

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

Interim Final

Date of Report 07/23/2019

Auditor Information

Name: Beth Schubach Email: blschubach1@doc1.wa.gov

Company Name: Washington State Department of Corrections

Mailing Address: PO Box 41131 City, State, Zip: Olympia WA 98504-1131

Telephone: 360-725-8789 Date of Facility Visit: 12/09-11/2018

Agency Information

Name of Agency: Governing Authority or Parent Agency (If Applicable):

Hawaii Department of Public Safety State of Hawaii

Physical Address: 919 Ala Moana Blvd. Suite #400 City, State, Zip: Honolulu, HI 96814

Mailing Address: Same as above City, State, Zip: Same as above

Telephone: 808-587-1288 Is Agency accredited by any organization? Yes No

The Agency Is: Military Private for Profit Private not for Profit

Municipal County State Federal

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

Agency Website with PREA Information: <http://dps.hawaii.gov>

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 Division 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	
Facility Information			
Name of Facility: Kulani Correctional Facility			
Physical Address: HC 01 Stainbeck Highway, Hilo HU 96720			
Mailing Address (if different than above): PO Box 4459, Hilo Hi 96720			
Telephone Number: 808-969-9107			
The Facility 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
Facility Type:		<input type="checkbox"/> Jail	<input checked="" type="checkbox"/> Prison
Facility Mission: same as agency mission			
Facility Website with PREA Information: http://dps.hawaii.gov			
Warden/Superintendent			
Name: Cramer Mahoe		Title: Acting Warden	
Email: cramer.l.mahoe@hawaii.gov		Telephone: 808-932-4433	
Facility PREA Compliance Manager			
Name: Stafford Uemura		Title: ACO IV (sergeant)	
Email: Stafford.w.uemura@hawaii.gov		Telephone: 808-932-4484	
Facility Health Service Administrator			
Name: Stephanie Higa		Title: Clinical Services Administrator	
Email: Stephanie.m.higa@hawaii.gov		Telephone: 808-932-4480	
Facility Characteristics			
Designated Facility Capacity: 200		Current Population of Facility: 149	
Number of inmates admitted to facility during the past 12 months			104
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:			101

Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:			101
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: not applicable	Adults: 18 +	
Are youthful inmates housed separately from the adult population?			<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Number of youthful inmates housed at this facility during the past 12 months:			0
Average length of stay or time under supervision:			1 – 2 years
Facility security level/inmate custody levels:			minimum
Number of staff currently employed by the facility who may have contact with inmates:			76
Number of staff hired by the facility during the past 12 months who may have contact with inmates:			4
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:			0
Physical Plant			
Number of Buildings: 22		Number of Single Cell Housing Units: 1	
Number of Multiple Occupancy Cell Housing Units:		0	
Number of Open Bay/Dorm Housing Units:		7	
Number of Segregation Cells (Administrative and Disciplinary):		8	
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.):			
There is currently no camera system in place at KCF			
Medical			
Type of Medical Facility:		Services are available from 0700 – 1730 seven (7) days a week and consist of pill call, sick call, and treatment of minor injuries.	
Forensic sexual assault medical exams are conducted at:		Kapiolana Medical Center for Women and Children	
Other			
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:			Contractors = 14; volunteers = 62
Number of investigators the agency currently employs to investigate allegations of sexual abuse:			11 from KCF; 6 from Internal Affairs

Audit Findings

Audit Narrative

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

Beth Schubach, a U.S. Department of Justice (USDOJ) Certified PREA Auditor for adult and juvenile facilities conducted the Prison Rape Elimination Act (PREA) audit of the Kulani Correctional Facility (KCF) in Hilo, Hawaii. The on-site review of KCF was conducted December 9 through 11, 2018. KCF is operated by the Hawaii Department of Public Safety (PSD). The on-site review was conducted with the assistance of support staff Washington Department of Corrections employees Jeneva Cotton and Michelle Duncan. During the course of the audit, Beth Schubach conducted the documentation review, informal interviews with random staff and offenders, formal interviews with random and specialty staff, and authored this report. The other team members conducted formal and informational interviews with random and specialty staff and random and specialty offenders. The Audit Team conducted the site review together.

The notice of audit posted at KCF stated:

DOJ PREA Audit
Kulani Correctional Facility
December 9, 2018 to December 11, 2018
During the dates listed above, a US Department of Justice Certified PREA Auditor will conduct a PREA audit at this facility. If you want to provide information or talk with 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:
Beth Schubach
WADOC PREA Coordinator
P.O. Box 41131
Olympia WA 98504-1131

All correspondence must include "for KCF 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 in eminent danger to her/himself or others (e.g., suicide or homicide).
- Allegations of suspected child abuse, neglect or maltreatment.

- In legal proceedings where information has been subpoenaed by a court of appropriate jurisdiction.

The notice was posted in all seven (7) housing units, in the mess hall, in the business office, next to offender telephones, in education, in operational areas, in the library, and in offender service areas. The notice was posted October 15, 2018. While on site, the Audit Team observed the audit notification in various locations throughout the facility, ensuring that facility staff, offenders, and visitors had the opportunity to contact the Auditor. The Auditor did not receive any letters from KCF offenders or any other individuals between the posting of the notification and the authoring of this report.

The Auditor received proof documents via a password protected flash drive from the PSD Program Specialist working in the agency's litigation unit on October 29, 2018. The flash drive contained relevant documentation pertaining to the PREA standards and the audit. This included, but was not limited to, the pre-audit questionnaire (PAQ); agency policies, facility procedures, memorandums of understanding and contracts, offender posters and brochures, and training documentation. In addition, prior to the on-site review, the Auditor exchanged numerous emails with the Program Specialist as they related to follow up questions and concerns regarding the received documentation. The Auditor also reviewed the KCF PREA Audit report from the facility's first PREA audit (final report dated 02/22/2016), the PSD's website and related PREA information, the PSD's annual PREA reports, and the PSD's Annual Assessments and Surveys of Sexual Victimization. Prior to arrival, the Auditor conducted telephone interviews with the contract administrator, the Headquarters Human Resources Manager, an investigator from the agency's Internal Affairs Unit, and the VolinCor (volunteers and contractors) Coordinator.

On Sunday, December 9, 2018, the Audit Team arrived at KCF at 0900 and were met by the Program Specialist. A criminal background check is required of all visitors, who are required to be escorted at all times. Before being allowed to pass through the main gate, visitors are required to provide proof of identification and must be listed on a document as authorized to enter the facility. All cell phones are required to be left with the gate house officer. Visitors are also required to sign in and out on a log maintained at the gate house. Visitors must also check back out with the gate house when leaving, providing accountability for all individuals entering the main compound. The Adult Correctional Officer (ACO) assigned to the facility gatehouse verified the identification of team members, provided each with a visitor badge, and took custody of all cellphones. At 0930, an initial meet and greet was held in the Warden's conference room, attended by the Program Specialist, PREA Compliance Manager (PCM) and Warden. After opening remarks and introductions, the Auditor discussed the logistics of the on-site review and provided an overview of the audit process, to include timelines regarding the post-audit phase of the process, the interim report and the final report. The Auditor briefly discussed the purpose of corrective action which, if warranted, would enhance implementation processes and sustainability, furthering enculturation and creating a safer environment for offenders and staff. Each participant was given an opportunity to ask questions regarding the audit process.

After the meet and greet, the Audit Team was provided with a thorough and comprehensive tour of the entire facility, visiting any area in which an offender may be present. This tour included, but was not limited to, housing units, medical services, kitchen and dining areas, programming and work areas, warehouses, correctional industries, master control, maintenance areas, and recreational areas. While touring, the Team paid particular attention to lines of site, privacy for offenders in specified areas, PREA reporting and victim advocacy posters, door and key security, offender movement, and staff and offender interactions. It was noted that several of the PREA posters in the facility were older and did not include the number to access victim advocacy services. It is

recommended that these posters should be replaced or a sticker added with the advocate access information. The Team also conducted informal discussions with staff and offenders while touring.

The Audit Team noted that the facility was clean and well maintained. All staff members were very professional, friendly, and welcoming. The Team observed productive interaction and respect between staff and between staff and offenders. Staff were observed monitoring offenders and conducting security checks in housing areas. It is noted that the tour occurred on a Sunday, which resulted in programming and work areas not currently in operation and therefore, no offenders were present. It is noted that there are currently no cameras in place anywhere in the facility. The administration is in the midst of an extensive camera installation project, but the project was temporarily placed on hold due to permitting issues on the part of the contractor. KCF also does not have a perimeter fence.

The following layouts / procedures were observed while on tour:

Buildings inside the wooden gate are arranged in a circle around the recreation yard.

- *Mailroom:* Access is limited to custody and administrative staff only with responsibilities in the area.
- *Library:* Only eight offenders are allowed in the library at once, when it is open for use. The library is shared with the jail, who brings their offenders on site for use. The library is divided into two main sections with a wall between the general library and law library, creating a blind spot. Offenders can only come into the law library with staff escort; but there is a totally blind spot that can be addressed with mirror in the law library and main library. There is also a back room where offenders can meet with programming staff. Offenders would enter the area from the library. The door to the area is usually locked but was found to be unlocked during the tour. A mirror should be added to the back corner in the programming area to address a blind spot. Auditors observed the PREA posters on the walls in both the general and law library sections. Once the identified mirrors are added, the Auditor should be provided with photographic documentation of installation.
- *Mess Hall and Kitchen:* The mess hall is an open area with good window visibility. The serving line is separated from the food preparation area by a $\frac{3}{4}$ wall with openings for accessibility. There is a pass through to the dish room. Auditors observed the PREA posters on walls in the mess hall. The dish room is easily viewable by staff. There are two offices in the area that are locked when not in use. Windows allow for sight lines. ACO's are assigned to the kitchen area in addition to food services staff. Offenders are allowed in the dry storage area only with direct supervision; however, the area needs a mirror to address a blind spot. The prep area also needs a mirror. An infrequently accessed storage area is locked at all times and a cart blocks the door. There is a locked walk-in freezer in the back. There is a second prep area with a locked walk-in refrigerator in the back. PREA posters were observed in multiple locations in the food service area. A staff dining area is adjacent to the food service area allowing good visibility with a wall of windows. Once the identified mirrors are added, the Auditor should be provided with photographic documentation of installation.
- The dormitories are accessed via a locked wire fence with a gate to the dining hall. The gate is only opened for staff access and when offenders are heading to meals. When the touring group passed through the gate, an announcement was made over the intercom that there were females on the compound. There is a notice about opposite gender staff working / accessing the area outside the door to this area and every dorm entered. The PCM also announced "female on unit" when the touring group entered each living unit. Additionally, multiple audit notices and PREA posters were observed in each dormitory. No ACO's are assigned to any housing unit but are assigned to "rover" duties and enter / tour each housing unit about once per hour. The operations office, administration

offices, and urinalysis area are outside a wooden gate and all offenders must be escorted to be allowed in these areas.

- *Housing Units:* There are seven (7) housing units, all of which are dormitory style, housing twenty (20) to thirty (30) offenders per unit, with the exception of Unit 7 which houses 20 to 30 offenders in each wing of the unit. There is also one (1) special housing unit that maintains eight (8) cells for segregated housing.
 - *Unit 1:* The dorm consists of a day room with a television, a bathroom area with toilets and showers, and a bunk area. Offender lockers in the bunk area are placed against the wall, allowing staff to see through the bunks to the back walls. Additionally, offenders are prohibited from hanging sheets, towels, or clothing from bunks that might block visibility. In the dayroom, there is a blind spot due to the presence of the Christmas tree. There are windows that allow visibility; however, they are blocked with sheets to reduce the glare on the television. It is recommended that the tree be relocated to address the visibility issue. It is recommended that a mirror is added to the area if an intermittent blind spot is created due to holiday decorations (e.g., Christmas, Halloween, etc.) or a plan is developed to ensure offenders don't place decorations that will create a blind spot. In the back of the bunk section there is a fire exit door that is electronically monitored. The gang shower is locked with a grated door and is only open from 1500 – 2100. Urinals and toilets are separated by pony walls.
 - *Unit 2:* The unit has the same components as Unit 1 but the dayroom is laid out differently and a blind spot was not observed.
 - *Unit 3:* The unit has a layout similar to Unit 1 and the same recommendation regarding tree placement and a mirror is made.
 - *Unit 4:* The unit has a layout similar to Unit 1 and the same recommendation regarding tree placement and a mirror is made. An offender was directed to remove a sheet that was creating a line of sight issue in the bunk area. The coats hanging in the bathroom area created blind spots by blocking view into the niches and a decision was made to move the hooks to the opposite wall as they are in the other units, thereby resolving the issue. Photographs of the relocation of the hooks should be forwarded to the Auditor.
 - *Unit 5:* The layout of the dayroom is slightly different from the other units and a mirror is needed in the corner to address the blind spot created by the separating wall. Photographs following installation should be forwarded to the Auditor. It is recommended that offenders be prohibited from bringing mattresses into the dayroom to lay on tables to lay and watch television.
 - *Unit 6:* There were some towels hanging from bunks that blocked sightlines through the bunk area, but these were removed once we entered the unit. The same blind spot issue identified in Unit 5 was also identified in Unit 6 and should be addressed with a mirror. Photographs following installation should be forwarded to the Auditor.
 - *Unit 7:* The unit is made up of two identical wings with bunks separated by a common dayroom and bathroom. There was a janitor closet with no door. The bathroom had two access doors, one on each end of the dayroom. This is the only unit with individual shower stalls. As a result, any transgender offender is generally placed in Unit 7 to allow privacy when showering.

Many staff and offenders therefore refer to Unit 7 as the “PREA unit”. Curtains hide the shower area from the rod to the floor. The shower curtains will need to either be raised approximately 10” so staff can see feet / the number of individuals in the shower or replaced with ones that are clear on the top and bottom and opaque in the center. Once this is complete, the Auditor should be provided with photographic documentation of installation. The audit notice was hanging on the bulletin board but was blocked by the Christmas tree. It was noted though that the tree went up the previous day and offenders had clear view of the notice for the required 6 weeks prior to the on-site review.

- *Yard:* There were multiple dip stations and horseshoe pits, a basketball court, and a volleyball court. There was clear visibility across the entire area.

Administration Building:

- Control Center: Has clear visibility into the yard and the front of all housing units. The crow’s nest above the control center is no longer in use.
- Isolation Unit: Consists of eight (8) one-man cells and a shower. The Watch Sergeant oversees the area and does rounds at least every 30 minutes. The area has no cameras (will be added with the camera project) but is sound monitored so if an offender had an emergency, he could call out and would be heard by supervising staff. There were PREA posters and audit notices hung in the area.
- Armory.
- Medical: Consists of an office area and examination room. Services are available from 0700 to 1730 seven (7) days per week and consist of pill call, sick call, and addressing minor injuries. The offender would be transferred to HCCC for any needs beyond this. Mental health services are provided by a psych social worker who is officed at HCCC but who visits the facility regularly.
- A nurses’ office which also includes the dental work area.
- A staff locker room.
- Staff bathrooms.
- A scheduling office.
- The Watch Commander’s office.
- The Captain’s office.
- The Administrative sergeant’s office.
- The Warden’s office.
- The office of the Warden’s support staff
- A conference room.
- Office space for programs staff (case workers) who see offenders in the room off the legal library.
- *Business Office:* The area houses accounting and HR. There are cubicle work spaces, and a janitor closet along with a men’s and a women’s restroom. The staff restroom doors were unlocked and the areas also appeared to be used for storage purposes. There was a storage room in the back that is “L” shaped, however has visibility through exterior windows. The height of boxes and other items stored in the area should be reduced to allow clear sightlines into the room from the outside. Photographs of reorganization should be provided to the Auditor on completion. No offender is allowed access into the area except to clean and then only under direct supervision.
- *Education Building:* The building is made up of six (6) adjoining classrooms with exterior windows on each side as well as windows between classrooms. One can stand in classroom 1 and have a clear sightline all the way through into classroom 6. The classrooms include a language arts center, computer lab and test center. Teachers are contracted from the University of Hawaii Hilo; however, the director and one other education staff member are agency employees. The end of the building is

made up of a staff office area. Offenders come into the area to clean and meet with staff. The blinds in the main office are to be removed from the windows to address blind spots / visibility. Staff will explore the use of window frosting (leaving a clear border along all edges) to allow visibility but also privacy for staff using the area. A window is to be added to the door of the storage room to allow visibility. The wall between the staff office area and the last classroom is also windowed, but the windows are all covered with brown paper, with the exception of one pass through / cut out area. The paper should also be replaced with frosting as noted for the office window. The Auditor should be provided with photographic documentation of modifications once complete. PREA posters were observed in the entire area. There is a bathroom at the very end of the building that does not have a door, but is laid out to provide privacy for the individual using the facilities. It was noted that both staff and offenders use this restroom, which includes open urinals so the bathroom should be exclusively staff or offender, but not both. If the decision is made to make the area an offender restroom, it should be appropriately marked and a directive provided to all staff. If the area becomes a staff only restroom, the door should be put back on the bathroom with a key lock and appropriately marked. Documentation is to be provided to the Auditor upon completion.

