the documentation period, and he did not report any PREA violations. Additionally, no documentation reviewed suggested that anyone meeting the 'vulnerable person's statute' was housed at HCCC during the documentation period.

115.61(e): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 32.0.9 (page 34) states, "PSD shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, through the chain of command and a copy shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days."

The PCM verified that she sends all allegations to the PSD PREA Coordinator within three days of the report being made. This was confirmed in an interview with the former PREA Coordinator, and by reviewing allegation and investigation records provided onsite at HCCC.

Documentation provided for this standard: Agency Policy ADM.08.08, Inter-Agency Memorandum for medical and mental health staff, new posters regarding medical and mental health services and reporting options for all PSD facilities, and allegation and investigation records reviewed onsite.

Based on this information, HCCC is in full compliance with all elements of standard 115.61.

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.

115.62(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 33.0.1 and .2 (page 34) state, "When a Facility or PSD staff learns that an offender is subject to a substantial risk of imminent sexual abuse, the party shall take immediate action to protect the offender. Immediate action means to assess appropriate protective measures without unreasonable delay. The procedures are dictated by this policy and other relevant departmental policies."

There does not appear to be any instance during the documentation period in which the facility determined that an inmate was subject to a substantial risk of imminent sexual abuse. Interviews were conducted with the Agency Head designee, the Warden, PCM and a random sample of staff which all confirmed knowledge of policy requirements. All staff interviewed indicated that if they received information that an inmate was at risk, their response would be immediate, that they would ensure the safety of the inmate and make required notifications.

Documentation provided for this standard: Agency Policy ADM.08.08

Based on this information, HCCC is in full compliance with all elements of standard 115.62.

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.

115.63(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 34.0.1 and .2 (page 35) states, "Upon receiving an allegation that an offender was sexually abused while confined at a non-PSD facility, the receiving facility Head or Warden shall immediately notify the non-PSD facility Head or Warden of the PREA sexual abuse allegation ... Upon receiving an allegation that an offender was sexually abused while confined at a PSD facility, the receiving facility Head or Warden shall immediately notify the PSD facility Head or Warden of the PREA sexual abuse allegation."

During interviews, the Warden stated he had not received any notifications from any other facility about allegations that had occurred at HCCC during the documentation period. He also stated he had not received information that any inmates housed at HCCC had made allegations about incidents at other facilities. This was confirmed in conversations with the PCM and Program Specialist. Additionally, PAQ responses for this item indicated zero allegations were received during the most recent 12 months, and therefore there is no documentation available for review to verify required notifications are being made in compliance with policy.

115.63(b-d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 34.0.3, .4 and .5 (page 35) require, "The Facility Head or Warden shall provide such notifications as soon as possible, but no later than seventy-two (72) hours after receiving the allegation. The Facility Head or Warden shall document that he/she has provided such notifications within seventy-two (72) hours of receiving the allegation. The Facility Head or Warden shall require and advise the non-PSD or PSD facility that the allegation must be investigated as required by PREA Standards."

Again, the PAQ states HCCC did not receive any allegations of PREA from other facilities during the most recent 12 months and therefore there is no documentation to review to verify if policy was followed.

Documentation provided for this standard: Agency Policy ADM.08.08

Based on this information, HCCC is in full compliance with all elements of standard 115.63.

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.

115.64(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 35.0.1 (pages 35 – 36) states, "PSD's first responder policy for allegations of sexual abuse dictates that, upon learning of an allegation that an offender was sexually abused, the first staff member, who ideally would be a security staff member, to respond to the reported incident is required to: (a) Separate the alleged victim and abuser; (b) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence by county LE and IA; (c) If the abuse occurred within a time period (PSD Health Care Division's standard is seventy-two (72) hours) that still allows for the collection of physical evidence, then 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; and (d) If the abuse occurred within a time period (PSD Health Care Division's standard is seventy-two (72) hours) that still allows for the collection of physical evidence, then staff shall 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."

Interviews with both random and specialized staff demonstrated knowledge and understanding of most of these requirements, with the exception of requesting rather than ensuring that the alleged victim not take actions that could destroy physical evidence. Although agency policy requires that alleged victims be asked not to take any of the identified actions, the facility-level response plan required that staff not allow the victim to do so. This was contradictory to policy and not in compliance with standard requirements. Staff stated that upon receipt of an allegation, and once notification was made as well as the other above-noted actions were taken, the staff would complete a PSD PREA Incident Report form to detail all information they were able to obtain, and submit it to the Watch Commander.

During the corrective action period, the agency updated the PREA Checklist (PSD 8313) to change wording on the form to state, "Request that 'Inmate Victim' not shower, change clothes or remove any clothing with medical supervision ... 'Inmate Suspect' is not allowed to take any of the above actions in order to preserve the evidence." The updated form was disseminated to all Wardens, Chiefs of

Security, PCMs and PREA Trainers, with direction to inform all Watch Commanders and to update their facility's Coordinated Response Plans. Verification was received from the Program Specialist that this directive was sent out on 03/14/2019, and HCCC's updated Coordinated Response Plan with the current information was received by the Auditor on 05/28/2019.

115.64(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 35.0.2 (page 36) states, "PSD requires that if the first staff responder is not a security staff member, the staff responder will be required to separate the victim and abuser, if feasible, request that the alleged victim not take any actions that could destroy evidence, and then immediately notify security staff."

First responders may be either security or non-security staff. Non-security staff have the same first responder duties as security, and were able to clearly articulate those responsibilities. Most interviewed said they would immediately notify the Watch Commander, and the remaining staff stated they would notify the Sergeant in their work area.

During the audit period, HCCC received four allegations of sexual abuse in which notification was made within a time period that still allowed for the collection of evidence. In all four cases, HPD took possession of all evidence and conducted the criminal investigation while HCCC investigators were assigned to the administrative investigation. The Auditor reviewed all investigation files and verified the PSD PREA Incident Checklist (PSD 8313) was completed in all cases to include how notification was made, that alleged victim and alleged abuser were separated, that the crime scene was preserved, and that the alleged victim was taken to Hilo Medical Center for a forensic examination.