Chapel: The area is currently not in use for religious services, but for storage and training on some specialty equipment. No issues with blind spots were identified.

Outbuildings:

- **Housing Building:** The area maintains supplies, offender clothing and boots, mattresses, etc. There is a PREA poster on the door. The back area with mattresses and paper towel has windows to the outside that are not too high to allow staff to see into the area. There is a small closet in the end of this area with a door that doesn't close all the way and a wooden bar lock that isn't functional because it is too short to actually bar the door. It is recommended that this door be removed and photographic documentation be provided to the Auditor. The central shelving units do not have items stacked that would block view into the area.
- **Shipping container** that serves to dry wood that is locked and only accessible by staff.
- **Correctional Industries:** The area is staffed with contract staff and consists of a room to spray varnish, exterior storage of materials, and a main building with a wood shop, sewing room, wood turning room, room with planers and saws, and staff office area. Offenders used to only be able to make items for other state agencies, but now can sell the items they make, which includes furniture, bowls, jewelry, pens, urns, etc.
- **Recreation:** The area is currently not open or in use because the recreation specialist position is vacant and has been for the last six (6) to eight (8) months. Once filled, which is anticipated to be completed very soon, the area will again become operational. There is a barber shop and gymnasium. Hair is currently being cut on the units. The gymnasium has open basketball courts, a boxing room, a room with equipment and foosball and ping pong tables, a stage with a ping pong table, a music equipment storage room, an offender restroom, a staff office, and a storage room. There is good visibility into the staff office, which also has visibility into the storage room. It was decided to remove the door from the boxing room as it serves no purpose and create visibility issues. It was also decided to remove the door from the offender restroom as there are stalls inside and the door creates visibility issues.
- **Classroom:** The classroom is a part of the gymnasium, but the door from the gym is barred closed and access has to be obtained from the outside.
- **Quonset hut:** The area is a makeshift building open to the elements in some areas that serve as the garage while enclosed in other areas. Included in the area are a tool room with gated separation for Class A tools and windows to the outside, storage with open views to the left, records storage where no offenders would be allowed access (the area is clearly marked), an office for the work line supervisor from the Department of Land and Natural Resources who is a contractor, a garage, a

supply room with mirrors to address line of sight issues, a bike room that is no longer used to restore bicycles, another storage area, a tool room for the garage, an offender bathroom, a staff bathroom, a paint booth, and a classroom. It is noted that the slide lock on the inside of the staff bathroom is to be removed as currently it allows someone to barricade themselves in the room with no access from the outside. Photographic documentation is to be provided to the Auditor.

- Wood storage areas
- A general maintenance area that includes the gas station office and two storage rooms.
- Fire department: A Quonset hut housing two fire engines.
- A fenced in area that houses a chain saw room, a carpentry shop, a paint room, a plumbing shop and additional storage. Offenders work in the area only under staff supervision.
- An offender laundry that is open behind the washers and dryers and also maintains several storage rooms.

Visiting Room: Is an open area with picnic tables and bathrooms. There was a PREA poster in the area but nothing specific for visitors and no audit notice.

In summary, the Auditor recommended the following actions be taken to address blind spots and improve security practices:

- Install a mirror in the law library and main library to address blind spots. UPDATE – photographic documentation was received confirming that the identified issue was addressed via installation of mirrors in the specified areas.
- Install a mirror in the back corner of the programming area adjacent to the library and ensure the door leading to the area is locked when not in use. UPDATE – photographic documentation was received confirming that the identified issue was addressed via installation of a mirror.
- Install mirrors in the dry storage and food prep areas in the kitchen to address blind spots. UPDATE – photographic documentation was received confirming that the identified issue was addressed via the installation of mirrors in specified areas
- Install mirrors in Units 1, 3, 4, 5 and 6 to address the identified blind spots as noted above. UPDATE – photographic documentation was received confirming that the identified issue was addressed via the installation of a mirror in each of the identified dayrooms.
- Remove the door into the storage area in housing unit 7. NOTE a photograph documenting completion was received prior to the issuing of the interim audit report.
- Coats hung in the bathroom area in Unit 4 are to be moved to the opposite wall to address visibility into niches along the wall. UPDATE – photographic documentation was received confirming that the identified issue was addressed via the removal of the coat hangers.
- Raise / shorten the curtains in the showers in Unit 7 or replace them with ones that are clear on the top and bottom to allow custody staff to see how many offenders are in the shower at one time. UPDATE – photographic documentation was received confirming that the identified issue was addressed via the shortening of all stall shower curtains in the unit.
- Decrease the height of items maintained in the storage room in the business office area to allow clear site lines from the outside through available windows. UPDATE – photographic documentation was received confirming that the identified issue was addressed via reorganization of the area and removal of all items blocking visibility.
- Remove the blinds in the main office of the education building to address blind spots and visibility. NOTE a photograph documenting completion was received prior to the issuing of the interim audit report.
- Replace the paper on the windows in the wall between the last classroom and office area, possibly replacing with frosting that allows visibility but maintains privacy. NOTE a photograph documenting completion was received prior to the issuing of the interim audit report.

- Determine if the bathroom at the end of the education building is to be solely for offenders and, if so, mark it appropriately. If it is to be used only for staff, replace the door with a key lock and mark it appropriately. NOTE prior to the issuing of the interim audit report, a decision was made to convert this bathroom to offender use only and a photograph documenting added signage was received
- Remove the door in the small closet at the end of the area in the Housing Building used to store mattresses and paper. UPDATE – photographic documentation was received confirming that the identified issue was addressed via the removal of the identified door.
- Remove the doors from the boxing room and offender restroom before the gymnasium is put back into use. UPDATE – photographic documentation was received confirming that the identified issue was addressed via the removal of the identified doors.
- Remove the slide lock on door of the staff bathroom in the Quonset hut. UPDATE – photographic documentation was received confirming that the identified issue was addressed via the removal of the identified slide lock.

Photographs documenting completed work are to be forwarded to the Auditor for documentation purposes.

As of 02/14/2019, there were 76 total staff assigned to KCF, ten (10) of which are currently on extended leave. Most of the staff at KCF are custody positions, with minimal non-custody / support staff. There are typically five (5) to seven (7) custody staff on duty on graveyard shift, with a minimum assignment of five (5). Swing shift is generally eight (8) custody staff. Day shift is when a majority of custody staff are on site to supervise offenders on work crews and working in various areas of the facility. The custody staffing structure is ACO, sergeant, lieutenant (usually a watch commander), chief of security (which is a captain level in all PSD minimum custody facilities), and warden. Custody shift hours are first watch 2300 – 0700, second watch 0700 – 1500, and third watch 1500 - 2300. Non-custody staff include maintenance operations, food services, administration, business office, offender services, education / library, and medical. Mental health staff provide services at KCF but are officed in another facility in Hilo.

It is noted that no staff are permitted to enter a housing unit alone but must always go in pairs. It was explained that this was for their own safety as there are no ACO's assigned to individual housing units.

As of 02/14/2019, there were fourteen (14) contractors providing services at KCF in correctional industries, sex offender treatment, and education from the Hilo Community College.

On 12/10/2018 and 12/11/2018, interviews were conducted with KCF staff and offenders. All interviews were conducted with the established USDOJ PREA interview templates. Interviews were conducted based on lists provided by the facility. All interviews were conducted based on a truly random selection from lists provided, with no specific method of selection other than to ensure representation from all areas within the facility where available. Interviews included staff from each of the three shifts operated by the facility, to include graveyard. It is noted that Correctional Industries staff are State of Hawaii employees under PSD but are not in the same division as corrections. Correctional Industries contract with corrections for the provisions under the CI administrator and were therefore considered to be contract staff for the purposes of this audit. The PCM is a sergeant who reports directly to the Warden due to his assignment as the Training and Staff Development Sergeant.

Private locations were provided within the administration building (warden's conference room and office space) and within interior office spaces. ACO's served as escorts during all interview processes. Staff were contacted via radio or telephone for interviews while offenders were paged via the central intercom system. All individuals interviewed were informed of confidentiality and provided with the opportunity to decline any interview.

A total of 57 staff interviews were conducted:

Staff Category	Number of interviews conducted
Random staff	18
Specialized staff	39
Total staff interviewed	57
Breakdown of specialty staff interviews conducted	
• Agency head or designee	1
• Warden	1
• PREA Compliance Manager	1
• PREA Coordinator and Program Specialist	2
• Contract administrator	1
• Intermediate of higher-level supervisor	5
• Line staff who supervise youthful offenders – not applicable as the facility does not house youthful offenders.	0
• Education and program staff who work with youthful offenders – not applicable as the facility does not house youthful offenders.	0
• Medical and mental health staff	3
• Human resources staff	2
• SAFE/SANE staff	1
• Volunteers who have contact with offenders	2
• Contractors who have contact with offenders	2
• Investigative staff	2
• Staff who perform screening for risk of victimization and abusiveness	2
• Staff on the incident review team	2
• Designated staff member charged with retaliation monitoring – it is noted that the individual charged with retaliation monitoring has never had an applicable case that required monitoring. The only investigation since he assumed responsibilities was for harassment. Reviewed standard requirements with him.	0
• First responders	6
• Intake staff	2
• Non-medical staff involved in cross-gender strip or visual searches	2
• Representative from community-based victim advocacy organization	1
• Inmate disciplinary hearing officer	1

The offender count was 149 on the first day of the on-site review. The facility capacity is 200 but is currently down due to the number of offenders that had to be transferred to another facility due to air quality issues associated with the recent volcano eruption. The count is slowly rising back to operational capacity. The facility houses no disabled offenders due to its mission as a work camp. All offenders housed at KCF have to be physically and mentally able to work.

A total of 27 offender interviews were conducted. Based on the population of the facility, a total of 20 offender interviews were dictated by the USDOJ PREA auditor handbook. It is noted that there were only

three (3) offenders who fit within a specialty category. As a result, the number of random offenders interviewed was increased accordingly.

Category	Number of interviews conducted
Random offenders	24
Specialized offenders	3
Total offenders interviewed	27
Breakdown of specialty staff interviews conducted	
<ul style="list-style-type: none"> Youthful offenders – not applicable as no youthful offenders were housed at the facility 	0
<ul style="list-style-type: none"> Offenders with a physical disability, blind, deaf, hard of hearing or LEP – not applicable as no offenders fitting these categories were housed at the facility 	0
<ul style="list-style-type: none"> Offenders with a cognitive disability – not applicable as no offenders fitting this category were housed at the facility 	0
<ul style="list-style-type: none"> Offenders who are lesbian, gay or bisexual – not applicable as a list of applicable offenders would be based on PREA risk assessments, but there is currently no process to pull a report with that information 	0
<ul style="list-style-type: none"> Transgender or intersex offenders – it is noted that the facility housed two (2) transgender offenders at the time of the on-site review 	2
<ul style="list-style-type: none"> Offenders in segregated housing for high risk of sexual victimization – not applicable as no offenders fitting this category were housed at the facility 	0
<ul style="list-style-type: none"> Offenders who reported sexual abuse – not applicable as the three offenders who reported allegations during the 12 months prior to the on-site review had transferred out of the facility. 	0
<ul style="list-style-type: none"> Offenders who disclosed victimization during a risk assessment 	1

The Audit Team concluded the on-site portion of the audit on 12/11/2018. An out-brief was conducted with the Program Specialist, PCM and Chief of Security.

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.

The Hawaii Department of Public Safety (PSD) oversees operations in four (4) jails and four (4) prison facilities. The Kulani Correctional Facility (KCF) is one of the prisons operated by PSD and is located on the Big Island of Hawaii.

KCF is a minimum-security facility, housing minimum and community custody offenders who generally don't have a long sentence left to serve, typically between one and two years according to the Program

Specialist. It is known as the prison without walls as the facility maintains no perimeter fencing. It is located on the slopes of Mauna Loa at 6,000 feet elevation at the end of the Stainbeck Highway. KCF originally opened in 1946 as a work camp for 120 offenders. The original six (6) housing units are still in use today, but an additional unit was added to accommodate the offender population and provide incentive housing with private showers. KCF had been closed in September 2009 as a cost saving measure although at the time, it was known to have one of the most successful sex offender treatment programs in the nation. While closed, the facility was used for the Hawaii National Guard's Youth Challenge Academy, a camp for at risk youth. The facility reopened in July 2014 with 200 offenders, most of whom were incarcerated in a private mainland facility. Prior to reopening, the facility's perimeter was revised to what it is currently, a 200-acre site, surrounded by 8,000 acres of protected forest. The main compound is comprised of 20 acres.



The main contraband issue is tobacco rather than drugs as the offenders want to work toward going home rather than being transferred back to another facility with major rule violations. The emphasis of the facility is on vocational and educational training. Offenders are also provided with GED and vocational education along with sex offender treatment programming. Volunteers also provide support through substance abuse programming (AA and NA) and religious services. The facilities maintenance program teaches carpentry, drywall, solar installation, electrical, and plumbing fundamentals. Minimum custody offenders are not permitted to leave the facility proper, while community custody offenders leave the facility on escorted, supervised work crews. KCF offenders are working toward a furlough program at another facility in Hilo. Work crews generally provide services for non-profit agencies who request these services. Additionally, services can be provided to other state

agencies such as the Department of Land and Natural Resources (DLNR). Also available are agricultural programs which the facility is working to continuously expand. Offender work crews also provide maintenance for the road leading up to the facility. PSD is also working with elders from Each Hawaii to develop programs based on traditional Hawaiian values.

Facility demographics:

Rated capacity	200
Population on day one of the on-site review	149
Age range of offenders	18+ years
Gender of offenders	Male
Number of staff	76
Number of buildings	22
Number of single cell housing units (segregated housing)	1 with 8 cells
Number of open bay / dormitory housing units	7

It is noted that the issuing of the interim report was delayed due in part to delays in the receipt of needed documentation, but mainly due to unforeseen complications on the part of the Auditor. PSD administrators were informed of the need for the delay. The Auditor worked closely with facility and agency administrator to address identified corrective action items and monitoring was ongoing throughout the delay period.

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: 45

- 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator
- 115.12 Contracting with other entities for the confinement of inmates
- 115.13 Supervision and monitoring
- 115.14 Youthful inmates
- 115.15 Limits to cross-gender viewing and searches
- 115.16 Inmates with disabilities and inmates who are limited English proficient
- 115.17 Hiring and promotion decisions
- 115.18 Upgrades to facilities and technologies
- 115.21 Evidence protocol and forensic medical examinations
- 115.22 Policies to ensure referrals of allegations for investigations
- 115.31 Employee training

- 115.32 Volunteer and contractor training
- 115.33 Inmate education
- 115.34 Specialized training: investigations
- 115.35 Specialized training: medical and mental health care
- 115.41 Screening for risk of victimization and abusiveness
- 115.42 Use of screening information
- 115.43 Protective custody
- 115.51 Inmate reporting
- 115.52 Exhaustion of administrative remedies
- 115.53 Inmate access to outside confidential support services
- 115.54 Third party reporting
- 115.61 Staff and agency reporting duties
- 115.62 Agency protection duties
- 115.63 Reporting to other confinement facilities
- 115.64 Staff first responder duties
- 115.65 Coordinated response
- 115.66 Preservation of ability to protect inmates from contact with abusers
- 115.67 Agency protection against retaliation
- 115.68 Post-allegation protective custody
- 115.71 Criminal and administrative agency investigations
- 115.72 Evidentiary standard for administrative investigations
- 115.73 Reporting to inmates
- 115.76 Disciplinary sanctions for staff
- 115.77 Corrective action for contractors and volunteers
- 115.78 Disciplinary sanctions for inmates
- 115.81 Medical and mental health screenings; history of sexual abuse
- 115.82 Access to emergency medical and mental health services
- 115.83 Ongoing medical and mental health care for sexual abuse victims and abusers
- 115.86 Sexual abuse incident reviews
- 115.87 Data collection
- 115.88 Data review for corrective action
- 115.89 Data storage, publication and destruction
- 115.401 Frequency and scope of audits
- 115.403 Audit contents and findings

Number of Standards Not Met: 0

Summary of Corrective Action (if any)

Corrective action indicated is detailed with each non-compliant standard above.

PREVENTION PLANNING

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

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*)

115.11 (a)

The Auditor was provided with a memorandum dated December 3, 2013 from the agency Director to all Department of Public Safety (PSD) employees (#2013-002). This memo provided staff with an introduction to PREA along with a link to the PREA Resource Center for additional information.