Documentation provided for this standard: Agency Policy ADM.08.08, PREA Corrections & Law Enforcement Training (02/02/2017) PowerPoint, PSD PREA Incident Checklist (PSD 8313) updated 03/2019, agency and facility-level response plans, and investigation files.

Based on this information, HCCC is in full compliance with all elements of standard 115.64.

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.

115.65(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 36.0.1 (page 36) states, "Each PSD facility must develop a facility specific written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership."

PSD has a standard written institutional plan that each facility under its leadership amends to be facility-specific in regards to procedures and documentation. The HCCC Coordinated Response Plan was reviewed by the Auditor during the pre-onsite phase. It articulately directs actions to be taken by the First Responder, Watch Commander, Watch Supervisor (which is a Sergeant position at HCCC), the Chief of Security, the PCM and the Warden.

Prior to the onsite portion of the audit, the most recent HCCC Coordinated Response Plan was signed on 09/28/2018. Interviews with both the Warden and the PCM verified understanding of the plan, as well as where the plan is kept for access by necessary staff members. HCCC updated its Coordinated Response Plan during the corrective action period to include the updated information as noted in 115.64 above.

Documentation provided for this standard: Agency Policy ADM.08.08 and HCCC Coordinated Response Plan (signed 09/28/2018 / updated and signed on 05/24/2019).

Based on this information, HCCC is in full compliance with all elements of standard 115.65.

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.

115.66(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 38.0 (page 37) details PSD's policy regarding preservation of the ability to protect offenders from contact with abusers.

HCCC staff fall under two separate American Federation of State, County and Municipal Employees (AFSCME) collective bargaining units: The United Public Workers (UPW) AFSCME Unit 10 and The Hawaii Government Employees Association (HGEA) AFSCME Local 152, AFL-CIO (07/01/2013 – 06/30/2017). Staff falling under the UPW include Food Services, Custody staff and LPNs. HGEA includes RNs, Supervisors in blue collar positions and nearly all other general staff.

The HGEA bargaining agreement (07/01/2013 – 06/30/2017) states, "Whenever an investigation of charges against an Employee is pending and the Employee's presence at work is deemed by the Employer to be detrimental to the proper conduct of the investigation or the operations of the work place, the Employee may be placed on a leave of absence without pay pending investigation ... Notwithstanding the foregoing, whenever an investigation of charges against an Employee is pending, the Employer shall have the discretion to: (a) retain the Employee in active duty status; (b) place the Employee on leave of absence with pay; (c) return the Employee to active duty status from leave without pay pending an investigation; or (d) reassign the Employee to another work unit or area in the same or different capacity."

The bargaining agreement with the UPW (07/01/2013 – 06/30/2017) states, "When an investigation of charges against an Employee is pending and the Employee's presence at the workplace is deemed to be detrimental to the conduct of the investigation or the operations of the work place, the Employer may place the Employee on a leave of absence without pay pending investigation ... Whenever an investigation of charges against an Employee is pending, the Employer shall have the option to: (a) retain the Employee at work; (b) place the Employee on leave of absence with pay; (c) return the Employee to work from leave without pay pending an investigation; or (d) reassign the Employee to a temporary workplace in the same or different position."

Both of these current contracts are under arbitration, however both are still in effect pending a new contract being signed.

115.66(b): There is nothing in the sections of either of the bargaining agreements reviewed that would limit the abilities required in this sub-standard.

Documentation provided for this standard: Agency Policy ADM.08.08, HGEA Collective Bargaining Agreement, and United Public Workers Collective Bargaining Agreement.

Based on this information, HCCC is in full compliance with all elements of standard 115.66.

Standard 115.67: Agency protection against retaliation

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

115.67 (a)

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

115.67 (b)

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

115.67 (c)

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

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

115.67 (d)

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

115.67 (e)

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

115.67 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

115.67(a-b, e): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 39.0.1 and .2 (page 37) indicate, "PSD's policy protects all offenders and staff who report sexual abuse or sexual harassment or cooperates with a sexual abuse or sexual harassment investigation, from retaliation by other offenders, staff, or others. The designated Facility PREA Compliance Manager in conjunction with the Warden or the Sheriff is charged with monitoring any issues related to retaliation. PSD utilizes multiple protection measures, such as housing changes or transfers for offender victims or abusers, removal of alleged staff or offender abusers from contact with victims, and emotional support services for offenders or staff; when the individual fears or experiences retaliation for reporting sexual abuse or sexual harassment or for cooperating with a PREA investigation ... If any other individual, who cooperates with an investigation expresses a fear of retaliation, then PSD shall take appropriate measures to protect that individual against retaliation."

Interviews with both the Warden and PCM verified that the PCM has been designated to monitor retaliation for inmates at HCCC. A conversation with a PSD Human Resources representative stated that a PSD Human Resources management staff may be charged with monitoring retaliation for involved staff reporters or witnesses, if the circumstances warranted a higher-ranking staff member or due to sensitivity of allegations. An interview was also conducted with the Agency Head designee, who confirmed monitoring activities as required by policy. Inmates interviewed that had reported a sexual abuse stated that the PCM met with them frequently to "check in" to see how they were doing and if they were experiencing any retaliation.

115.67(c-d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 39.0.3, .4, .5, .6 and .8 (pages 37 – 38) state, "For a period of not less than ninety (90) days following a report of sexual abuse, the Facility PREA Compliance Manager in conjunction with the Warden and other staff shall monitor the conduct and treatment of offenders or staff, who reported the sexual abuse. During this minimum ninety (90) day period following a report of sexual abuse, the Facility PREA Compliance Manager in conjunction with the Warden and other staff shall monitor offenders, who were reported to have suffered sexual abuse, to see if there are any changes that may suggest possible retaliation by other offenders or staff. If it has been determined that the offender has suffered retaliation, then staff shall initiate proactive measures to promptly remedy any retaliation. The Facility PREA Compliance Manager and the Warden shall: (a) Act promptly to remedy any such retaliation and report their actions through the chain of command. (b) Monitor any offender disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. (c) Continue such monitoring beyond ninety (90) days, if the initial monitoring indicates a continuing need. In the case of offenders, monitoring by the Facility PREA Compliance Manager shall also include periodic status checks, preferable conducted weekly, at a minimum ... The facility or PSD staff shall document all incidents of retaliation and the minimum ninety (90) day monitoring requirement, described under this section on the PREA Mandated Reporting Form (PSD 8317)."