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.” Also included in this policy are the agency’s directives and procedures regarding:

- Related definitions;
- Supervision and monitoring;
- Limits to cross-gender viewing and searches;
- LGBTI offenders;
- Offenders with disabilities and limited English proficiency;
- Hiring and promotion decisions;
- Evidence protocol and forensic medical examinations;
- Policies to ensure referrals of allegations for investigations;
- Staff, volunteer and contractor training;
- Offender education;
- Screening for risk of victimization and abusiveness and use of screening information;
- Offender reporting;
- Offender access to outside confidential support services;
- Staff reporting and first responder duties;
- Coordinated response;
- Protection against retaliation;
- Criminal and administrative investigations;
- Disciplinary sanctions for staff and offenders as well as corrective action for contractors and volunteers;
- Medical and mental health screenings and services; and
- Sexual abuse incident reviews.

The Auditor was also provided with the Kulani Correctional Facility Coordinated Response Plan (09/02/2015) detailing step-by-step actions to be taken in response to sexual or physical abuse, harassment, and misconduct allegations.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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 function 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, Positional Organization Chart dated 06/30/2017. It was confirmed that the Litigation Coordination Officer reports directly to the PSD Director.

The Auditor reviewed position descriptions for both the Litigation Coordinator and the Program Specialist, who reports to and supports the Litigation Coordinator. The position of the Litigation Coordinator states in part, "Functions as the departmental lead 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. Is responsible for conducting audits and represents PSD in the Western State Consortium Agreement."

The position description of the Program Specialist states in part, "The incumbent of this position develops and implements policy and procedures for the purpose of sentence computation, litigation coordination, IUIPA/92F informational requests, administrative rule making, administrative tort claims, departmental policy, and the Prison Rape Elimination Act (PREA)...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 on how to prevent and detect sexual abuse and sexual harassment in confinement. Developed new or revised programs plans, policies and standards to meet changing federal PREA requirements. Monitors and evaluates PREA programs and/or projects to make recommendations for the development or revisions of policy and procedures, or techniques. Gathers and analyzes data on PREA programs and projects to determine conformance with standards, recommends improvements, and develops training materials for department use."

The responsibilities of the PREA Coordinator are assigned to the Litigation Coordinator. During conversations with the previous Litigation Coordinator / PREA Coordinator (promoted to the position of Intake Service Center Division Administrator [ISCD] in August 2018) and the current Program Specialist, it was learned that the new Litigation Coordinator has not yet assumed PREA Coordinator responsibilities. This is occurring in a methodical manner to ensure a thorough understanding of responsibilities and functions. It is anticipated that this will take approximately six (6) months. In the meantime, the former Litigation Coordinator is retaining PREA Coordinator responsibilities. The Program Specialist is assigned the day-to-day duties related to PREA, to include collaboration with all agency facilities, reporting to the PREA Coordinator. The authority and responsibility for the implementation and sustainability of PREA standards is the responsibility of the Litigation Coordinator with the assistance and support of the Program Specialist. The agency has designated the duties of the PREA Coordinator; however, it is very confusing. The duties of the PREA Coordinator are included in the position description of the LCO. However, this individual was just hired in August and will not assume responsibilities until she is off probation and has been trained, sometime after February. In the meantime, the former PREA Coordinator, now the ISCD, has maintained responsibilities. To complicate the issue, the Program Specialist has responsibilities related to PREA as well and is seen as the PREA Coordinator among line-level staff within the facilities. She was referred to as the face of PREA in the facilities. The Wardens appear to understand that the Coordinator is the ISCD, but most line-level staff do not. Due to the confusion expressed in interviews at KCF, the Director's designee was asked who the PREA Coordinator for the agency was. This individual reported that the unit falls directly under the Director, so she isn't sure. She is one of five under the corrections division, so she isn't directly involved. She indicated she would have to say that the PREA Coordinator is the Program Specialist. It is recommended that once the LCO is off probation, a formal handing off of responsibilities occurs with role clarifying information provided to staff cross the agency. It is also recommended that the LCO become involved in PREA activities within the facilities, especially when the ISCD and the Program Specialist are present and engage in clarifying discussions with staff.

During an interview, the Program Specialist and former PREA Coordinator both indicated they had sufficient time and authority to fulfill their PREA-related responsibilities. They reported relying on the PCM's in each facility to assist. Also, they indicated that they rely on retraining, procedure revisions, and

discussions with the chain of command when confronted with an implementation issue, reporting they had the backing of the Director with regard to PREA.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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 KCF, PREA Compliance Manager duties have been assigned to the ACO IV, which is a Sergeant level and specifically the position responsible for all training-related activities within the facility. PCM responsibilities are not reflected on the facility's current organizational chart, neither does the organizational chart reflect the reporting of this position directly to the Warden. Instead, the organizational chart reflects that all sergeants (5 in total) report to the lieutenants, who report to the captain, who then reports to the Warden. The PCM's position description as Training Sergeant does not include PREA-related responsibilities as these are assigned to the staff member selected as the PCM as "other related duties".

The Auditor was provided with a document entitled, "Facility PREA Compliance Manager" (not dated) that outlines the essential responsibilities of this position (referred to as the FPCM). These include, but are not limited to:

- FPCM is responsible for fostering a facility climate which condemns sexual abuse; provides victims with sensitive care, resources, and support; reports incidents of sexual abuse; and holds offenders accountable for their actions.
- Implement/coordinate facility awareness and prevention education for staff and inmates. Ensure that all staff, contractors, and volunteers have been trained on PREA initially and every two years with refresher information posted or distributed on the off year.
- Emphasize the importance of PSD's zero tolerance policy against sexual abuse, sexual harassment, and retaliation for reporting through leadership example, management presence, and unannounced rounds by management on all shifts.
- Maintain current information on PREA sexual abuse or sexual harassment incidents occurring in the facility and maintain a historical file for all reported incidents in the facility. Cross-reference information with the PSD PREA Coordinator.
- Monitor for a period of at least 90 days any reporting party (staff or inmates) and the alleged victim for retaliation.
- Ensure processing of documentation (mandatory reporting form) to notify the alleged victim of the status of the investigation, the findings of the completed investigation, and the proximity of the alleged perpetrator (staff reassigned from housing unit or accused inmate moved from housing unit).
- Review and conduct follow up related to a PREA incident including a review of reports, the PREA checklist, referrals to SATC, verification of medical and mental health protocol tracking and referrals for emotion support services, monitoring the status of the investigation, and monitoring for retaliation.
- Ensure that the Facility is processing the PREA Screening Tool Form as required by policy and the instruction manual. Based on an inmate's positive scoring determine if the COS or Watch Commander completed section VIII by considering the positive scoring when

determining housing, programs, and workline. Ensure that the programming and housing of Intersex and Transgender inmates are reviewed every six months.

- After an assessment of safety concerns, determine the need for physical separation, or other increased supervision options to ensure the safety of the alleged victim. Maintain and ensure ongoing communication and coordination of actions between facility superiors for housing.
- Ensure ongoing communication and coordination of actions between units and/or facilities if the alleged perpetrator or victim is reassigned. Ensures that Medical and Mental Health are included in any reported incident.
- Ensures that Sexual Abuse Incident Reviews (SAR) are conducted for all substantiated or unsubstantiated cases within thirty days of the completion of the investigation, unless the incident is unfounded. All findings of the review will be sent to the PSD PREA Coordinator and others on the distribution list. The PSD PREA Coordinator shall retain a copy of all SAR documentation.

The PREA Compliance Manager is relatively new to the position and, due to the low number of allegations reported at this facility, does not have hands on experience in some related responsibilities (e.g., retaliation monitoring, incident review, etc.) as detailed in later sections of this report. It is very clear that the PCM is very much engaged in PREA-related functions within the facility, that staff look to him as the local subject matter expert in all things related to PREA and the PCM has the direct ear of the Warden and the facility's administrative staff. However, it is recommended that the PCM be provided additional training and job shadowing opportunities in order to become more familiar and comfortable with some of the functions that don't occur on a regular basis. It is also recommended that the facility's organizational chart be updated to reflect that the PCM reports directly to the Warden on any matters related to PREA.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Memorandum dated December 3, 2013 from the agency Director to all Department of Public Safety (PSD) employees (#2013-002) regarding the Prison Rape Elimination Act of 2013
- Agency policy AMD.08.08, *Prison Rape Elimination Act* (09/14/2014)
- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Kulani Correctional Facility Coordinated Response Plan (09/02/2015)
- State of Hawaii, Department of Public Safety, Office of the Director, Position Organizational Chart (06/30/2017)
- Kulani Correctional Facility organizational chart as approved 10/25/2016.
- Position description for the Litigation Coordinator (not dated)
- Position description for the Program Specialist V (not dated)
- Facility PREA Compliance Manager listing of responsibilities (not dated)

Interviews conducted:

- Agency PREA Coordinator and Program Specialist
- PREA Compliance Manager

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

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*)

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. 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..."

PSD currently contracts with CoreCivic for the confinement of offenders in the Saguaro Correctional Center. Amendment S1, section t (page 11) of this contract requires that the facility, "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." It is noted that the original contract is with the Corrections Corporation of American, which was rebranded under the name CoreCivic following the implementation of this contract.

The Auditor reviewed the public website of the CoreCivic (<http://www.corecivic.com/the-prison-rape-elimination-act-of-2003-prea>), which contains general PREA-related information as well as information regarding reporting and investigation. Also posted to this website is the organization's annual PREA report for 2017 and the DOJ PREA audit final report for the Saguaro Correctional Center dated 12/06/2017. The author of this report assessed the facility as exceeding 7 standards, being in compliance

with 38 standards, and being non-compliant with 0 standards. It is also noted that the PSD public website contains information regarding the Saguaro Correctional Center, to include multiple contractual compliance checklists from 2012 through 2018. It is recommended that PSD also include the DOJ PREA audit final reports for this facility on its public website page.

The Auditor was provided with contract BOP IGA-661-02 between the Hawaii Department of Public Safety and the Federal Bureau of Prisons (BOP), Federal Detention Center, Honolulu for the housing of PSD offenders in this BOP facility. This contract went into effect 10/25/2001 with no termination date and has not been amended since 08/26/2009. As such, it falls outside of the parameters of this standard. The PSD's Mainland Branch Unit (MBU) is responsible for monitoring of this contract. The Auditor reviewed the public website of the Federal Detention Center of Honolulu (https://www.bop.gov/locations/institutions/hon/HON_prea.pdf), which contains the DOJ PREA audit final report dated 04/23/2018. The author of this report assessed the facility as meeting all 45 standards.

It is noted that population reports for the agency reflect housing options for the Red Rock Corrections Center in Arizona. All population reports reviewed indicated that no offenders were housed in this facility and the Auditor was informed that the contract with this facility was not renewed.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.12 (b)

Monitoring activities specific to the PREA standards are not specifically detailed in the contract with CoreCivic; however, the contract does require compliance with standards, DOJ audits, and the ability of PSD to terminate the contract if CoreCivic fails to comply with these provisions. Additionally, the scope of services portion of the contract indicates that the state may have a full-time monitor on site, that the state has the right to inspect the facility in which offenders are confined, and may investigate in person or by record, all incidents involving offenders. The Auditor was informed that Hawaii pays for an onsite monitor as well as the quarterly audits. Documentation of the audits conducted by a PSD audit team are maintained on the agency's public website and are completed using a standardized Contractual Compliance Checklist. Included in this checklist are assessment items regarding PREA compliance, to include, but not limited to:

- Organization policy;
- DOJ audit results;
- Risk assessment screenings; and
- Provision of incident data.

It is noted that the agency contract is with the Corrections Corporation of America, which was re-branded under the name of CoreCivic following implemented of the contract.

The Auditor was provided with contract BOP IGA-661-02 between the Hawaii Department of Public Safety and the Federal Bureau of Prisons (BOP), Federal Detention Center, Honolulu for the housing of PSD offenders in this BOP facility. This contract went into effect 10/25/2001 with no termination date and has not been amended since 08/26/2009. As such, it falls outside of the parameters of this standard.

During an interview, the agency contract administrator reported that a contract monitoring team visits the Arizona facility monthly, using an audit tool that includes a PREA component. It was also noted that the facility had a DOJ audit in December 2017. It was also reported that the BOP facility also recently underwent a DOJ audit, both facilities demonstrating 100% compliance. The contract administrator also noted that the BOP contract has not been updated since before the PREA standards went into effect and, as such, does not currently include the PREA language included in other contracts.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Contract between the Hawaii Department of Public Safety and the Corrections Corporation of America, #PSD 16-ID.MS-32 (since rebranded as CoreCivic) effective 07/01/2016 through 06/30/2019
- The public website of CoreCivic (<http://www.corecivic.com/the-prison-rape-elimination-act-of-2003-prea>)
- The 12/06/2017 audit report for the Saguaro Correctional Center
- The public website of the Hawaii Department of Public Safety (<http://dps.hawaii.gov/policies-and-procedures/pp-prea/>)
- The Mainland / FDC Branch Contractual Compliance Checklist completed for the June 24 – 29, 2018 audit of the Saguaro Correctional Center
- Contract BOP IGA-661-02 between the Hawaii Department of Public Safety and the Federal Bureau of Prisons, Federal Detention Center, Honolulu
- The public website for the Federal Detention Center of Honolulu (https://www.bop.gov/locations/institutions/hon/HON_prea.pdf)
- The 04/23/2018 audit report for the Federal Detention Center of Honolulu

Interviews conducted:

- Agency Contract Administrator

Standard 115.13: Supervision and monitoring

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*)

115.13 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 0.9.1 (page 12-13) requires that, "The Department PREA Coordinator in conjunction with the Institutions Division Administrator (IDA) shall ensure that each facility develops, 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."

The Auditor was provided with the Kulani Correctional Facility Staffing Plan dated 07/24/2018, which included an analysis of the requirements to meet PREA standard 115.13, an assessment of the inmate housing and the staffing plan, master rosters, and funded versus roster staffing reconciliation. The Auditor was also provided with the KCF staffing plan for 2017 dated 07/13/2017, which contained the same analysis and was therefore able to confirm annual review as required by the standard.

During an interview, the Warden confirmed completion of annual staffing plan reviews. He was able to articulate the elements included in the subsection, but noted that he is relatively new to the facility and did not participate in the most recent review. The PCM noted the same.

Documentation provided to the Auditor on the initial flash drive included a summary of the KCF Internal PREA Audit conducted October 11, 2018. The Auditor, the PCM from another facility, indicated that the following items needed to be addressed:

- The inmate janitorial closet in Housing Cottage #7 has a door that is lockable from inside with no windows; it should be locked from the outside and should only be accessed under supervision and/or allow for visibility into the closet.
- Mirrors in the industry area should be replaced with larger mirrors to allow for better sight of blind spots in the area.

The Auditor was able to confirm with the PREA Coordinator and during observations while on-site that these recommendations were implemented.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.13 (b)

Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017) section 9.0.2 requires that, "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. This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days."

There is nothing in the KCF staffing plan provided that documented any deviations from the staffing plan. The PAQ indicated that there were none. In an interview with the Warden, he reported that deviations have been minor and do not rise to the level of that required to be reported to the PREA Coordinator.

Deviations are generally not filling non-mandatory posts (mandatory posts are red posts that must be filled each shift; non-mandatory posts are black posts that can be utilized to fill red posts as needed in a particular shift) which are documented in the duty reports, sign in sheets, and recap sheets which he, the Captain and the Watch Commanders review on a consistent basis. The only information that would be reported to HQ as a "formal" deviation would be an instance that could not be addressed locally through existing staffing. Additionally, the Auditor was provided with the Kulani Correctional Facility Post Order 104, 105, 106, 107, 108 (dated 05/31/2009) that details which rover positions are essential (red posts or mandatory) and which are special assignment (black posts or non-mandatory) posts along with the duties of those posts.

During an interview, the Warden reported that documentation of non-compliance with the staffing plan is accomplished through duty reports, sign in sheets, and recap sheets, which he reviews daily with the Chief of Security.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.13 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 0.9.3 (page 13) requires that, "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 Kulani Correctional Facility Staffing Plan dated 07/24/2018, which included an analysis of the requirements to meet PREA standard 115.13, an assessment of the inmate housing and the staffing plan, master rosters, and funded versus roster staffing reconciliation. With this plan, the Warden concluded that KCF and facility operations meet the staffing of PREA standard 115.13 and no further action is required at this time. It is noted that the Warden is currently in a temporary position and did not participate in the 2017 or 2018 staffing plan development and review. He is however, very familiar with the elements of the plan and documentation of staffing deployment. He reviews the duty reports, sign in sheets, and recap sheets on a consistent basis. These documents are also reviewed consistently by the Captain and each Watch Commander. Any minor deviations (e.g., the pulling of a non-mandatory post to fill a mandatory post, the use of overtime to fill needed posts or address activities, etc.) are documented, justified and reviewed. The Auditor was also provided with the KCF staffing plan for 2017 dated 07/13/2017, which contained the same analysis and was therefore able to confirm annual review as required by the standard.