As noted previously, the Auditor reviewed 37 investigation files at HCCC. In her review, she verified Monitoring Reports were present, where appropriate. In most cases, documentation provided showed an ongoing record of meeting with an inmate victim every seven to 10 days to review retaliation concerns.

Monitoring during the documentation period did not reveal any retaliation-related issues or reports.

115.67(f): Agency Policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 39.0.9 (page 38) states that, “The obligation of the Facility PRE Compliance Manager, Warden, and/or Sheriff to monitor shall terminate, if the investigation concludes that the allegation is unfounded

Interviews with the PCM confirmed meeting with applicable inmates at least every 30 days, although oftentimes weekly, to ensure they aren’t experiencing any form of retaliation. She stated that if any retaliation was reported or appeared to be a potential issue based on information received, a new investigation would be initiated. Any inmate experiencing issues could be moved within the facility to ensure they were safe and had a sound support system. The Warden noted monitoring may be extended beyond 90 days if the initial monitoring indicated a continuing need.

Documentation provided for this standard: ADM.08.08, PREA Mandatory Reporting Forms, and investigation files.

Based on this information, HCCC is in full compliance with all elements of standard 115.67.

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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115.68(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 40.0 (page 38) indicates, "Any use of involuntary segregated housing to protect an offender post allegation, who is alleged to have suffered sexual abuse, is subject to the requirements of §27.0 of this policy."

As noted previously, the PSD policy noted distinctly identifies all elements of the standard for 115.43 Protective Custody, as it prohibits the placement of inmates who alleged to have suffered sexual abuse in segregated housing unless an assessment of all available alternative means of separation from likely abusers has occurred. All such placements would require a clearly documented basis for the facility's concern for the inmate's safety and the reason why no alternative means of separation can be arranged.

During the documentation period, HCCC held no alleged victims in segregated housing. During interviews, no inmate interviewed being placed in segregation for making any PREA-related allegations. A review of investigation files did not indicate that any alleged victim had been placed in segregated housing.

Documentation provided for this standard: Agency Policy ADM.08.08, PSD PREA Mandatory Reporting Form, and investigation files.

Based on this information, HCCC is in full compliance with all elements of standard 115.68.

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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115.71(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.1 (page 38) indicates, "When PSD conducts an administrative investigation into an allegation of sexual abuse and/or sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports."

In interviews with the former PREA Coordinator and the PCM, as well as HCCC and IA investigative staff, investigations are done in a timely fashion, and objectively. Investigation files reviewed also showed investigations were completed and submitted to the Appointing Authority for review in a prompt manner.

115.71(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.3 requires that, "If sexual abuse is alleged, a PSD IA investigator, who has received specialized training in sexual abuse investigations pursuant to §21.0 of this policy will conduct the administrative investigation, unless

the Director has authorized the Facility to conduct the administrative investigation. The Facility Investigator must have received the specialized training in sexual abuse investigations pursuant to §21.0.”

During the interview with the PSD IA investigator, he stated that all IA officers are sworn law enforcement officers. In addition to the PREA training provided by PSD and the specialized investigator training provided by NIC, they also participate in specialized investigation trainings with local law enforcement.

The policy discusses administrative sexual abuse investigations, but is silent on administrative sexual harassment investigations. Investigation files reviewed did reflect sexual harassment investigations conducted by HCCC investigative staff. It is recommended that during the next policy revision, an item be added to reflect who completes sexual harassment administrative investigations.

All staff conducting PREA investigations at HCCC have been through the specialized training as required by this standard and PSD policy.

115.71(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.4 (page 39) states, “PSD Investigators shall: (a) Gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data (b) Interview alleged victims, suspected perpetrators, and witnesses, unless a delay of an interview of a victim is requested by county LE (c) Review prior complaints and reports of sexual abuse involving the suspected perpetrator.”

Investigative staff at HCCC were interviewed and were able to articulate their duties in regards to administrative PREA investigations. Interviews confirmed that investigations begin immediately and are generally completed within 30 days, unless the allegation requires extended investigation or is criminal in nature and forwarded to Hawaii Police Department. The investigators also detailed the steps taken when beginning an investigation, to include, but not limited to:

- Ensure the safety of the alleged victim;
- Notify the Hawaii Police Department when the allegation appears to be criminal in nature;
- Collect all available evidence
- Interview the alleged victim, witnesses and the alleged abuser(s) unless requested to wait via Hawaii Police Department or IA; and
- Write complete and accurate investigative reports.

115.71(d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.5 (page 39) requires, “When the quality of evidence appears to support criminal prosecution, PSD shall conduct compelled interviews of staff by affording the staff member Garrity Warnings. PSD Investigators should consult with county LE or prosecutors as to whether a compelled interview may be an obstacle for subsequent criminal prosecution.”

None of the facility investigators have the authority to Mirandize witnesses and therefore do not conduct compelled interviews. Based on interviews, the Auditor has learned that IA staff are sworn officers and complete investigations involving staff, therefore the requirements of this standard are relevant.

It is strongly recommended that during the next policy revision for ADM.08.08, language should be updated regarding staff protections under Garrity, instructing investigators that they “shall” (rather than “should”) consult with law enforcement as to whether a compelled interview may be an obstacle. The

conducting of an interview following the provision of Garrity information to the staff member in and of itself implies a compelled interview as the staff member has no choice but to participate in the investigation or face possible discipline.

Also, PSD policy only addresses investigations in which a staff member is accused, but does not address compelled interviews when an offender is accused. It has also been recommended that the policy revision include this information as well.

115.71(e): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 41.0.6 and .7 (page 39) state, "The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined merely by the person's status as an offender or staff member. PSD staff does not require an offender, who alleges sexual abuse, to submit to a polygraph examination, computer voice stress analysis (CVSA) or other truth-telling device as a condition for proceeding with the investigation. PSD staff may offer a victim or non-staff witness the option to participate in this type of technological process (polygraph, CVSA, or other truth-telling device)."

The Administrative Investigation training PowerPoint developed by PSD Internal Affairs includes their uniform evidence protocol and nearly all aspects of an investigation, with the exception of how to assess credibility of an alleged victim, suspect, or witness other than to consider motive (i.e., "Money, Revenge, Fear, Elimination of Competition, Judicial Leniency, Do-Gooder [Renounce Criminal Activity]"). The NIC training entitled, "PREA: Investigating Sexual Abuse in a Confinement Setting" does cover the requirement to assess credibility. The investigators interviewed reported factors taken into account during an investigation include whether the information provided is plausible, the demeanor of the individual, other statements that may corroborate the individual's statements, whether the individual has provided truthful information in the past, and if the individual has a known reason to lie. The witness's status as an inmate has no bearing on their credibility and all witnesses are considered credible unless there is evidence to support otherwise.

No reviewed documentation included any information regarding polygraph examinations, CVSA, or other truth-telling device usage. None of the inmates interviewed, nor staff interviewed, stated they had been involved in any investigative interviews with any of these requirements.

115.71(f): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.8 (page 39) requires that, "Administrative investigations shall include: (a) An effort to determine whether staff actions or failures to act contributed to the abuse, and (b) Written reports shall include a description of the physical and testimonial evidence the reasoning behind credibility assessments, and investigative findings of facts."

In all of the investigation files reviewed, investigators articulated their review of staff actions or lack thereof in regards to the allegations made.

115.71(g-h): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 41.0.2 and .11 (pages 38 – 40) state, "The county LE agency for each island is delegated with conducting all criminal sex abuse and criminal sexual harassment investigations. The County LE agency is charged with the responsibility to make the required referrals for criminal prosecution, if warranted ... The procedures for criminal investigations conducted by county LE shall be dictated by their policies. In practice, the county's LE procedures do require a written report that contains a thorough description of the physical, testimonial, and documentary evidence. The county LE shall refer substantiated allegations of conduct based on their investigative process that appears to be criminal for prosecution."

Investigation files reviewed did reflect several cases that had been submitted to the prosecutor's office for consideration of filing charges. Investigators from IA and HCCC verified the process of local county law enforcement maintaining criminal investigators and working closely with the prosecutor's office.

115.71(i): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.9 (page 40) requires that, "PSD shall retain all written reports referenced in paragraph (8b) of this section [written administrative investigation reports] for as long as the alleged abuser is incarcerated or employed by PSD, plus an additional five (5) years."

The PAQ indicates that completed investigations are not provided to PSD by local county law enforcement, but rather enough relevant information to notify the inmate and to process the administrative investigation. However, conversation with the PCM and the Warden indicate they do get a report from law enforcement, just not the entire investigation file which would include confidential medical information.

115.71(j): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.10 (page 40) requires that, "The departure of the alleged abuser or victim from the employment or custody of the facility or PSD shall not provide a basis for terminating an investigation. The investigator shall complete the investigation by formulating a conclusion that the allegation is substantiated, unsubstantiated, or unfounded."

The PCM indicated that, as HCCC is a jail, there are often allegations that are made without investigations being final prior to one (or more) of the inmates releasing from confinement. She stated the investigation would still continue with whatever information was available, but that the facility would not attempt to contact an inmate once released to provide any information regarding the outcome of the allegation(s).

115.71(k): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.12 (page 40) requires that any County, State, or Department of Justice agencies conducting such investigations shall do so pursuant to the above requirements."

115.71(l): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.13 (page 40) requires that, "When an external agency is charged with investigating an incident of sexual abuse, the facility shall cooperate with the outside investigators and shall endeavor to remain informed about the progress of the outside agency investigation."

The PCM and Warden, as well as the former PREA Coordinator stated that Hawaii Police and HCCC keep in contact regarding ongoing criminal investigations regarding allegations made from HCCC. This was documented in investigation files that had been referred to local law enforcement.

Documentation provided for this standard: Agency Policy ADM.08.08, Curriculum for PREA Investigating Sexual Abuse in a Confinement Setting provided via NIC, NIC Certificates of Completion, Administrative Investigation training PowerPoint developed by PSD Internal Affairs, and investigation files.

Based on this information, HCCC is in full compliance with all elements of standard 115.71.

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

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115.72(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 42.0.1 (page 40) requires that, "PSD shall not impose an evidentiary standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated."

Interviews with investigators indicated they understood this standard and the requirements therein. Files reviewed with outcomes and final reports include this information as well.

Documentation provided for this standard: Agency Policy ADM.08.08 and investigation files.

Based on this information, HCCC is in full compliance with all elements of standard 115.72.

Standard 115.73: Reporting to inmates

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

115.73 (a)

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

115.73 (b)

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

115.73 (c)

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

115.73 (d)

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

115.73 (e)

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

115.73 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

115.73(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 43.0.1 states, "Upon completion of an investigation (administrative or criminal) into an offender's allegation that he/she suffered abuse in a PSD facility, facility staff shall inform the offender as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded."

By reviewing investigation files, as well as the HCCC PREA Incident Log, the Auditor was able to verify that inmates still in custody at the end of an investigation were notified. Also, those that had transferred to another facility within PSD's jurisdiction were notified. However, those inmates that had released prior to investigation completion - approximately half of the completed investigations - were not notified of the outcome. An interview with the PCM indicated that many of the jail inmates return on a frequent basis, so if she sees an inmate that had been released prior to receiving notification, she would follow up with him or her.

115.73(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 43.0.2 (page 40) states, "If the facility or PSD did not conduct the investigation, the facility, or PSD shall request the relevant information from the external investigative agency in order to inform the offender of the results."

The PCM and former PREA Coordinator verified that Hawaii Police Department and HCCC investigators work closely to provide one another necessary information.

115.73(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 43.0.3 (pages 40 – 41) state, "Following an offender's allegation that a staff member has committed sexual abuse against an offender, the facility or PSD shall subsequently inform the offender (unless PSD had determined that the allegation is unfounded) whenever: (a) The staff member is no longer posted within the offender's unit; (b) The staff member is no longer employed at the facility; (c) The facility or PSD learns that the staff member has been indicted on a charge relate to sexual abuse within the facility; or (d) The facility or PSD learns that the staff member has been convicted on a charge related to sexual abuse within the facility."