It is noted that agency policy requires a formal meeting between the PREA Coordinator and the facility Warden. Per the interview conducted with the PREA Coordinator, notice is provided to all facilities in July each year to update staffing plans. Upon receipt, she reviews plans along with data for each facility and discusses any changes with the Warden. These meetings / discussions are not formally documented.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.13 (d)

Agency policy AMD.08.08, *Prison Rape Elimination Act* (09/22/2017) section 9.0.4 and .5 (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." Section 9.0.5 specifies that, "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." The prohibition against alerting other staff regarding unannounced rounds is also included in the 2017 PREA training all staff were required to complete (*Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training* as revised 02/02/2017)

Documentation provided to the Auditor included a summary of the KCF Internal PREA Audit conducted October 11, 2018. The Auditor, a PCM from another facility, indicated that staff reported that on days when there is a shortage in staffing, it is difficult to conduct rounds as often as they should or would like to. It was noted that KCF is in the process of a capital improvement project to have cameras installed in the housing units to assist with monitoring of inmates; until then it should be assured that rounds are done to deter inappropriate behaviors and incidents of sexual abuse and harassment.

The policy requires documentation of rounds in the unit informer / log book and in the supervisor's watch summary. As there are no staff positioned in housing units, no unit informer / log books are maintained, and all facilities activities are documented in the log maintained in the control center. In interviews conducted with the Warden, Captain, and PCM, it was reported that these individuals periodically "log out" on count with officers, meaning that they tour the facility with the officers conducting count. These individuals also indicated that they do not log rounds made, although two of the five individuals interviewed reported that they inform staff in the control center to log when they are out in the facility. Rounds consisting of periodically accompanying officers during count do not fulfill the requirements of unannounced rounds detailed in this standard. The Auditor was provided with examples of master control logs from January 2018 through December 2018. A review of these logs did not show completion of rounds by staff other than watch commanders (e.g., warden, chief, PCM, etc.) For these reasons, as well as the disclosure that administrative staff did not log any rounds conducted, KCF is found to be non-compliant with the requirement of this subsection. Corrective action should include the distribution of a directive from the Warden detailing the requirements of unannounced rounds and documentation of those rounds being conducted in compliance with this subsection and the Warden's directive.

UPDATE:

The Auditor was provided with a copy of a directive from the Warden dated 04/12/2019 which reads as follows:

Effective April 12, 2019, the Control ACO(s) assigned to manage the log book shall indicate PREA Checks in the proper chronological sequence (as they occur). It will be the responsibility of the Warden, Chief of Security, Lieutenant, or Sergeant who conduct the check to enter in the log book, a signature with date and time that the check was completed in red ink. KCF's Control log book entries indicating the term "PREA Checks" is used to identify the unannounced supervisor rounds of the Warden, Chief of Security, Lieutenants, and Sergeants.

The issue of who was required to conduct unannounced rounds was raised and subsequently submitted to the PREA Resource Center (PRC) for additional clarification.

During a recent audit, questions have been raised regarding the requirement associated with unannounced round and differing direction has been received. We are attempting to clarify

requirements for both our own state's audits as well as audits conducted in other states as a DOJ certified auditor. The question is twofold:

1. *What qualifies as an unannounced round? We were informed at one point that any round or tour that is part of the individual's "general" or "regular" duties could not be considered an unannounced round. However, we were also informed that this type of round could be considered, if the round was not conducted at regular intervals, during the same time each day, etc. For example, a Shift Commander is required as part of his/her "regular" responsibilities to conduct rounds or tours of the facility. Do these "regular" job duties count as unannounced rounds? Or does an additional round separate from the position requirement have to be completed to qualify as an unannounced round?*
2. *While on site, the Auditor was informed by the Warden and Chief of security (during interviews) that they both completed unannounced rounds, however, no such rounds were located in any logs, including those submitted during the current corrective action period. Based on the interview information, should those rounds be completed and documented?*

The following clarification was provided by the PRC:

The intent of the Standard is for the person making the rounds to show up unannounced so as to capture the sense of the environment. We encourage the rounds to be documented so that when you have an audit, the Auditor can see the number of rounds completed as well as the frequency of the rounds on the various shifts. Your example, even if part of regular duties and assignments, so long as the supervisor makes rounds in no predictable pattern or frequency or usual timing, seems to satisfy the intent of the standard. As to your second question on who is responsible for conducting said rounds, I recommend you separate the facility organizational chart into thirds by rank. The upper two-thirds of the chart should be the supervisory staff responsible for conducting rounds - intermediate and higher level supervisory staff. You noted there are the following ranks at the facility: Officers, Corporals, Sergeants, Lieutenants and one Camp Commander, in addition to a Superintendent and another manager. It seems the Lieutenant and Camp Commander qualify as the intermediate and higher-level supervisor. Both should be making unannounced rounds and documenting them. The sergeant is probably a first level supervisor and would not qualify to meet the intent of the Standard. These rounds must have some purpose in deterring sexual abuse and sexual harassment by staff against inmates to qualify as meeting the intent of the Standard. If the rounds are simply to check in with staff and inmates and make sure security is in place and the housing units are clean, it will not count. Supervisors should start and end the rounds in unpredictable patterns, at differing times, on differing days. They should enter and exit units and areas in differing patterns.

Based on the clarification provided reviewed in conjunction with the process information provided by the Warden, the Auditor requested documentation of unannounced rounds made by the Warden and Chief of Security in addition to the Watch Commanders. This documentation was received.

Based on the above, KCF is now assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Kulani Correctional Facility Staffing Plan 115.13 dated 07/24/2108
- Kulani Correctional Facility Staffing Plan 115.13 dated 07/13/2017
- Memo directed to the KCF Superintendent summarizing the internal audit conducted 10/11/2018
- Kulani Correctional Facility Post Order 104, 105, 106, 107, 108, Rover #1, Rover #2, Rover #3, Rover #4, Rover #5 Post Orders dated 05/30/2009

- Curriculum Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017
- Samples of master control logbook entries
- Warden directive regarding rounds
- Email response from PRC to query regarding unannounced rounds

Interviews conducted:

- Warden
- PREA Compliance Manager
- PREA Coordinator and Program Specialist
- Intermediate or Higher Level Facility Staff

Standard 115.14: Youthful inmates

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*)

115.14 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 10.0.1 and .5 (page 14) states 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. This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days.”

Per discussions with the PREA Coordinator, there are to be no youthful offenders housed in any agency facility. They are all to be housed either in the court jail or in detention facilities until the age of majority. She works with the courts and law enforcement officials to ensure housing of these offenders in a PSD facility does not occur.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.14 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 10.0.6 (page 15) requires that, “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. This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days.”

Per discussions with the PREA Coordinator, there are to be no youthful offenders housed in any agency facility. They are all to be housed either in the court jail or in detention facilities until the age of majority. She works with the courts and law enforcement officials to ensure housing of these offenders in a PSD facility does not occur.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.14 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 10.0.7 and .8 (page 15) requires 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). This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. PSD shall make its best efforts to avoid placing youthful offenders in isolation to comply with this provision.”

Per discussions with the PREA Coordinator, there are to be no youthful offenders housed in any agency facility. They are all to be housed either in the court jail or in detention facilities until the age of majority. She works with the courts and law enforcement officials to ensure housing of these offenders in a PSD facility does not occur.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act (09/22/2017)*
- Agency population reports September 2017 through August 2018

Interviews conducted:

- None.

Standard 115.15: Limits to cross-gender viewing and searches

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*)

115.15 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 11.0.1 (page 15) requires that, "PSD staff shall not conduct cross-gender 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. 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). This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days." The definition of exigent circumstances is also addressed in the 2017 training that was required for all staff (*Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training* as revised 02/02/2017). There were no such searches conducted at KCF in the 12 months preceding the on-site review as there were no exigent circumstances that required deviation from search policy requirements.

The Auditor was also provided with Department of Public Safety, Corrections Administration Policy and Procedure COR.08.31, *Searches of Inmates*, dated 07/01/2010, which requires, "Strip searches shall be conducted in privacy by employees who are trained in search procedures and are of the same sex as the inmate...A strip search shall be made by an employee of the same sex as the inmate whenever possible. Another staff person of the same sex should act as witness and recorder in the event contraband is discovered." (sections 3.0.3.c. and 4.0.4.b. pages 3 and 6).

It is noted that no female staff anywhere in the agency are permitted to pat search male offenders unless there are exigent circumstances (e.g., life and death situations in which the female staff member cannot wait for a male staff member to arrive). If such a search were to occur, the ACO would be required to file a report with the Watch Commander who would then file a PREA Mandated Reporting form with the PREA Coordinator. Staff noted that female staff used to be able to pat search male offenders and that male staff have never been allowed to pat search female offenders. With the implementation of the PREA standards, this was revised and a global practice prohibiting all cross genders pat searches was put in place.

During interviews conducted while on site, it was confirmed that no staff would conduct cross-gender searches, with staff noting that this would only occur in a life and death situation or other urgent threat (e.g., a weapon).

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.15 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 11.0.2 and .3 requires that, "PSD staff shall not conduct cross-gender pat-down searches of female offenders, absent exigent circumstances. All cross-gender pat-down searches of female offenders shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317). This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. Facilities shall not restrict female offenders' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision." There were no female offenders housed at KCF in the 12 months preceding the on-site review and, as such, no applicable searches were conducted.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.15 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 11.0.1 (page 15) requires that, "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). This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days." There were no such searches conducted at KCF in the 12 months preceding the on-site review.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.15 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 11.0.4 and .5 (pages 15 – 16) requires that, "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. The facility shall document any exigent circumstances by utilizing the PREA Mandated Reporting Form (PSD 8317) any incident. This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days. 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 Log Book. For example, a male staff member entering a female housing unit must 'knock and announce' his presence via an intercom or a verbal broadcast by stating 'male in the housing unit, ensure that you are properly dressed.'" It is noted that there are no unit logbooks maintained at KCF since there are no ACO's posted in the living units. As a result, a minor change to policy is recommended on its next revision, noting facilities that are exempt from the unit logging requirement. If documentation of announcements is desired, the possibility of revision of language to allow for the compound-wide announcement made over the intercom in the control logbook might be an option.

At KCF, an intercom announcement is made when a female staff member enters the fenced area in which the seven (7) housing units are located (e.g., female on compound). A second verbal announcement is made when the staff member enters any individual housing unit (e.g., female in unit). This was confirmed during the on-site review and in interviews conducted with random staff. All female staff interviewed indicated that they are not permitted to enter any housing unit without escort by a male staff member. It was noted by multiple staff that this was intended to keep female staff safe. There were no exigent

circumstances that required deviation from the standard requirement regarding cross gender viewing and/or staff announcements.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.15 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 12.0.1 and .2 states that, "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. If the offender's genital status is unknown, it may be determined from conversations with the offender, by reviewing medical records, or, if necessary, by learning this information as part of a medical examination conducted by a medical practitioner." Knowledge of this prohibition at some level was confirmed in interviews with a random sampling of all facility staff. However, as five (5) of the eighteen (18) staff interviewed expressed some level of uncertainty regarding this prohibition, it is recommended that a review of related policy and standard requirements is conducted, and an opportunity provided for staff not familiar with search requirements to ask questions of the facilitator. (It is noted that of these five individuals, a majority were not custody staff and not familiar with overall search requirements.)

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.15(f)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 12.0.3 and .4 requires 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 *Prison Rape Elimination Act of 2003, PREA, Corrections and Law Enforcement Training (02/02/2017)* contained required elements, including but not limited to:

1. 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;
2. Use of the back of the hand to search an inmate's chest area;
3. Using the blade of the hand to sweep across the side and bottom of the inmate's chest; and
4. Requiring the inmate to shake out the bra.

Any staff member whose responsibilities include pat searches of offenders must have completed this training, thereby creating the requirement for all custody staff within the facility. This is a one-time training and will be updated only as policies and procedures change. At the time of the on-site review, 49 custody staff were employed at KCF with rosters showing an additional 5 posts as "closed". Per the PREA Coordinator, a closed post means that the post cannot be picked during post selection or the next post rotation and remains closed during that designated time period. The only time that post can open is during a new hire or promotion granted that there are no vacant posts in which the individual can be placed. This leaves currently 44 custody staff positions. A list of 10 randomly selected custody staff members was selected and documentation of the completion of the required training was received for all identified individuals. It is noted that Auditor selection of staff training files to be reviewed was completed as follows: Selected 2 of 5 lieutenants, 2 of 7 sergeants, and 2 correctional officers from each of the 3 shifts.

During interviews conducted with random staff, a majority of individual indicated a knowledge of the prohibition of this type of search, however, several indicated an uncertainty that should be addressed by facility administration.

Based on the above, KCF is assessed as compliant with the requirements of this subsection. It is however recommended that due to the trepidation expressed by a few of the custody staff members interviewed, a refresher regarding the pat searching of transgender offender be provided. Searches conducted and overall staff knowledge does not indicate non-compliance, however, this may enhance staff confidence in conducting such searches.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Training curriculum Prison Rape Elimination Act of 2003, PREA, Corrections and Law Enforcement Training (02/02/2017)
- KCF employee training log
- Training transcripts for custody staff randomly selected by the Auditor

Interviews conducted:

- Non-Medical Staff (involved in cross gender strip or visual searches)
- Random sample of Staff
- Random sample of Offenders
- Transgender / Intersex Offenders

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

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*)

115.16 (a)

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."

Due to the nature of the facility as a work camp, offenders who are disabled or in any way unable to perform the duties required would not be housed at the facility. Therefore, the facility would not house a disabled offender. However, an interview with the Director's designee confirmed the existence of systems to address the needs of disabled offenders agency-wide, to include a contractual arrangement with Pacific Interpreters and a plan for the installation of Purple Communications to service hard of hearing offenders.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.16 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 13.0.1 and .4 (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...The Civil Right Compliance Office (CRCO) has designated procedures for the use of authorized interpreters. Effective August 20, 2013, Pacific Interpreters at 1-866-421-3463 shall be contacted for interpreters. If further assistance is required on this matter, contact the Department PREA Coordinator or the Facility PREA Compliance Manager."

PSD published a "Limited English Proficiency Plan (September 1, 2017 through October 31, 2019) which details the reasonable steps to be taken "...to ensure persons with limited English proficiency gain meaningful access to PSD's services and programs." This document outlines definitions of 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." Training regarding interactions with and the rights of LEP offenders is included in the curriculum, *Prison Rape Elimination Act*, PREA, Corrections and Law Enforcement Training (02/02/2017) pages 75 – 78, which is required for all staff.

The Auditor was provided with an informational brochure entitled "How to Access a Telephonic Interpreter" produced by Pacific Interpreters. Also received was a memo from the Civil Rights Compliance Officer verifying the establishment of an account with Pacific Interpreters, Incorporated.

Due to the nature of the facility as a work camp, offenders who are disabled or in any way unable to perform the duties required would not be housed at the facility. As a result, no applicable offenders were available for interview.

The Auditor was provided with PREA posters published in English, Tagalog, Ilocano, and Samoan.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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). This form shall be forwarded to the Department PREA Coordinator via email, fax or mail within three (3) days."

In an offender interpreter were to be used in exigent circumstances, a PREA Mandated Reporting Form would be required for submission to the PREA Coordinator. No such instances have occurred at KCF.

Due to the nature of the facility as a work camp, offenders who are disabled or in any way unable to perform the duties required would not be housed at the facility. As a result, no applicable offenders were available for interview.

The prohibition of the use of offender interpreters except in exigent circumstances is addressed in the 2017 training all staff were required to complete (*Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training* as revised 02/02/2017). However, one-third (6 of 18) of the staff interviewed indicated they would or could use an offender interpreter when involving PREA. For this reason, the subsection is being assessed as non-compliant and corrective action required.

Corrective action should consist of educational / directive information provided to all staff to clearly articulate when an offender interpreter may be used with any issue related to PREA. It is noted that the Auditor received a directive dated 02/12/2019 authored by the KCF Warden that will be distributed to all staff. A log will be created documenting the receipt of this directive, which will then be provided to the Auditor. Once complete, this standard should be assessed as compliant.

UPDATE: The Auditor received a copy of a directive dated April 12, 2019 from the Warden to all KCF staff which reads in part, "This is a reminder that PSD contracts for interpreter services for ESL inmates, therefore the use of inmate interpreters are prohibited, except in exigent circumstances only. If staff requires the use of interpreter services, please contact the Watch Commander as KCF has a specific access code/phone number to facilitate interpreter services for our inmates." The directive also quoted policy language regarding related interpreter services and was accompanied by a roster showing receipt by all facility staff with the exception of those on temporary assignment to other facilities or on long-term leave. As a result, KCF is now assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Informational brochure entitled "How to Access a Telephonic Interpreter" produced by Pacific Interpreters
- 06/07/2013 memo from the Civil Rights Compliance Officer verifying the establishment of an account with Pacific Interpreters, Inc.
- PSD Limited English Proficiency Plan (September 1, 2017 to October 31, 2019)
- Training curriculum *Prison Rape Elimination Act, PREA, Corrections and Law Enforcement Training* (02/02/2017)
- PREA posters in English, Tagalog, Ilocano, and Samoan
- Examples of PREA Mandated Reporting forms from other facilities documenting the use of offender interpreters in exigent circumstances.

Interviews conducted:

- Director designee
- Offenders with disabilities or who are LEP
- Random sample of Staff

Standard 115.17: Hiring and promotion decisions

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*)

115.17 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 14.0.1 (page 17) states that, *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 form used by the Department of Public Safety Personnel Management Office to document self-disclosure of identified misconduct by all applicants and current employees. The Auditor requested clarification on the use of this form as it appears to be intended for new applicants but indicates that the department will conduct the survey every five years. As of 02/03/2019, no clarifying information had been received.

The Auditor was provided with a blank application packet, which included applicant disclosure regarding the identified elements of misconduct. Each applicant is required to complete this form as part of the application packet.

According to the pre-audit questionnaire, there were no new hires or promotions within the 12 months preceding the on-site review. However, the Auditor was informed that a total of four individuals transferred to KCF from other agency facilities. As part of the transfer request process, the staff member must complete all documentation as a new applicant. Although two of these four individuals have since left KCF, two individuals remain. The Auditor requested a copy of their transfer packets to review for compliance and was provided instead with documentation from a total of seven (7) individuals, some of which dated back to 2013 and 2014 with no explanation provided. Training documentation provided for two individuals not on the new hire list indicates they had completed the Corrections Familiarization Course required of new employees in November 2017 and should have been included on the new hire list based on the documentation period established by the facility. The Program Specialist indicated that HR would be providing resolution to these issues but as of 02/03/2019, no documentation or clarifying information had been received.

On 11/08/2018 this Auditor submitted query to the PREA Resource Center (PRC) regarding required documentation for contractors (in conjunction with another audit being conducted)

The agency shall not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor who may have contact with inmates, who— (1) 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); (2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or (3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section. Specifically regarding contractors, what is required to verify that the individual has not been civilly or administratively adjudicated to have engaged in the identified conduct? Generally, a criminal background check would not reveal information regarding administrative or

civil actions. However, the preamble to the standards provides some other direction as follows: "Preamble Page 36 –Comment. One commenter requested clarification regarding the scope of the "criminal background check" referenced in the proposed standard. Response. At a minimum, agencies should access the standardized criminal records databases maintained and widely used by law enforcement agencies. The final standard clarifies this requirement by referring to a "criminal background records check." So, based on this comment / information, is an NCIC check sufficient to determine compliance with this element of the standard or is some other form of verification required (e.g., self-disclosure, review of internal PREA allegation databases, etc.)?"

On 11/08/2018, the following response was received from the PRC:

At a minimum, facilities must conduct a criminal background check before they enlist the services of any contractor who may have contact with inmates. So, yes, the NCIC check would fulfill that requirement. I do not believe the standards require the facility to do more and so for auditing purposes, the auditor would look for completion of the criminal background records check. The only additional requirement is for juvenile facilities which must also consult applicable child abuse registry checks. Given that the PREA standards are the floor, however, a facility may choose to go over and above the minimum required by the standards to help ensure any contractors hired have not engaged in the conduct described in 115.17(a) and sexual harassment as discussed in (b). So, some recommended practices might include asking all contractors to answer questions related to the conduct in (a) and (b) which would be a self-disclosure type practice, consulting applicable adult abuse registries in applicable states, and contacting other institutions where the contractor has provided services to do a reference check of sorts or as you suggest, a review of internal PREA allegations at the facility and/or agency level. These are all best practices and not required by the standard. The only mandatory requirement of the standard is the criminal background records check.

Based on this information, the Auditor attempted to conduct a review of the records regarding contractors. The facility provided the Auditor with a list of contractors, but did not include any start dates, so it couldn't be determined which contractors began service during the 12 months prior to the on-site review and therefore should be reviewed in conjunction with this standard. Additionally, the facility was not able to provide the Auditor with documentation regarding criminal background checks associated with subsections (d) and (e) of this standard. It was also later learned that two of the individuals selected for records review from the facility's list of contractors are currently not active. One individual was never cleared in 2012 and has not participated in any facility. A second individual has not been active for more than five years. This raises significant concerns regarding the accuracy of the contractor list maintained by the facility.

Based on the above, KCF is assessed as non-compliant with the requirements of this substandard. Corrective action should include the review of existing systems and processes to ensure applicable documentation is maintained of the status of all KCF employees. Additionally, a thorough review of all contractors should be completed, and a system developed to ensure an accurate and up to date list is continuously maintained. Finally, confirmation of the review of identified acts of sexual misconduct should be provided for all staff and contractors beginning service since the onset of the facility's documentation period.

UPDATE: Per the former PREA Coordinator, systems have been revised to ensure all new hire and promotion information is drawn from agency human resources rather than created at the facility level. This should ensure consistently accurate information for audits and all other related processes. Additionally, the Volunteer Coordinator provided documentation of a newly established process to ensure facilities have accurate listings of contractors and volunteers available on site. This notes, "Once a volunteer or contractor is approved and has completed training they will be placed on an active listing

that is forwarded to the facility where they are approved to enter for programs and classes for a period of two years whereupon they are required to attend a one-night orientation (which includes PREA refresher training) to become re-certified to continue providing services.” Based on this information, KCF is now assessed as compliant with the requirements of this subsection.

115.17 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 14.0.2 (page 17) states that, “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 reviewed the PSD application packet’s self-disclosure form (PSD 8318) and found the following: “... the department may consider any incidents of sexual abuse or sexual harassment in determining whether to hire or promote anyone who: Has been the subject of substantiated allegations of sexual abuse or sexual harassment or resigned during a pending investigation of alleged sexual abuse or sexual harassment.” This statement conflicts with Policy ADM.08.08 which states PSD prohibits hiring or promoting anyone (who may have contact with offenders) that has engaged in sexual abuse in a confinement setting. The former PREA Coordinator has reviewed this document with the HR Administrator regarding of the intent of this item and corrections have been made to form PSD 8318 for future applicants.

Human resources staff interviewed confirmed the consideration of sexual harassment incidents in all hiring and promotion decisions, noting the required practice of contact with the former PREA Coordinator, the Program Specialist, and other facilities to ensure complete information was obtained.

The reader is referred to the information provided for subsection (a) of this standard regarding the lack of accurate documentation for both staff and contractors. Based on that information, KCF is assessed as non-compliant with the requirements of this substandard. Corrective action should include the review of existing systems and processes to ensure applicable documentation is maintained of the status of all KCF employees. Additionally, a thorough review of all contractors should be completed, and a system developed to ensure an accurate and up to date list is continuously maintained. Finally, confirmation of the review of identified acts of sexual misconduct should be provided for all staff and contractors beginning service since the onset of the facility’s documentation period.

UPDATE: Per the former PREA Coordinator, systems have been revised to ensure all new hire and promotion information is drawn from agency human resources rather than created at the facility level. This should ensure consistently accurate information for audits and all other related processes. Additionally, the Volunteer Coordinator provided documentation of a newly established process to ensure facilities have accurate listings of contractors and volunteers available on site. This notes, “Once a volunteer or contractor is approved and has completed training they will be placed on an active listing that is forwarded to the facility where they are approved to enter for programs and classes for a period of two years whereupon they are required to attend a one-night orientation (which includes PREA refresher training) to become re-certified to continue providing services.” Based on this information, KCF is now assessed as compliant with the requirements of this subsection.

115.17 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/201) section 14.0.3 (page 17) specifies that, “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. Additionally, the Auditor was provided with a Confidential Employer Questionnaire form, which is used to document the information collected from former employers listed in an applicant’s resume / application packet. Included in the questions making up the form is the collection of information regarding voluntary resignation versus termination, as well as the sexual misconduct questions included with subsection 115.17 (a). Completed forms were also observed in several HR hire packets provided as documentation for this standard and the Auditor was informed that these forms along with all other applications and background check forms are maintained in HR.

Human resources staff interviewed indicated that all criminal background checks are completed at agency headquarters for new employees and promotions, and by the VolinCor Coordinator for all contractors.

The reader is referred to the information provided for subsection (a) of this standard regarding the lack of accurate documentation for staff. Based on that information, KCF is assessed as non-compliant with the requirements of this substandard. Corrective action should include the review of existing systems and processes to ensure applicable documentation is maintained of the status of all KCF employees. Finally, confirmation of the review of prior institutional employment and completion of a criminal background check should be provided for all staff newly hired since the onset of the facility’s documentation period.

UPDATE: Per the former PREA Coordinator, systems have been revised to ensure all new hire and promotion information is drawn from agency human resources rather than created at the facility level. This should ensure consistently accurate information for audits and all other related processes. Additionally, the Volunteer Coordinator provided documentation of a newly established process to ensure facilities have accurate listings of contractors and volunteers available on site. This notes, “Once a volunteer or contractor is approved and has completed training they will be placed on an active listing that is forwarded to the facility where they are approved to enter for programs and classes for a period of two years whereupon they are required to attend a one-night orientation (which includes PREA refresher training) to become re-certified to continue providing services.” Based on this information, KCF is now assessed as compliant with the requirements of this subsection.

115.17 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/201) section 14.0.3 (page 17) specifies that, “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.”

The Auditor was provided with a list of contractors who provide services at KCF, however, the list did not include start dates so the Auditor was not able to determine which contractors were new to the facility within the 12 months preceding the documentation period.

As part of subsection (e), the Auditor requested documentation of the completion of the required criminal background checks for five (5) randomly selected individuals from the list of contractors provided by the facility to be able to document the completion of criminal background checks at least every five (5) years. When documentation was not easily located, the Program Specialist followed up with the Volunteer /

Contractor Coordinator and was informed that when clearances are done no applicable documents are retained, but information is added to an access database. Any positive results for volunteers and/or contractors are forwarded to the Warden to approve or disapprove. As a result, there is currently no documentation available to confirm the completion of required background checks for contractors.'

The above noted process was confirmed in interviews with the volunteer / contractor coordinator and with human resources staff.

Based on the above, KCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include the review of existing systems and processes to adequately track contractors and ensure applicable documentation of criminal background checks is maintained. Additionally, confirmation of the completion of background checks should be provided for all KCF contractors.

UPDATE: Per the former PREA Coordinator, systems have been revised to ensure all new hire and promotion information is drawn from agency human resources rather than created at the facility level. This should ensure consistently accurate information for audits and all other related processes. Documentation of criminal background checks for selected staff and contractors were also received. Additionally, the Volunteer Coordinator provided documentation of a newly established process to ensure facilities have accurate listings of contractors and volunteers available on site. This notes, "Once a volunteer or contractor is approved and has completed training they will be placed on an active listing that is forwarded to the facility where they are approved to enter for programs and classes for a period of two years whereupon they are required to attend a one-night orientation (which includes PREA refresher training) to become re-certified to continue providing services." Based on this information, KCF is now assessed as compliant with the requirements of this subsection.

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."

The Auditor was provided with a blank form used by the Department of Public Safety Personnel Management Office to document self-disclosure of identified misconduct by all applicants and current employees. The Auditor requested clarification regarding the use of this form as it appears to be intended for new applicants but indicates that the department will conduct the survey every five years. As of 02/03/2019, this information had not been received.

Regarding the requirement to complete criminal background checks for all staff, the Auditor was informed that all criminal background check activities are completed by HR staff stationed at headquarters, rather than at the facility. This was confirmed in interviews with local HR staff. The Auditor was provided with pdf's of six (6) large documents that included information on all background checks completed as part of the system in place for this standard. These documents were created based on background checks conducted on 11/13/2015 and 11/16/2015. The Auditor requested verification that required checks were completed on fifteen (15) randomly selected KCF staff members. Nine of these individuals were included in the system documentation provided and the Auditor confirmed that these individuals were cleared as a result of these checks. However, the Auditor was not provided documentation regarding the remaining six (6) individuals. The Auditor was first informed that only non-custody staff would be included in the

systems documentation as background checks are required annually of all custody staff as a prerequisite to weapons qualifications. However, four (4) of the nine (9) names located in the documents were custody staff. Additionally, two (2) of the missing six (6) were non-custody staff and therefore should have been included in the documents. As a result, the Auditor requested separate verification of completion of the required criminal background checks for the remaining six (6) individuals. As of 02/03/2019, this documentation had not been received.

The Auditor also requested documentation of the completion of the required criminal background checks for five (5) randomly selected individuals from the list of contractors provided by the facility. When documentation was not easily located, the Program Specialist followed up with the Volunteer / Contractor Coordinator and was informed that when clearances are done no applicable documents are retained, but information is added to an access database. Any positive results for volunteers and/or contractors are forwarded to the Warden to approve or disapprove. However, later the Auditor was provided with a document produced from the database used to track all volunteers, noting contact information, type of volunteer, training completion, results of criminal background checks, etc. which appears to be contradictory to the information previously provided and none of the individuals for whom records were requested were included in this document. As a result, there is currently no documentation available to confirm the completion of required background checks for contractors. It is noted that information was received that two of the individuals selected for records review from the facility's list of contractors are currently not active. One individual was never cleared in 2012 and has not participated in any facility. A second individual has not been active for more than five years. This raises significant concerns regarding the accuracy of the contractor list maintained by the facility. It is also noted that per the volunteer contractor coordinator, criminal background checks are required for all contractors and volunteers at least every two (2) years.

Based on the above, KCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include the review of existing systems and processes to ensure applicable documentation of criminal background checks is maintained for all staff and contractors. Additionally, a thorough review of all contractors should be completed, and a system developed to ensure an accurate and up to date list is continuously maintained. Finally, confirmation of the completion of background checks should be provided for all KCF staff and contractors.

UPDATE:

- Information was received from the former PREA Coordinator that the form used by the Department of Public Safety Personnel Management Office to document self-disclosure of identified misconduct by all applicants and current employees is only used for new hires, promotions and transfer packets. It is not used relative to any other criminal background checks, to include fulfillment of the 5-year requirement.
- Documentation of a current criminal background check was received for one of the six (6) missing. The information had been contained in the documentation provided by HQ HR, but the individual was documented under a former last name.
- Documentation of the remaining requested criminal background check confirmations was received.

Based on these actions, KCF is now assessed as compliant with the requirements of this subsection.

115.17 (f)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 14.0.7 (page 18) states that, "All 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."

As a part of the documentation for subsection (a) of this standard, the Auditor was provided with seven (7) hire / promotion / transfer packets dating back to 2013. Six (6) of the seven (7) included documentation of direct verification by the applicant that he/she had not engaged in the identified acts related to sexual misconduct. However, as noted with subsection (a), the Auditor did not receive a final correct list of new hires and promotions applicable to the audit documentation period or packets for all identified individuals.

Additionally, the Auditor asked whether employee performance reviews include interviews or written self-evaluations as part of the reviews to determine if the annual query of all current employees was applicable to KCF. As of 02/03/2019, the Auditor had not yet received this information.

During interviews with human resources staff, it was confirmed that applicants are asked the four PREA-related questions only during the application process and not subsequently during performance evaluations.

Based on the above, KCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include a review of all current employees to identify those who have been hired or promoted since 02/2017 (the date of the most recent DOJ audit report) and ensure all have required documentation on file. Additionally, a system should be established to ensure the tracking of this information is sustainable into the future. Finally, a review of the employee evaluation process should be conducted to determine if the requirements of this subsection are applicable and if so, develop a system or provide documentation to demonstrate compliance.

UPDATE: The Auditor received confirmation from the former PREA Coordinator that employee performance reviews did not include interviews or written self-evaluations. Per the former PREA Coordinator, systems have been revised to ensure all new hire and promotion information is drawn from agency human resources rather than created at the facility level. This should ensure consistently accurate information for audits and all other related processes. Documentation of criminal background checks for selected staff and contractors were also received. Based on this information, KCF is now assessed as compliant with the requirements of this subsection.

115.17 (g)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 14.0.7 (page 18) states that, "All 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."

This was confirmed in interviews with human resources staff and in discussions with the Warden.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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.”