Attached to the PAQ was an example of documentation for such a notification for an investigation that was completed during the documentation period for a contract staff member. The elements required in the standard were all included on the PREA Mandated Reporting Form, wherein the inmate was notified the investigation was completed, the substantiated findings, and that the violator was no longer contracted with PSD.

115.73(d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 43.0.4 (page 41) requires, "Following an offender's allegation that he/she has been sexually abused by another offender in a PSD facility, the facility or PSD shall subsequently inform the alleged victim whenever: (a) The facility or PSD learns that the alleged abuser has been indicted on a charge related to sexual abuse with the facility; or (b) The facility or PSD learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility."

Although it does not appear via the HCCC PREA Incident Log that there were any completed investigations completed during the documentation period for inmate-on-inmate sexual abuse where the alleged victim was still in confinement, the PCM and Program Specialist both verified the same process noted above would occur.

115.73(e): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 43.0.5 (page 41) requires that, "The facility or PSD shall document all notifications to offenders described under this section on the PRA Mandated Reporting Form (PSD 8317)."

This documentation was provided as noted above.

Documentation provided for this standard: Agency Policy ADM.08.08, HCCC PREA Incident Log, completed PREA Mandated Reporting Forms, and investigation files.

Based on this information, HCCC is in full compliance with all elements of standard 115.73.

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.

115.76(a-c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 33.0.1, .2 and .3 (page 41) state, "Staff are subject to disciplinary sanctions up to and including termination for PREA sexual abuse or sexual harassment policy violations. Termination shall be the presumptive disciplinary sanction for all staff, who, after an investigation and pre-disciplinary due process hearing, have been found to have engaged in sexual abuse. Disciplinary sanctions for violations of PSD policies relating to sexual abuse and sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's personnel and disciplinary history, and the sanctions imposed for comparable offenders by other staff with similar employment histories."

There were no substantiated investigations involving HCCC staff during the documentation period. However, the former PREA Coordinator provided the Auditor with documentation from a prior substantiated investigation regarding staff on inmate sexual abuse, in which the involved staff member was terminated from PSD employment.

115.76(d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 33.0.4 and.5 (page 42) states that , “All terminations for violations of PREA sexual abuse or sexual harassment policies, or resignations by staff, who would have been terminated, if not for their resignation, shall be reported to LE agencies, unless the activity was clearly not criminal. PSD shall also report the incident to any relevant licensing body applicable to the staff member, such as but not limited to social work, educational, physician or nursing licensing bodies.”

In the case noted above involving the staff member, there are still criminal charges pending.

Documentation provided for this standard: Agency Policy ADM.08.08, HCCC PREA Incident Log, and investigation files.

Based on this information, HCCC is in full compliance with all elements of standard 115.76.

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.

115.77(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 45.0.1 and .2 (page 42) states, "PSD requires that any contractor or volunteer, who engages in sexual abuse is prohibited from contact with inmates and shall be reported to county LE, unless the activity was clearly not criminal. PSA shall also report the incident to any relevant licensing body applicable to the contractor or volunteer."

There was one case noted previously wherein a contracted staff was alleged to have engaged in sexual abuse against an inmate at HCCC. There was a substantiated finding for overfamiliarity and an unsubstantiated finding for sexual contact. The Auditor reviewed the investigation file, and spoke with the PCM, and determined the contracted staff was terminated from services with PSD. Since the allegation of sexual contact was unsubstantiated, there was no law enforcement referral made.

115.77(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 45.0.3 (page 42) requires that, "PSD shall take appropriate remedial measures and consider whether to prohibit further contact with offenders *in the case of other violations* not covered by the paragraph (1) of this section, such as sexual harassment by a contractor or volunteer."

It is clear that HCCC takes these types of allegations with substantiated findings seriously. HCCC also provided notification to other PSD facilities to not contract with the individual noted above due to the findings in this case.

Documentation provided for this standard: Agency Policy ADM.08.08, HCCC PREA Incident Log, and investigation files.

Based on this information, HCCC is in full compliance with all elements of standard 115.77.

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

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115.78(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 46.0.1 (page 42) states that, "Offenders are subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the offender engaged in offender-on-offender sexual abuse or sexual harassment."

Both inmates that were found to have engaged in inmate-on-inmate sexual abuse and/or sexual harassment during the documentation period were referred for Inmate Misconduct (violation / infraction) and an Adjustment Hearing. This was verified on the HCCC PREA Incident Log and in investigation files, as well as in interviews with staff and inmates.

115.78(b-c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 46.0.2 and .3 (page 42) states, "Sanctions shall 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. The disciplinary process shall consider whether an offender's mental disability or mental illness contributed to his/her behavior when determining what type of sanction, if any, should be imposed."

There was no documentation to review; however the PCM and Program Specialist provided information to support that sanctions were commensurate with the violation behavior.

115.78(d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 46.0.4 and .5 (page 42) requires that, "PSD medical and mental health staff shall provide therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for abuse. The medical, mental health, and facility staff shall consider whether to require the offending offender to participate in such interventions as a condition of access to programming, privileges or other benefits."

Interviews with the mental health staff verified that substantiated cases involving inmate-on-inmate sexual abuse were referred to them to meet with both the victim and abuser. The staff indicated the victim usually followed up with aftercare provided, although abusers did not.

115.78(e): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 46.0.6 (page 42 – 43) states, "PSD shall discipline offenders for sexual contact with staff only upon finding that the staff member did not consent to such contact. This type of incident shall result in a reassessment of the offender by utilizing the PREA Screening Tool (PSD 8314)."

As no applicable instances occurred at HCCC, the Auditor was provided with documentation from the Halawa Correctional Facility to demonstrate compliance with this standard. The documentation provided detailed action taken when an offender was accused of sexually assaulting a staff member who did not consent to the contact.

115.78(f): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 46.0.7 (page 43) states, "PSD shall not discipline an offender for reporting sexual abuse made in good faith and based upon a reasonable belief that the alleged conduct occurred. This is applicable, if an investigation does not establish evidence sufficient to substantiate the allegation."

As no applicable instances occurred at HCCC, there was no documentation to review.

115.78(g): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 46.0.8 (page 43) indicates that, "PSD prohibits all sexual activity or sexual contact between offenders and shall

discipline offenders for such activity or contact. PSD shall not deem such activity to constitute sexual abuse, if it determines that the activity is consensual or not coerced.”

The PREA Incident Log and subsequent investigation files reviewed did show that acts of consensual sex were deemed not to meet requirements for PREA substantiation, but both inmates involved were referred for Inmate Misconduct and an Adjustment Hearing.

Documentation provided for this standard: Agency Policy ADM.08.08, HCCC PREA Incident Log, sample documentation from Halawa Correctional Facility, and investigation files.

Based on this information, HCCC is in full compliance with all elements of standard 115.78.

MEDICAL AND MENTAL CARE

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

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

115.81 (a)

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

115.81 (b)

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

115.81 (c)

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

115.81 (d)

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

115.81 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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115.81(a-b): Not applicable as HCCC is a jail, not a prison.

115.81(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 47.0.1 (page 43) states, "Any offender who has disclosed a prior sexual victimization during an intake screening pursuant to §24.0 of this policy, whether it occurred in an institutional setting or in the community, shall be offered a follow-up meeting with a medical or mental health practitioner within fourteen (14) days of the intake screening."

Interviews with ISC staff and medical and mental health providers confirmed that inmates who disclose prior sexual victimization are referred to appropriate practitioners for follow-up meetings within 14 days.

According to both the PAQ and screening assessment samples, there were no inmates that disclosed prior victimization during screening during the audit documentation period, therefore there was no secondary documentation to review.

115.81(d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 47.0.3 (page 43) requires that, "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, including housing, bed, work, education, and program assignments, or as otherwise required by federal, State, or local law."

Provided with the PAQ was a sample of an inmate confinement record that non-medical staff have access to. The information on the screen noted a "PREA Alert" stating the inmate was a gang rape victim, and named inmates for the victim to be kept separate from. Interviews with the PCM confirmed this type of practice when appropriate.

115.81(e): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 47.0.4 (page 43) requires that, “Medical and mental health staff shall obtain informed consent from offenders before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the offender is under the age of eighteen (18). This provision is not applicable to non-medical or non-mental health staff.”

In interviews with both medical and mental health staff, they indicated that if an inmate were to report abuse outside of a confinement setting, unless the inmate was under 18 at the time of the abuse, they would have the inmate sign a PSD Authorization to Release Medical Information (DOC 0404A) form in order for them to share the information through appropriate avenues. The form was reviewed and confirmed compliance with policies and procedures.

During the last 12 months, there have been no incidents in which this type of release was required. As such, there was no secondary documentation to review.

Documentation provided for this standard: Agency Policy ADM.08.08, Inmate Confinement Record “PREA Alert” sample documents, PSD Authorization to Release Medical Information (DOC 0404A), and investigation files.

Based on this information, HCCC is in full compliance with all elements of standard 115.81.

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*)

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115.82(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 47.0.5 (page 43) states that, "Offender victims of sexual abuse shall 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 judgement."

The HCCC Coordinator Response Plan outlines the response protocol in the event of an alleged sexual abuse to include activating the PSD PREA Incident Checklist (PSD 8313), both of which were updated during the corrective action period. The Watch Commander would then notify the Health Care Unit to provide the victim with treatment and support services from both the medical and mental health team.

In interviews with supervisors, the PCM, and medical and mental health staff, all were very familiar with the standards of care outlined in the standards and Agency Policy. The immediate notification to medical was also confirmed in interviews with staff who acted as first responders. Interviews with inmates who had reported a sexual abuse all stated the medical response is almost immediate.

115.82(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 47.0.6 and .7 (page 43) required that, "If qualified medical or mental health are not on duty at the time of a report of recent sexual abuse, the security staff or first responder shall take preliminary steps to protect the victim as dictated by §32.0 and §35.0. If qualified medical and mental health staff are not on duty at the time of the report of a recent sexual abuse, they shall be immediately notified either by telephone contact to the on call physician or when reporting for duty."

As noted above, following the PSD PREA Incident Checklist (PSD 8313) results in notification to the Health Care Unit almost immediately.

115.82(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 47.0.8 (page 44) requires that, "Offender victims of sexual abuse, while incarcerated shall be offered timely information about and provided timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with the professionally accepted community standards of care, where medically appropriate."

Interviews with medical and mental health practitioners confirmed that services are provided according to the practitioner's professional judgment and in accordance with established health services policies and procedures.

115.82(d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 47.0.9 (page 44) requires that, "Treatment services are provided to every victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident."

This information was confirmed in interviews with inmates who had reported sexual abuse and had participated in medical and/or mental health services following their allegation.

Documentation provided for this standard: Agency Policy ADM.08.08, HCCC Coordinated Response Plan, and PSD PREA Incident Checklist (PSD 8313).

Based on this information, HCCC is in full compliance with all elements of standard 115.82.

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*)

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115.83(a-b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 48.0.1 and .2 (page 44) state, "PSD shall offer medical and mental health evaluations and, as appropriate, treatment to all offenders (including external referrals), who have been victimized by sexual abuse in

any prison, jail, lockup or juvenile facility. The evaluation and treatment of such victims includes, 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.”

According to medical and mental health practitioners, when an inmate reports sexual abuse, a suicide risk assessment is completed. A mental health practitioner follows up with any alleged victim of sexual abuse as well. Medical follow-up services are provided as needed and determined by a health services practitioner.

The requirements regarding follow-up medical and mental health care was confirmed in interviews with practitioners. These individuals also indicated that care for abuse victims consisted of treatment planning based on injuries and continuing care needs. Additionally, mental health staff said they would work with the alleged victim to ensure they knew of resources in the community to assist them upon release from confinement.

115.83(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 48.0.3 (page 44) requires that, “PSD shall provide offender victims of sexual abuse with medical and mental health services consistent with the community standard level of care.”