During interviews, human resources staff reported that the noted information would be provided, with requests forwarded to the Program Specialist regarding PREA-related information and the HR Administrator’s office for confirmation of employment. Per the Program Specialist, no information would be released without a release of information request form. All requests and responses from other state institutions regarding former and current employees are maintained in the PREA Coordinator’s office. There have been no requests regarding former KCF employees in the 12 months preceding the on-site review.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act (09/22/2017)*
- Blank Request, Consent and Notification for Fingerprint Clearance For State Civil Service, non-civil Service and Exempt Employment form
- Blank Applicant’s Consent, Authorization, and Request to Release Information and Waiver form
- Blank form used by the Personnel Management Office to document reviews of conduct for all institutional employers.
- Standards of Conduct booklet for corrections, August 1988
- Standards of conduct for law enforcement 12/13/1993
- Query to DOJ and response from PRC regarding criminal background check requirements for contractors
- KCF Post Assignment Master Sheet 11/02/2018 to January 26, 2019
- Confidential Employer Questionnaire blank form for the documentation of prior institutional employer checks
- Documentation of criminal background checks completed by HQ for all agency employees
- Memorandum from Volunteer Coordinator regarding newly established processes.

Interviews conducted:

- Human Resources Staff
- VolinCor Administrator

Standard 115.18: Upgrades to facilities and technologies

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*)

115.18 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 15.0.1 (page 18) requires that, "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."

During an interview, the Director's designee noted that the PREA Coordinator is consulted in the planning and modifying of any of the agency facilities.

There have been no applicable acquisitions or facility expansions / modifications in the 12 months preceding the on-site review. This was confirmed in an interview with the Warden. As such, there is no secondary documentation available for review and the facility and agency are in compliance with this subsection.

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."

Documentation provided on the flash drive included a summary of the KCF Internal PREA Audit conducted October 11, 2018. The Auditor (a PCM in another facility), indicated that KCF is in the process of a capital improvement project to have cameras installed in the housing units to assist with monitoring of inmates.

During the interview with the Warden, it was reported that a significant camera installation was in process, with the contractor beginning work laying cabling. However, this project was placed on hold due to issues associated with the related permits. The former PREA Coordinator reported that the focus of the project was on the perimeter and housing units to allow for additional visibility to supplement current staff walkthroughs. The Warden indicated that he wanted cameras in different locations than identified on the existing plan, but this would require significant change notices and, as such, he would move forward with what they had and add / revise later after installation.

As of the writing of this report, no one was able to provide the Auditor with documentation regarding how the camera installation plan was developed and how sexual safety was taken into account. Neither was anyone able to articulate how the camera plan was developed or who was responsible for final decisions (e.g., what was the process to determine where cameras were placed and why they weren't placed in other locations; why PTZ in some locations and stationary in other locations, etc.). As a result, KCF is found to be non-compliant with the requirements of this subsection. Corrective action should include a review of the current camera plan to ensure placement addresses sexual safety, areas of vulnerability, and prior allegations.

UPDATE: Information was received from the previous Warden detailing review that occurred during the planning process for the camera system. The information also indicated that PREA staff are involved in the resolution of current issues regarding moving forward with the project and will also be a part of any changes being planned for the project due to its currently "on hold" status. Based on this information, KCF is now compliance with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Memo directed to the KCF Superintendent summarizing the internal audit conducted 10/11/2018
- Kulani Correctional Facility Security Camera System as approved 06/22/2017
- 02/08/2019 email from former acting Warden Craig regarding development of the camera plan

Interviews conducted:

- Director designee
- Warden

RESPONSIVE PLANNING

Standard 115.21: Evidence protocol and forensic medical examinations

115.21 (a)

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

115.21 (b)

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

115.21 (c)

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

115.21 (d)

- Does the agency attempt to make available to the victim a victim advocate from a rape crisis center? Yes No

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

115.21 (e)

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

115.21 (f)

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

115.21 (g)

- Auditor is not required to audit this provision.

115.21 (h)

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

Auditor Overall Compliance Determination

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

115.21 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 16.0.3 (page 19) indicates that, "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.”

The Auditor was provided with a presentation entitled, “Administrative Investigation” which was developed by the Internal Affairs Office, Investigations Unit. The presentation addressed topics such as management of a crime scene, crime scene preservation, transfer theory, classification of evidence, and seizure, tagging and recording of evidence. This document is used to train staff regarding proper evidence collection procedures.

Staff interviewed were generally familiar with evidence collection procedures established by the agency. The only staff who appear to struggle with the questions were non-custody staff who indicated they would rely on custody staff for evidence collection. All staff were familiar with individuals who would be responsible for the conduct of administrative investigations.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.21 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 16.0.3 (page 19) indicates that, “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.”

The noted source of the evidence protocol was confirmed in discussion with investigators from the Internal Affairs Unit.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.21 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 16.0.4 through .7 (page 19) stipulates that, “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 outer islands have indicated that victim advocates are available during an examination. PSD medical and mental health practitioners shall follow-up on the prescribed treatment plan or develop a plan for the offender victim. If SATC recommends on site counseling services for offenders, then this shall be coordinated by PSD medical and mental health practitioners.”

For all forensic medical examinations, the agency and facility defer to experts at designated Sex Abuse Treatment Centers and/or medical emergency departments to provide SANEs or SAFEs. For KCF, the emergency medical center is identified as the Hilo Medical Center, emergency department. In order to ensure the conduct of these examination by a SAFE/SANE, the Hawaii County Police Department (commonly referred to as the Hilo Police Department) maintains an MOU with the YWCA. If an individual arrives at the hospital in need of a forensic medical examination, the individual is medically cleared through a physician, and then the Hawaii County Police Department (HPD) is notified. Officials from HPD then contact the YWCA who will dispatch a SAFE/SANE nurse who is contracted through their organization. The SAFE/SANE nurse will then provide the police department with exam results.

Emergency Room staff do not conduct forensic medical examinations. This was all confirmed in an interview with SAFE/SANE staff, who added that there may be a time in which a nurse is not available, but staff can be brought over from another island or the exam may be scheduled for later in the day. The staff member also noted that detectives they work with also have a good sense of when SAFE/SANE's are available and work collaboratively to ensure needed exams are conducted.

As there have been no KCF allegations that indicated a forensic medical examination in the 12 months preceding the on-site review, there is no secondary documentation available for review.

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training was provided to all staff in 2017. This training informed all participants, "The Health Care Division staff shall determine whether a victim of sexual abuse will be transported for a forensic medical examination at the Sex Abuse Treatment Center (Kapiolani Medical on Oahu) or at a hospital emergency unit. This will be at no financial cost to the victim."

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.21 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 16.0.8 (page 19) requires that, "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 agency has an agreement with the Kapiolani Medical Center for Women and Children (KMCWC) (contract number 16-HAS-01) that went into effect 07/01/2015. This agreement expired 06/30/2017. A second agreement (18-HAS-01) extends the previous contract until 06/30/2019. Per the Program Specialist, "The MOU attached to the PAQ covers KCF and HCCC, SATC here at the Kapiolani Medical Center for Women and Children subcontracts with outer islands sex abuse treatment centers whereas, YWCA on Hawaii Island takes care of these two facilities."

The agreement includes, but is not limited to the following services:

- *Crisis intervention services need to be available 24 hours a day, 365 days a year. A 24-hour hotline will provide the sexual assault victim and the community, immediate access to care both over the phone and in-person. In addition to crisis counseling, victims often require medical-legal care and assistance with reporting options. A Sexual Assault Response Team (SART) should be on call around the clock and staffed with personnel specifically trained to provide crisis support services to victims. Such services include crisis stabilization and counseling, legal systems advocacy to inform the victim of legal rights and options, an acute forensic examination to provide the victim the necessary medical assessment and treatment, and the collection and preservation of forensic evidence if the victim decided to take criminal action.*
- *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.*

- *The Clinical Program Manager is on call 24 hours a day, 7 days a week and is readily available to handle any urgent client care issues.*

The MOU notes that the following agencies participate under the master contract:

- *Hawai'i – YWCA Sexual Assault Support Services (SASS). The YWCA has two centrally located unique program sites, in Hilo and Kailua-Kona which are the base of service delivery. Since 2001, the SASS program provides a 24 hour hotline, counseling and prevention education services. The Sexual Assault Crisis Hotline is the foundation of sexual assault victim services on the island of Hawai'i and has been continuously in service for nearly two decades. The hotline provides the link for potential clients with the program 24 hours every day, and is therefore the referral base for all program services on the island.*

Interviews with representatives from the YWCA and the KCF PCM confirmed an understanding of the services provided and response expected under the noted MOU.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.21 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 16.0.8 (page 19) requires that, "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 agency has an agreement with the Kapiolani Medical Center for Women and Children (KMCWC) (contract number 16-HAS-01) that went into effect 07/01/2015. This agreement expired 06/30/2017. A second agreement (18-HAS-01) extends the previous contract until 06/30/2019. The agreement includes, but is not limited to the following services:

- *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. 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.*

If an individual arrives at the hospital in need of a forensic medical examination, the individual is medically cleared through a physician, and then the Hawaii County Police Department (HPD) is notified. Officials from HPD then contact the YWCA who will dispatch a SAFE/SANE nurse who is contracted through their organization. The YWCA, through a separate agreement with the Department of Public Safety, also provides offenders with advocacy support services at all forensic medical examinations, investigatory procedures, and court proceedings as applicable. All interactions with these community-based advocates are confidential and not disclosed without the written release / permission of the offender.

During the documentation period, no KCF offender reported an allegation that indicated the need for a forensic medical examination. As such, there is no secondary documentation available for review. However, the availability of services was confirmed in an interview with representatives from the YWCA.

Additionally, knowledge of procedures and services was confirmed in interviews with the PCM and facility medical staff.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.21 (f)

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."

The Auditor was provided with a draft letter sent to the Hawaii County Police Department dated 12/15/2014 seeking to enter into an MOU. Per the former PREA Coordinator, none of the county police officials have signed the agreement as they view response and criminal investigations as their statutory obligations on the relevant islands. Facilities maintain a collaborative relationship with local law enforcement and no issues regarding response have been reported. Facility officials meet regularly with representatives from law enforcement to ensure applicable processes are in place, to share training resources and information, and to address any ongoing investigations. Additionally, investigators from the agency's Internal Affairs Unit are sworn peace officers and therefore able to conduct criminal investigations as well. This unit maintains a very collaborative relationship with law enforcement officials throughout the state, ensuring a thorough understanding of each other's policies and procedures regarding all aspects of their respective organizations, not just those related to PREA.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.21 (g)

The agency conducts all administrative investigations. All criminal investigations are conducted by county law enforcement officials with the exception of Honolulu-based facilities, where criminal investigations are conducted by the Honolulu Police Department. These are all county and local law enforcement organizations and, as such, no investigations are conducted by either any state or Department of Justice component.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.21 (h)

The agency has an agreement with the Sex Assault Treatment Center which includes in-person services available to sexual assault victims at all times, 24-hours per day, 365 days per year. As a result, use of qualified staff as advocates is not applicable.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Agreement with the Kapiolani Medical Center for Women and Children (KMCWC) (contract number 16-HAS-01) that went into effect 07/01/2015 and expired 06/30/2017
- Agreement with the Kapiolani Medical Center for Women and Children, Sex Abuse Treatment Center (KNCWC-SATC) (18-HAS-01) which extends the previous contract until 06/30/2019
- Training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training was provided to all staff in 2017

Interviews conducted:

- Radom sample of Staff
- SAFE/SANE Staff
- PREA Compliance Manager

Standard 115.22: Policies to ensure referrals of allegations for investigations

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*)

115.22 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act*, (09/22/2017), section 17.01, .2, and .5 (pages 19 – 20) states, “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...PSD Internal Affairs Office ('IA') shall be immediately notified of any allegation of sexual abuse or potentially serious incident of sexual harassment. The administrative investigation may be complete by IA or at the facility level pursuant to an order of the Director or his/her designee."

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 KCF in the past 12 months.

An interview with the Director's designee confirmed that an administrative investigation is conducted for every allegation received.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.22 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 17.0.2, .4, and .6 require, "All external referrals for a criminal investigation shall be processed through a county LE agency, such as Honolulu Police Department, Maui Police Department, Kauai Police Department, and Hawaii Police Department...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."

The Auditor confirmed that the noted policy is posted to the agency's public website.

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training was provided to all staff in 2017. This training informed all participants, "If an allegation of sexual abuse or sexual harassment involves potentially criminal behavior, then the allegation shall be immediately referred to County Law Enforcement (HPD, MPD, KPD, HiPD). PSD IAO [Internal Affairs Office] must also be immediately notified of any allegation of sexual abuse or potentially serious incident of sexual harassment."

Two of the three investigations conducted during the documentation period were referred for possible criminal investigation. These both were declined by law enforcement officials. This information is documented in the investigation report and is required for inclusion per the standardized investigation template in use by the agency.

During interviews, investigative staff reported that the Internal Affairs office would oversee all administrative investigations associated with criminal investigations and collaborate with community law enforcement officials. These individuals also confirmed that the Honolulu Police Department would be responsible for any criminal investigation, noting that often a parallel administrative investigation is conducted at the same time as the criminal investigation.

Based on the above, KCF is assessed as compliant with requirements of this subsection.

115.22 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0 (pages 38 – 39) details responsibilities for the completion of administrative and criminal investigations, noting that, "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 Auditor confirmed that this policy is posted to the agency’s public website at www.hawaii.gov/psd.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.22 (d)

Criminal investigations are conducted by county law enforcement officials with the exception of Honolulu-based facilities, where criminal investigations are conducted by the Honolulu Police Department.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.22 (e)

No Department of Justice component is responsible for conducting administrative or criminal investigations.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Hawaii Department of Public Safety public website at www.hawaii.gov/psd
- Email from Just Detention International dated 11/29/2018 confirming no reports of allegations of issues regarding offender sexual safety at KCF
- Training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training was provided to all staff in 201
- Copies of the investigation report packets resulting from the three allegations reported during this documentation period

Interviews conducted:

- Director’s designee
- Investigative Staff

TRAINING AND EDUCATION

Standard 115.31: Employee training

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*)

115.31 (a)

Agency policy ADM.08.08, Prison Rape Elimination Act (09/22/2017) section 18.0.1 and .3 (page 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 are trained on (a) PSD's zero-tolerance policy for offender sexual abuse 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."

The Auditor was provided with Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. The required standard elements were included in the training as follows:

(1) Its zero-tolerance policy for sexual abuse and sexual harassment; (located on pages 9, 27 and 81)

- (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.

Interviews with random staff selected during the on-site review confirmed completion of required training. Most staff indicated completion of a familiarization training session within the last year preceded by formal in-class training during the previous year. Three of the eighteen (18) staff interviewed indicated the most recent training had been completed more than two years ago. All staff interviewed were able to articulate the standard-required training elements.

At the time of the on-site review, 69 staff (49 custody and 20 non-custody) were employed at KCF with rosters showing an additional 5 posts as vacant. The following review summary is provided based on a review of training documentation provided for a total of 33 staff randomly selected by the Auditor:

- 13 were assessed as compliant with the every-other year formal training
- 10 had training transcripts that did not show compliance
- 10 only had acknowledgement forms provided but no training transcripts as requested

It is noted that Auditor's selection of staff training files to be reviewed was completed as follows: Selected 2 of 5 lieutenants, 2 of 7 sergeants, two correctional officers from each of the three shifts, 1 of 8 from maintenance / operations, 1 of 5 from food services, 2 of 3 from offender services, 1 of 2 from education / library, 1 of 2 from business office, and the Warden.

In February 2019, an extensive review of all KCF staff was completed by the former PREA Coordinator. This provided the Auditor with an accurate listing of the number of staff assigned to the facility based on HQ HR FTE allocations as well as an in-depth review of training completion rates. The Auditor was provided with documentation that of the 76 staff currently assigned to the facility, 10 were on extended leave leaving 66 active staff. Of these 65, or 98% had completed the formal PREA training as required. It is noted that the ten (10) staff on extended leave will be required to complete any training needed upon their return.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.31 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 18.0.2 (page 21) indicates that, "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." The most recent training provided to all staff (*Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training* as revised 02/02/2017) was reviewed. Training includes information applicable to both male and female offenders and as such, KCF has exceeded the gender-specific training requirement of this subsection.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.31 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 18.0.3, .6 and .7 (pages 21 - 22) requires, "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."

Formal training was provided to all staff in 2017 using the curriculum Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. The following review summary is provided based on a review of training documentation provided for a total of 33 staff:

- 13 were assessed as compliant with the every-other year formal training
- 10 had training transcripts that did not show compliance
- 10 only had acknowledgement forms provided but no training transcripts as requested

This leaves at best a 70% compliance rate if all those with only acknowledgement forms were counted as compliant. As a result, this subsection is being assessed as non-compliant and corrective action is being initiated. The corrective action should include the completion and documentation of formal PREA training for all facility staff.

In February 2019, an extensive review of all KCF staff was completed by the former PREA Coordinator. This provided the Auditor with an accurate listing of the number of staff assigned to the facility based on HQ HR FTE allocations as well as an in-depth review of training completion rates. The Auditor was provided with documentation that of the 76 staff currently assigned to the facility, 10 were on extended leave leaving 66 active staff. Of these 65, or 98% had completed the formal PREA training as required. It is noted that the ten (10) staff on extended leave will be required to complete any training needed upon their return.