115.83(d-e): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 48.0.4 and .5 (page 44) state, “Offender victims of sexually abusive vaginal penetration, while incarcerated shall be offered pregnancy tests. If pregnancy results from the sexual abuse while incarcerated, offender victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.”

Medical staff interviewed stated that upon intake for all females, the inmates are offered pregnancy tests. Upon information received about a possible sexual assault, alleged victims are again offered this service. Medical staff also stated if a female inmate did become pregnant due to a sexual assault while incarcerated, she would be provided with immediate and appropriate medical services.

115.83(f): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 48.0.6 and .7 (page 44) state, “Offender victims of sexual abuse, while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate. Treatment services shall be provided to the offender victim without financial cost and regardless of whether the offender victim names the accused or cooperates with any investigation arising out of the incident.”

Medical staff confirmed all inmate victims shall be provided testing for sexually transmitted diseases. They also verified that inmates would not bear any costs for any testing or treatment related to an allegation of sexual abuse. Inmates interviewed who had reported a sexual abuse also confirmed they had not been charged for any of the medical or mental health services they had been provided.

115.83(h): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 48.0.8 (page 44) states that, “Mental health staff shall attempt to conduct a mental health evaluation of all known offender-on-offender abusers within sixty (60) days of learning of such abuse history and offer treatment, when deemed appropriate.”

Mental health staff indicated that while this is rare, when they do receive notification of a Potential or Known Predator, they will meet with them immediately and offer treatment options. They indicated that while this has been offered, they have never had a Potential or Known Predator participate in treatment services.

Documentation provided for this standard: Agency Policy ADM.08.08

Based on this information, HCCC is in full compliance with all elements of standard 115.82.

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.

115.86(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 49.0.1 (page 45) requires, "The Warden in conjunction with the Facility PREA Compliance Manager shall schedule a Sexual Abuse Incident Review (SAR) at the conclusion of every sexual abuse investigation that renders a finding that the allegation was substantiated or unsubstantiated, unless the allegation has been determined to be unfounded."

The Auditor was provided with samples of incident reviews that had occurred during the documentation period. Interviews with the Warden and other Incident Review Team members verified that these happen upon completion of all investigations.

115.86(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 49.0.2 (page 45) states, "SAR shall ordinarily occur within thirty (30) days of the when the Warden has been informed of the conclusion of the investigation and its findings, excluding allegations determined to be unfounded."

Interviews with the Warden and other Incident Review Team members verified that these happen upon completion of all investigations, and usually within 30 days. This was verified in documentation reviewed.

115.86(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 49.0.3 (page 45) requires that, "SAR Team shall include upper-level management officials, with input from line

supervisors, investigators, and medical or mental health staff. One individual should be identified as the Recorder or Reporting Staff Member.”

In his interview, the Warden indicated the facility could do better in ensuring that staff from different disciplines attended the SAR Team reviews. During the out brief, this was discussed and it was agreed to include additional staff, including the Mental Health supervisor.

115.86(d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 49.0.4 and 5 (page 45) states, “The SAR Team shall document the following information on the Sexual Abuse Incident Review Report form (PSD 8319): (a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; (b) Consider whether the incident or allegation was motivated by race/ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility; (c) Examine the area in the facility, where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; (d) Assess the adequacy of staffing levels in that area during different shifts; (e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff...The Recorder or Reporting Team Member shall prepare a report by utilizing the Sexual Abuse Incident Review Report (PSD 8319) to document the SAR Team’s findings, including, but not limited to a determination made pursuant to paragraphs (4a-4e) of this section, and any recommendation for improvement.”

A review of SAR documents in investigation files as well as samples provided with the PAQ, the Auditor was able to confirm the elements detailed in the standard are a part of the SAR and documented on the appropriate form.

115.86(e): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 49.0.6 (page 45) states, “The SAR Team’s report shall be forwarded to the Warden to review and complete the Warden’s Response Section. The Warden shall make a decision as to whether the recommendations of the SAR Team will be implemented or document the reasons for not implementing the recommendations of the SAR Team.”

During interviews with the Warden and Incident Review Team members, it is clear that many of the recommendations requested are not feasible due to budget limitations and infrastructure issues. However, the facility has done well in adding mirrors in lieu of non-working cameras, blind areas and shortage of staffing.

Documentation provided for this standard: Agency Policy ADM.08.08, Incident Review samples, and investigation files.

Based on this information, HCCC is in full compliance with all elements of standard 115.86.

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.

115.87(a-c): Agency Policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017) section 5.0.1, .2, and .3 (pages 6-11) provides PREA-related definitions. Included in these definitions are acts prohibited under PREA standards along with definitions for staff and offenders to better understand PREA implementation procedures and strategies. These include, but are not limited to, consent, exigent circumstances, gender nonconforming, retaliation, voyeurism, and finding determinations (substantiated, unfounded and unsubstantiated).

Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 50.0.1 and .2 (page 46) state, "The Department PREA Coordinator shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control by utilizing a standardized format based on PREA definitions. The standardized format included, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence [SSV] conducted by the Department of Justice."

The PREA Coordinator oversees the collection of accurate, uniform data for all PREA allegations at all of ODOC's facilities using a standardized instrument and definitions outlined in the federal Survey of Sexual Violence (SSV). The data collected and reflected in the agency's annual report currently does not include allegations of sexual harassment as the standard addresses sexual abuse. A query was submitted to the PREA Resource Center that stated that although the SSV collects sexual harassment information, it is not required in order to be compliant due to the intent noted in the final federal rule.

Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 50.0.3 (page 46) states, "The Department PREA Coordinator shall aggregate the incident based sexual abuse data at least annually."

Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 50.0.1 and .2 (page 46) requires that, "The Department PREA Coordinator shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control by utilizing a standardized format based on PREA definitions. The standardized format included, 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."

115.87(d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 50.0.5 (page 46) requires that, "The Department PREA Coordinator shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and SAR's [sexual assault review]."

The PREA Coordinator aggregates this data at least annually for the Directors review, and then it is provided to the Department of Justice using the most recent SSV by the due date.