To provide information in the "in-between" years, the Department of Public Safety Director issued, "A formal reminder to all Department of Public Safety (PSD) staff of the requirements of the Prison Rape Elimination Act (PREA)." The memo includes a reminder about zero tolerance and the mandating of "...prevention, detection, elimination, reporting, and investigation of reports by inmate victims of sexual abuse and sexual harassment." The memorandum also requires acknowledgement of the receipt of the memorandum via the submission of acknowledgement documentation to the agency PREA Coordinator. The Auditor was provided with all acknowledgement forms for KCF staff.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.31 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 18.0.4 and .5 (page 21) indicates that, "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 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. A copy shall also be provided to the PSD PREA Coordinator via email, fax, or mail within three (3) days."

Upon completion of training, the employee must sign "Acknowledgement of Training Received" form once training has been completed. This form requires the participant to "acknowledge that I received training on the subject matter indicated" but does not require an acknowledgement of an understanding of the training as required in the standard. A query was submitted to the PREA Resource Center (PRC) to assess whether this knowledge test was sufficient to meet the acknowledgement requirement of this sub-standard. 11/07/2018 per email from the PRC, "Both requirements under 115.31 and 115.32 specifically state the employee, volunteer or contractor's understanding of the training received must be documented. This is different from a test to acknowledge some understanding of the content received and specific to only some of the training material. A test, while a nice way to see some demonstration of understanding, doesn't necessarily reflect the person's understanding, particularly if the pass/fail standard is set at a low score. Of course, the standards do not require a test or passing score on a test. The standards do require documentation of understanding for the training received. The statement documenting the received training is understood is relevant to the entire training, not only to specific questions on the content of the training. This should be an affirmative acknowledgement from the employee, volunteer and contractor that the training had been both received and understood."

The Auditor was also provided with training sign-in rosters from 05/01/2015 and 06/02/2016. The roster from 05/15/2015 states, "By signing this attendance sheet you acknowledge receipt of PREA training and that you understood the PREA training materials" thereby providing affirmation required by the standard. However, the roster dated 06/02/2016 does not include such a disclaimer.

Based on the current acknowledgement form language and on the lack of consistency in the inclusion of the required affirmation on class rosters, this subsection is found to be non-compliant and requiring corrective action. Corrective action should include (1) a revision to the language on the acknowledgement form and (2) completion of rosters in the 2019 training identified above with the required acknowledgement included.

UPDATE: In a review of training curriculum conducted with the former PREA Coordinator, it was learned that the training provided to staff includes the following statement, "By signing the PREA training attendance sheet, you are acknowledging receiving PREA training and that you understand the PREA training materials." With the inclusion of this acknowledgement in the curriculum, KCF is assessed as compliant with the requirements of this subsection. It is recommended that the agency continue to revise rosters to ensure the inclusion of the required language as noted in policy to support and enhance the language included in the curriculum. The Auditor was also provided with examples of the "Acknowledgement of Training" form completed by individuals participating in the corrections familiarization course (new hire training) which included the revised language, "By signing, I acknowledge receipt of PREA training and understand the materials presented."

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017
- KCF Post Assignment Master Sheet 11/02/2018 to January 26, 2019
- KCF Non-Uniform Staff listing
- Acknowledgement of training received (blank form)

- Query submitted to DOJ regarding acknowledgement of an understanding of training received and response from Welcome Rose
- Department of Public Safety Director dated 10/25/2018 regarding zero tolerance and reporting along with a re-issuing of the memo regarding fraternization between staff and inmates
- Official training transcripts for identified KCF staff
- Acknowledgement forms for the receipt of the 10/25/2018 Director memo
- 02/14/2019 PREA Coordinator analysis of staff training
- Examples of the Acknowledgement of Training form from the corrections familiarization course (new hire training)

Interviews conducted:

- Random sample of Staff

Standard 115.32: Volunteer and contractor training

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*)

115.32 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 19.0.1 and 3 (page 22) requires that, "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 staff member responsible for training volunteers, or the staff member who contracts on behalf of PSD or the facility, shall ensure that all volunteers and contractors are trained on their responsibilities regarding offender sexual abuse and sexual harassment."

Training curriculum, *Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training* as revised 02/02/2017, is used for volunteers and contractors who provide 20 or more hours of service per week and is the same training provided to agency employees. This training incorporates the standard-required elements, including, but not limited to, definitions, zero tolerance, key provisions of PREA, first responder duties, screenings, incident review, and how to fulfill your responsibilities regarding sexual abuse and sexual harassment.

A review of the training curriculum, *Prison Rape Elimination Act of 2003 PREA Volunteer and Contractor Training*, which is used for volunteers and contractors who provide less than 20 hours of service per week, revealed that the standard-required elements are incorporated, to include zero tolerance, red flags, duty to report, deliberate indifference, time limitations, first responder duties, and disciplinary sanctions.

The Auditor was provided with the following documents that all volunteers and contractors are required to review and sign before they are scheduled to attend the required VolinCor training:

- (1) A synopsis of PREA legislation that volunteers and contract staff are required to review and sign. This document addressed prohibited acts, including consensual sexual behavior between inmates and staff; immediate reporting requirements, regardless of timeframes, anonymous reports, and/or hearsay information, the Department's zero tolerance policy; and a warning that failure to report is a violation of federal and state law that could result in administrative, civil, and/or criminal proceedings. The individual is required to sign a statement that states, "I have received, read, and understood the rules and regulation regarding PREA. I agree to maintain a professional relationship with inmates at all times and to immediately report all PREA violations. I understand that all PREA violations are mandatory reporting, and my failure to do so may result in legal or civil actions being taken against me, including termination."
- (2) A "Mandatory Reporting" form, which includes information regarding mandatory reporting of all allegations, and child and/or vulnerable adult abuse or neglect. The form reads, in part, "The Department of Public Safety has a zero tolerance for the abuse of inmates, including sexual harassment and abuse. Staff need to always be pro-active and diligent in ensure the humane treatment and protection of inmates; as well as assuring safety for the inmates, staff and public. I have received, read and understand the rules and regulations regarding mandatory reporting (If you knew...or should have known...you are mandated to report). I agree to report all issues and situations required by law, Department policy, or rule. I also agree to abide by all the rules of the Department of Public Safety. I understand that my failure to do so may result in legal or civil action being taken against me, and/or termination."
- (3) "Confidentiality" form, which addresses the meaning of confidentiality, the requirement to inform offenders that any information shared could be reported to the individual's supervisor, and that offenders should be reminded that the individual is, "...required to immediately report any and all information that is shared pertaining to threats of harm against another person'; plans of escape and riots; drugs, suicide, PREA and other illegal activities within the institution." The form reads, in part, that "Giving out information without proper authorization, or failure to immediately report required information, is a major breach of security and may be subject to disciplinary action. I have received, read, and understand the rules and regulations regarding confidentiality. I agree to maintain confidentiality regarding inmates, staff, and security; and abide by all the rules of the Department of Public Safety. I understand that my failure to do so may result in legal or civil action being taken against me, and/or termination."
- (4) "Code of Ethics" form, which includes the requirement that, "I will not engage in undue familiarity with inmates, former inmates and their families. I will report any corrupt or unethical behavior of a fellow correctional staff member that could affect an inmate, or the integrity of the DPS." The form also states, in part, "I have read the Code of Ethics and clearly understand its meaning. I further agree to uphold the Code of Ethics as set by the Department of Public Safety as a Volunteer or Contract Staff Member."

Interviews conducted with volunteers and contractors confirmed completion of the required training. All interviewees were able to articulate the meaning of zero tolerance, their responsibilities regarding PREA, and reporting requirements / procedures.

The Auditor requested documentation verifying completion of training and applicable requirements for six (6) volunteers and five (5) contractors, all randomly selected from lists provided by the facility. Although documentation was received for all six (6) volunteers, documentation was received for only three (3) of the five (5) contractors.

In February, 2019, an extensive review of all KCF contractors was completed by the former PREA Coordinator. This provided the Auditor with an accurate listing of the number of contractors assigned to the facility as well as an in-depth review of training completion rates. The Auditor was provided with documentation that of the 14 contractors currently assigned to the facility, all had completed the formal PREA training as required, resulting in a 100% compliance rate.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.32 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 19.0.2 (page 22) states that, "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."

Per the Program Specialist, any volunteer or contractor who works in the institutions more than twenty (20) hours a week must attend a full PREA training session, which is the same training required of all staff. Volunteers and contractor who work less than twenty (20) hours a week in the institutions are only required to attend the VolinCor training which is a shorter version of the full training provided to staff.

Interviews conducted with volunteers and contractors confirmed completion of the required training. All interviewees were able to articulate the meaning of zero tolerance, their responsibilities regarding PREA, and reporting requirements / procedures.

The Auditor requested documentation verifying completion of training and applicable requirements for six (6) volunteers and five (5) contractors, all randomly selected from lists provided by the facility. Although documentation was received for all six (6) volunteers, documentation was received for only three (3) of the five (5) contractors.

In February 2019, an extensive review of all KCF contractors was completed by the former PREA Coordinator. This provided the Auditor with an accurate listing of the number of contractors assigned to the facility as well as an in-depth review of training completion rates. The Auditor was provided with documentation that of the 14 contractors currently assigned to the facility, all had completed the formal PREA training as required, resulting in a 100% compliance rate.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.32 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 19.0.2.b (page 22) specifies that, "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."

Upon completion of training, the employee must sign "Acknowledgement of Training Received" form once training has been completed. This form requires the participant to "acknowledge that I received training on the subject matter indicated" but does not require an acknowledgement of an understanding of the training as required in the standard. A query was submitted to the PREA Resource Center (PRC) to assess whether this knowledge test was sufficient to meet the acknowledgement requirement of this sub-standard. 11/07/2018 per email from PRC, "Both requirements under 115.31 and 115.32 specifically state the employee, volunteer or contractor's understanding of the training received must be documented.

This is different from a test to acknowledge some understanding of the content received and specific to only some of the training material. A test, while a nice way to see some demonstration of understanding, doesn't necessarily reflect the person's understanding, particularly if the pass/fail standard is set at a low score. Of course, the standards do not require a test or passing score on a test. The standards do require documentation of understanding for the training received. The statement documenting the received training is understood is relevant to the entire training, not only to specific questions on the content of the training. This should be an affirmative acknowledgement from the employee, volunteer and contractor that the training had been both received and understood."

The Auditor requested information as to the method by which contractors and volunteers acknowledged understanding of the training provided. As of 02/02/2019, this information had not been received. It was determined with standard 115.31 that the acknowledgement form in use with staff was not compliant with standard requirements. If this is the same form used with contractors and volunteers, it would also be non-compliant. Based on the lack of supporting documentation, KCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include the development of a system whereby contractors and volunteers acknowledge an understanding of training completed and an up to date acknowledgement completed by all contractors and volunteers.

UPDATE: The Auditor was provided with documentation that is required for each contractor and volunteer as they complete the required PREA training. All such individuals are required to complete the Prison Rape Elimination Act (PREA) form PSD 8117 which states, "I have received, read and understood the rules and regulations regarding PREA." The form also includes summary information regarding zero tolerance and reporting requirements. Also included in the packets provided for each randomly selected volunteer and/or contractor were Acknowledgement of Training Received forms which state, "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." Documentation packets were received for the five (5) individuals randomly selected by the Auditor. Based on this information and documentation, KCF is now assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Acknowledgement of training received (blank form)
- Query submitted to DOJ regarding acknowledgement of an understanding of training received and response from Welcome Rose
- List of Hawaii Community College Instructors and DOE instructors at KCF
- Prison Rape Elimination Act of 2003 PREA Volunteer and Contractor Training curriculum
- Blank forms for volunteers and contractors, to include a synopsis of PREA information, Mandatory Reporting, Confidentiality, Notice of Consent to Search, and Code of Ethics
- Training documentation packets for identified contractors and volunteers
- 02/14/2019 PREA Coordinator analysis of contractor training

Interviews conducted:

- Volunteers and Contractors who have Contact with Offenders
- VolinCor Administrator

Standard 115.33: Inmate education

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*)

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."

Upon arrival at KCF, all offenders receive the agency PREA brochure which contains information about zero tolerance and reporting venues. On the day of arrival, offenders are also required to view the agency PREA video, even if they have viewed the video while housed in other agency facilities. The video used is the one produced by Just Detention International (JDI) and has been previously viewed by the Auditor. Receipt of information on intake was confirmed in interviews with offenders and with Intake staff while on site.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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."

As KCF is not an intake / reception center for the agency, offenders housed at this facility would have received comprehensive PREA education on intake at another facility. Offenders arriving at KCF would receive education only regarding policies and procedures that differ from those of the offender's previous facility, as required in sub-standard 115.33 (c). The Auditor was informed that policies and procedures at KCF would not differ from those of other agency facilities. However, all offenders received at the facility are required to watch the agency PREA video and are provided with the opportunity to ask questions of the facilitator regardless of whether the video had been previously viewed. This was confirmed in an interview with Intake staff. All but one of the twenty-four (24) offenders interviewed confirmed the provision of orientation on arrival. (The final offender indicated that he did not remember.) This exceeds the requirements of this subsection.

The Auditor requested documentation verifying the completion of formal orientation for a group of randomly selected offenders. These offenders were selected from the PREA Admission Log (including released) 09/01/2017 through 08/31/2018 with the Auditor selecting every 9th offender on the list in addition to the offender who was named as the alleged victim in the one administrative investigation noted on the PAQ. The Auditor was informed that orientation is documented on the Kulani Correctional Facility Inmate Orientation Agreement, examples of which were provided as requested. The Auditor was able to confirm completion of orientation in compliance with standard requirements.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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 2014, 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."

Intake staff interviewed confirmed that all offenders receive PREA information via a brochure and video presented on arrival. It was noted that this is tracked via a document maintained by officers and program staff. Offenders are also required to sign a form acknowledging completion of orientation training.

The Auditor was informed that policies and procedures would not vary between facilities. The facility provides full formal orientation to every offender arriving at the facility to ensure a thorough and complete understanding of PREA policies and procedures. This is done even if the offender received such orientation at other agency facilities. Additionally, based on statements from the Program Specialist that offenders remain at the facility for one (1) to two (2) years, it is determined that there were no offenders at the facility during the on-site review who had been there since before the standards were implemented and therefore the facility is compliant with this subsection.

115.33 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 20.0.4 through .6 (page 23) states, "It is PSD's policy to make appropriate provisions, as necessary, for offenders with limited English proficiency through CRCO's [Civil Rights Compliance Officer] 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."

Based on the mission of the facility as a work camp, offenders who are disabled do not meet classification requirements and are not housed at this facility. As such, orientation intended specifically for disabled offenders has not been used at KCF.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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."

The Auditor requested documentation verifying the completion of formal orientation for a group of randomly selected offenders. These offenders were selected from the PREA Admission Log (including released) 09/01/2017 through 08/31/2018 with the Auditor selecting every 9th offender on the list in addition to the offender who was named as the alleged victim in the one administrative investigation noted on the PAQ. The Auditor was informed that orientation is documented on the Kulani Correctional Facility Inmate Orientation Agreement, examples of which were provided as requested. The Auditor was able to confirm completion of orientation in compliance with standard requirements.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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."

Documentation on the flash drive provided to the auditor included a summary of the KCF Internal PREA Audit conducted October 11, 2018. The Auditor (another facility PCM) indicated that:

- More posters are needed in the housing units.
- Staff should assure that GTL directory and PREA posters remain near the inmate phones.
- Staff should ensure that PREA posters are posted in the vegetable/chicken farm area.

The availability of posters throughout all offender-accessible areas of the facility was confirmed while on site. Offenders interviewed also confirmed knowledge of the poster locations and poster information.

It is noted that the facility provides all offender with a facility-specific offender handbook. A copy of the handbook, as revised 07/2016, was provided to the Auditor, however, the handbook does not currently include any PREA-related information. It is recommended that basic information regarding self-protection measures, reporting venues, zero tolerance, and victim advocacy services is added to the handbook on its next revision.

Based on the above, KCF is compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Memo directed to the KCF Superintendent summarizing the internal audit conducted 10/11/2018.
- PREA Admissions Log (including released) 09/01/2017 through 08/31/2018
- Kulani Correctional Facility Inmate Handbook as revised 07/2016
- Examples of Kulani Correctional Facility Inmate Orientation Agreements

Interviews conducted:

- Intake Staff
- Random sample of Offenders

Standard 115.34: Specialized training: Investigations

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*)

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." The policy specifically addresses the training requirement for those who conduct sexual abuse investigations and is silent regarding those who conduct sexual harassment investigations as this is not a requirement of the standard. Per the Program Specialist, any staff member who conducts investigations can conduct sexual harassment investigations. However, it is a practice that only those individuals who have completed PREA investigations training conduct both abuse and harassment investigations.