115.87(e): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 50.0.5 (page 46) requires, "At least once a year, the Mainland Branch Unit shall report to the Department PREA Coordinator for all incident-based and aggregated data from any private facility with whom it contracts for the confinement of PSD offenders."

Incident data from the Saguaro Correctional Center, a facility in Arizona privately contracted with to house offenders, is included in the annual PREA reports posted to the agency's website.

115.87(f): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 50.0.6 (page 46) requires that, “PSD shall provide all such data from the previous calendar year to the Department of Justice’s Survey of Sexual Violence, no later than June 30th of each year.”

As of the writing of this report, DOJ has not yet requested SSV data for the 2017 calendar year.

Documentation provided for this standard: Agency Policy ADM.08.08, www.hawaii.gov/psd website, and SSV data for 2015 and 2016.

Based on this information, HCCC is in full compliance with all elements of standard 115.87.

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.

115.88(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) sections 51.0.1 and .2 (page 46) state, "The Department PREA Coordinator shall review data collected and aggregated pursuant to §50.0 of this policy in order to assess and improve the effectiveness of its sexual abuse prevention, detection, response policies, and training, including: (a) Identifying problem areas; and (2) Taking corrective actions on an ongoing basis. The Department PREA Coordinator shall prepare an annual report of PSD's findings and any corrective actions for each facility, as well as the agency as a whole and as dictated by HRS §353-C."

A review of the most recent Annual PREA Report from 2016 was completed by the Auditor. The 2016 Annual PREA Report is posted to the agency's public website at www.hawaii.gov/psd and provides an introduction, definitions and agency data confirming progression in "its efforts to detect, prevent, report, investigate, offer victim support services and prosecute criminally and/or administratively perpetrators of sexual abuse/assault and sexual harassment in its prison system and lockups."

115.88(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 51.0.2.a (page 47) requires, "This report shall include comparison of the current year's data and corrective actions with those from prior years. The annual report shall provide an assessment of PSD's progress in addressing sexual abuse."

While the 2016 Annual PREA Report does contain information about current year's data and an assessment of PSD's progress in addressing sexual abuse, it does not contain information about specific corrective actions in comparison to those from prior years. The PREA Coordinator and Program Specialist have verified corrective actions taken are being added to the Annual Report currently in-work, and will be included in future reports as well to be compliant with this provision of standard 115.88.

115.88(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 51.0.2.b (page 47) requires, "This report shall be approved by the Director and be made readily available to the public through the PSD's departmental website."

Interviews with the former PREA Coordinator revealed that the PSD Director has to approve all documentation placed onto the agency website, and therefore his approval to post on the website indicated his approval of the document.

115.88(d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 51.0.3 (page 47) indicates that, "PSD may redact specific material when publication would present a clear and specific threat to the safety and security of a facility. A notation should be made to indicate the nature of the material redacted."

In a review of the 2016 Annual PREA Report, it appears that personally identifying information was removed from the report.

Documentation provided for this standard: Agency Policy ADM.08.08, www.hawaii.gov/psd website, and 2016 Annual PREA Report.

Based on this information, PSD is in full compliance with all elements of standard 115.88.

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.

115.89(a): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 52.0.1 (page 47) requires that, "The Department PREA Coordinator shall ensure that the incident-based and aggregated data are securely retained."

All PSD PREA data is retained on a computerized database that is limited to personnel on a need-to-know basis approved only by the PREA Coordinator and/or Director.

115.89(b): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 52.0.2 (page 47) Requires that, "The Department PREA Coordinator shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through PSD's departmental website."

The Auditor was able to review data on the agency's public website at www.hawaii.gov/psd. The website currently contains the agency's annual PREA reports from 2011 through 2016, as well as PREA Audit Reports from all facilities under its jurisdiction, as well as data from the Saguaro Correctional Center, a facility in Arizona privately contracted with to house offenders.

115.89(c): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 52.0.3 (page 47) indicates that, "The Department PREA Coordinator shall remove all personal identifier and comply with federal and state statutes, HRS §92(F), Uniform Information Practices Act, prior to publishing the data."

The Auditor reviewed annual PREA reports posted to the agency's public website and confirmed that these reports contained no personal identifying information.

115.89(d): Agency Policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 52.0.4 (page 47) requires that, "The Department PREA Coordinator shall maintain the sexual abuse data collected based on §50.0 for at least ten (10) years after the date of the initial collection, unless federal, state, or local laws require otherwise."

The Auditor was able to review data from 2011 in the form of annual PREA reports on the agency's public website at www.hawaii.gov/psd. Additionally, the former PREA Coordinator stated the PREA / Litigation Office of PSD will continue to maintain the sexual abuse data collected for required timeframes.

Documentation provided for this standard: Agency Policy ADM.08.08 and www.hawaii.gov/psd website.

Based on this information, HCCC is in full compliance with all elements of standard 115.89.

AUDITING AND CORRECTIVE ACTION

Standard 115.401: Frequency and scope of audits

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

115.401 (a)

- During the prior three-year audit period, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (*Note: The response here is purely informational. A "no" response does not impact overall compliance with this standard.*) Yes No

115.401 (b)

- Is this the first year of the current audit cycle? (*Note: a "no" response does not impact overall compliance with this standard.*) Yes No
- If this is the second year of the current audit cycle, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited during the first year of the current audit cycle? (N/A if this is **not** the *second* year of the current audit cycle.) Yes No NA
- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? (N/A if this is **not** the *third* year of the current audit cycle.) Yes No NA

115.401 (h)

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

115.401 (i)

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

115.401 (m)

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

115.401 (n)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The Auditor was provided with policy and proof documentation for each standard, allowed free access to every part of the facility, and was allowed to conduct private interviews with identified staff and inmates. The Audit Notice was posted in multiple areas of the facility and clearly articulated that letters to the Auditor would be confidential and not discussed unless required by law. The Auditor received zero letters from HCCC inmates prior to the onsite review.

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.

PSD publishes all PREA Audit Reports to its public website, www.hawaii.gov/psd. This includes the report from the most recent PREA audit conducted at HCCC in 2016.

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.¹ Auditors are not permitted to submit audit reports that have been scanned.² See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

Jeneva M Cotton

07/19/2019

Auditor Signature

Date

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

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