Interviews with investigative staff, both at the facility and headquarters level, confirmed completion of training as required by this subsection. Interviewees indicated that training included information regarding investigations, crime scenes, protecting the victim, working with law enforcement, notifications, evidence management, and the provision of needed medical and/or mental health care.

The Auditor was provided with a list of facility staff who are designated as investigators. It is noted that the facility maintains its own list based on certification of training completion. The Auditor was then provided with documentation for a randomly selected number of these investigators and was provided proof of completion of the NIC PREA Investigator training for all but one individual. This individual is an Adult Correctional Officer and is no longer authorized to conduct investigations due to the potential conflict of interest with peers and superiors. It is recommended that this individual is removed from the facility's "official" investigator list.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.34 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 21.0.2 and .4 (page 23 - 24) requires that, "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...The Department PREA Coordinator will be responsible for the classroom requirement of sexual abuse investigations training. IA Investigators or Facility Investigators may comply with this provision through webinars for Specialized PREA Investigations Training offered at the PRC website and the National Institute of Corrections (NIC) website."

The Auditor was informed that all investigators are required to complete the NIC curriculum for "PREA Investigating Sexual Abuse in a Confinement Setting". This curriculum was reviewed, and the Auditor

confirmed that it contained all standard required elements. Inclusion of the identified topics was also confirmed in interviews with investigative staff.

The Auditor was also provided with the curriculum for specialized training offered through Wicklander-Zulawski and Associates regarding non-confrontational interviewing which included topics such as trauma, interviewing victims of sexual assault, key questions, rationalizations, protecting evidence assumptive questions, and follow up questions, which was provided to further the investigation skills of participants.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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]. A copy shall also be provided to the Department PREA Coordinator via email, fax, or mail within three (3) days.”

Completion of NIC investigator training is documented with either a certificate of completion or the employee’s signature on a screen shot of NIC training table of contents. The Auditor was provided with documentation of the completion of this training for randomly selected individuals designated as investigators. It is noted that this training does not appear on the individual’s official training transcript as it is a web-based training that is not organized by the agency’s training unit. However, proof of completion is maintained in the staff member’s training record file.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.34 (d)

All criminal investigations are conducted by county law enforcement officials with the exception of Honolulu-based facilities. These are completed by the Honolulu Police Department. There is no state entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment. As such, KCF is compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Listing of KCF investigators
- Sex Abuse Treatment Center and Honolulu Police Department Overview and Dynamics of Sexual Violence
- National Institute of Corrections, PREA Investigating Sexual Abuse in a Confinement Setting
- Curriculum for specialized training offered through Wicklander-Zulawski and Associates regarding non-confrontational interviewing
- Training completion certificates
- Official training transcripts for identified KCF staff

Interviews conducted:

- Investigative Staff

Standard 115.35: Specialized training: Medical and mental health care

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*)

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."

Documentation was provided to confirm completion of the five medical and mental health staff providing services at KCF in the form of either (1) a certificate of completion of PREA: Behavior Health Care for Sexual Assault Victims in a Confinement Setting or (2) employee signature on a screen print of the course completion notification for NIC Medical Care for Sexual Assault Victims in a Confinement Setting. It was confirmed that the NIC training staff participated in contained all standard required elements. Completion of required training was also confirmed in interviews with medical and mental health staff.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.35 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 22.0.2 (page 24) indicates that, "PSD medical and mental health staff are not responsible for conducting forensic medical examinations." This was confirmed in interviews with medical and mental health staff while on-site.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.35 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 22.0.3 states that, "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. A copy shall also be provided to the Department PREA Coordinator via email, fax, or mail within three (3) days."

It is noted that this training does not appear on the individual's official training transcript as it is a web-based training that is not organized by the agency's training unit. However, proof of completion is maintained in the staff member's training record file.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.35 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 22.0.4 (page 24) requires that, "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.”

All staff are provided with formal training every other year using the curriculum Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training. This training was last provided in 2017. To provide information in the “in-between” years, the Department of Public Safety Director issued, “A formal reminder to all Department of Public Safety (PSD) staff of the requirements of the Prison Rape Elimination Act (PREA).” The memo includes a reminder about zero tolerance and the mandating of “...prevention, detection, elimination, reporting, and investigation of reports by inmate victims of sexual abuse and sexual harassment.” The memorandum also requires acknowledgement of the receipt of the memorandum via the submission of acknowledgement documentation to the agency PREA Coordinator. Copies of these acknowledgement forms for all KCF staff were provided to the Auditor.

The Auditor requested documentation regarding the completion of general PREA training for identified health services (medical and mental health) staff. As of 02/02/2019, this documentation had not been received.

In February 2019, an extensive review of all KCF staff, including those reporting through the Health Services chain of command, was completed by the former PREA Coordinator. This provided the Auditor with an accurate listing of the number of staff assigned to the facility based on HQ HR FTE allocations as well as an in-depth review of training completion rates. The Auditor was provided with documentation that of the three (3) health services staff currently assigned to the facility, all had completed the formal PREA training as required, resulting in a 100% completion rate. It is noted that the remaining 2 individuals were from mental health services and provided support services to offenders at KCF but whose FTE's were assigned to another facility.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- National Institute of Corrections Medical Care for Sexual Assault Victims in a Confinement Setting
- Certificates of completion of PREA: Behavior Health Care for Sexual Assault Victims in a Confinement Setting and NIC Medical Care for Sexual Assault Victims in a Confinement Setting for identified staff
- Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017
- Department of Public Safety Director dated 10/25/2018 regarding zero tolerance and reporting along with a re-issuing of the memo regarding fraternization between staff and inmates
- Receipt acknowledgement forms for all KCF staff regarding the Director's 10/25/2018 memo
- 02/14/2019 PREA Coordinator analysis of staff training

Interviews conducted:

- Medical and Mental Health Staff
- VolinCor Administrator

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.41: Screening for risk of victimization and abusiveness

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*)

115.41 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.1 and .3 (page 25 and 26) states, "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...The facility staff shall review the offender's risk of sexual abuse victimization (vulnerability factors) or sexual abusiveness (predatory actors) toward other offenders, by reviewing the 'Intake' PREA Screening Tool."

Completion of risk assessments on the day of offender arrival was confirmed in interviews with staff responsible for the completion of these assessments.

It is noted that seven of the twenty-one applicable offenders interviewed did not recall the completion of a risk assessment on arrival at KCF. As a result, documentation of risk assessment completion was requested for all offenders interviewed. Additionally, the Auditor requested documentation of assessment completion for a group of randomly selected offenders. As of 02/02/2019, this documentation had not been received. As a result of the lack of supporting documentation, KCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include monthly submissions of all offenders processed through intake and documentation of assessments completed for random offenders selected by the Auditor.

UPDATE: Documentation was received by the Auditor demonstrating the completion of initial risk assessments completed for all offenders received at KCF between 01/01/2019 and 05/31/2019. These demonstrated completion of assessments within required timeframes with the exception of ten (10)

offenders. It was reported that initial risk assessments were not complete within timeframes due to the absence of both individuals responsible for assessment completion. To address this issue, the Chief of Security designated and ensure the training of two additional individuals who will serve as backup assessors in the event the primary assessors are not on site. Based on this additional documentation and supplemental process, KCF is now assessed as compliant with the requirements of this subsection.

115.41 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.2 (page 25) requires that, "The intake screening by ISC [Intake Service Center] shall occur within seventy-two (72) hours of intake/arrival."

During interviews conducted while on site, the Auditor confirmed with applicable staff that the initial (72-hour) assessments were completed on the day of the offender's arrival. This was also confirmed in a majority of the interviews conducted with offenders. However, the Auditor requested documentation of admission and completion of the 72-hour assessment for selected offenders. These offenders were selected from the PREA Admission Log (including released) 09/01/2017 through 08/31/2018 with the Auditor selecting every 9th offender on the list in addition to the offender who was named as the alleged victim in the one administrative investigation noted on the PAQ. It is noted that seven of the twenty-one applicable offenders interviewed did not recall the completion of a risk assessment on arrival at KCF. As a result, documentation of risk assessment completion was also requested for all offenders interviewed. As of 02/02/2019, this documentation had not been received. As a result of the lack of supporting documentation, KCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include monthly submissions of all offenders processed through intake and documentation of assessments completed for random offenders selected by the Auditor.

UPDATE: Documentation was received by the Auditor demonstrating the completion of initial risk assessments completed for all offenders received at KCF between 01/01/2019 and 05/31/2019. These demonstrated completion of assessments within required timeframes with the exception of ten (10) offenders. It was reported that initial risk assessments were not complete within timeframes due to the absence of both individuals responsible for assessment completion. To address this issue, the Chief of Security designated and ensure the training of two additional individuals who will serve as backup assessors in the event the primary assessors are not on site. Based on this additional documentation and supplemental process, KCF is now assessed as compliant with the requirements of this subsection.

115.41 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.6 (page 26) requires that, "ISC [Intake Service Center] and facility staff shall utilize the PREA Screening Tool (PSD 8314) to conduct PREA risk assessments."

It is noted that the OffenderTrak system maintains all offender-related information, to include PREA risk assessments. The risk assessment questions are built into the system, which was reviewed while the Auditor was on site. It is also noted that the reports generated by the OffenderTrak system regarding the completion of PREA risk assessments do not allow manual entry of completion dates. The user must complete the assessment (initial or follow up) in order for a date to populate the applicable field of this system and generated reports.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.41 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.7 (page 26) states that, "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 previously been incarcerated; e. Whether the offender's criminal history is exclusively nonviolent; f. Whether the offender has prior convictions for sex offenders 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."

It is noted that the risk assessment instrument employed by PSD includes the qualification that prior victimization is scored if it occurred within the last ten (10) years. Per the former PREA Coordinator, when the assessment was first implemented, an exceptional number of offenders were assessed as potential victims. This resulted in revisions of the assessment tool being piloted in a major facility, followed by additional revisions prior to relaunching of the assessment tool as it currently stands. As part of the pilot, statistics were reviewed to ensure the revised tool captured identified victims based on case information. Additionally, the inclusion of the ten-year qualification was based on similar parameters found in classification, infraction, or other similar assessment systems. Assessors are trained to document victimization that occurred beyond the ten-year mark and submit an override if the assessor's analysis indicated a need to include the identified victimization in final scoring due to a belief that the information indicated a risk or safety issue. The former PREA Coordinator will conduct refresher in-house training to ensure a thorough understanding of the override option by assessors and will update the assessment user manual as needed.

Inclusion of standard-required risk assessment elements was confirmed in interviews with staff responsible for the completion of these risk assessments.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.41 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.8 (page 27) states that, "The PREA Screening Tool considers prior predatory acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, if known to the facility, in assessing offenders for risk of being sexually abusive."

It is noted that the risk assessment instrument employed by PSD includes the qualification that prior acts of predation are scored if they occurred within the last ten (10) years. Per the former PREA Coordinator, when the assessment was first implemented, an exceptional number of offenders were assessed as potential predators. This resulted in revisions of the assessment tool being piloted in a major facility, followed by additional revisions prior to relaunching of the assessment tool as it currently stands. As part of the pilot, statistics were reviewed to ensure the revised tool captured identified predators based on case information. Additionally, the inclusion of the ten-year qualification was based on similar parameters found in classification, infraction, or other similar assessment systems. Assessors are trained to document predation that occurred beyond the ten-year mark and submit an override if the assessor's analysis indicated a need to include the identified predatory behavior in final scoring due to a belief that the information indicated a risk or safety issue. The former PREA Coordinator will conduct refresher in-

house training to ensure a thorough understanding of the override option by assessors and will update the assessment user manual as needed.

Inclusion of standard-required risk assessment elements was confirmed in interviews with staff responsible for the completion of these risk assessments.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

UPDATE: The Auditor was provided with presentation materials and an email from the former PREA Coordinator regarding completion of risk assessment training with all individuals responsible for the completion of risk assessments. These materials reinforced the inclusion of information that is more than 10 years old and the use of overrides as needed.

115.41 (f)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.4 and .5 (page 26) states that, "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."

The Auditor requested documentation of admission and completion of the 30-day assessment for selected offenders. These offenders were selected from the PREA Admission Log (including released) 09/01/2017 through 08/31/2018 from which the Auditor selected every 9th offender on the list in addition to the offender who was named as the alleged victim in the one administrative investigation noted on the PAQ. As of 02/02/2019, this documentation had not been received. As a result of the lack of supporting documentation, KCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include monthly submissions of all offenders processed through intake and documentation of assessments completed for random offenders selected by the Auditor.

Per the PCM, who is responsible for the completion of all follow-up (30-day) risk assessments, he updates the initial assessment with any new applicable information he has received from facility staff and/or the offender. The PCM indicated that he has continuous casual conversations with offenders but does not formally meet with them or applicable staff to update the initial assessment. A PREA Resource Center FAQ dated 06/20/2014 indicates,

While standard 115.41(f) requires an affirmative reassessment within 30 days, the reassessment need not "start from scratch." For example, as noted in the PREA Notice of Final Rule, a facility may generally rely upon information previously gathered, so long as the reassessment "captures any changes in risk factors that may have occurred subsequent to the facility's prior gathering of information regarding that inmate."

While a facility may (and should) have a system in place for capturing additional or new information from a variety of sources (e.g., mental health assessment, disciplinary history, or allegations of relevant threats or victimization), the 30-day affirmative reassessment requires, at a minimum, that screening staff consult available sources to determine whether any previously unknown triggering event or information has become available and to document such review. If, after consulting all relevant sources, no new relevant information is present, then further reassessment under the standards may not be necessary. In short, as opposed to the "passive" requirements under standards 115.41(g) and 115.41(f) requires screening staff to affirmatively "look."

As noted in the PREA Notice of Final Rule, “[t]he final standard requires that inmates who remain in custody undergo a more extensive classification process [within 30 days].” This requirement recognizes that information relevant to the risk and classification needs will become available as staff interview, assess, and observe the inmate, and as the facility receives information from other agencies and sources.

The current process of relying on passive anecdotal information to update initial assessments does not meet the requirement or intent of the standard and therefore this subsection is not compliant. Corrective action is required and should include the development of a formal process to track update information and the active solicitation of the inclusion of that information in follow-up risk assessments.

In addition, the policy requires the completion of a follow-up assessment within 30 days of the completion of the initial assessment. This is not compliant with the standard requirement of the completion of a follow up assessment within 30 days of the offender’s arrival at the facility and, as such, a policy revision is required to bring this subsection into compliance.

As a result of the above, KCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include monthly submissions of all offenders processed through intake and documentation of assessments completed for random offenders selected by the Auditor.

UPDATE: The Auditor was provided with a memorandum from the Warden date 04/12/2019 indicating that the individuals responsible for completion of risk assessments have been instructed to, “confer with the appropriate case manager and Chief of Security to determine if there is pertinent information that may affect the PREA screening based on new relevant information not initially considered at the transfer screening.”

115.41 (g)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.9 (page 27) states that, “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).”

It is noted that no “for cause” assessments were indicated based on substantiated investigations or the receipt of applicable risk-related information. As such, there was no proof documentation available for review as applicable to this subsection.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.41 (h)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.10 (page 27) requires, “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.” This was confirmed in interviews with staff responsible for the completion of risk assessments.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.41 (i)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.11 (page 27) requires that, “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.”

All final risk identifier information is maintained in the OffenderTrak system and is accessible for use by those making bed, housing, programming and job assignments. However, the details behind the assessment and confidential information used in the assessment is not accessible. This was confirmed in interviews with staff responsible for risk assessments, the PCM, and the PREA Coordinator.

Per the Program Specialist, access to the screening form is tied to system sign-in parameters associated with the job classification of the position. Designated positions have been determined by responsibilities to require access to the system, which occurs automatically based on OTRAK permission profiles once the individual is officially assigned to that position. Any other access is granted on a case by case basis and only with the written approval of the PREA Coordinator. The Auditor was provided with a blank User Access Request Form, which would have to be completed, submitted, and approved prior to granting any exceptional access. It is noted that there were no examples of requests for access outside standard position access assignments during the 12 months preceding the on-site review.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- PREA Admissions Log (including released) 09/01/2017 through 08/31/2018
- Blank Department of Public Safety PREA Screening Tool
- Department of Public Safety PREA Screening Tool Instructions OffenderTrak Data Input (May 2018)
- PREA Resource Center FAQ as applicable to standard 115.41 dated 06/20/2014
- Blank User Access Request Form
- Spreadsheet documenting offenders received and risk assessment completion along with copies of all risk assessments
- Email originating from the Chief of Security designating backup risk assessors

Interviews conducted:

- Staff Responsible for Risk Screening
- Random sample of Offenders
- PREA Coordinator and Program Specialist
- PREA Compliance Manager

Standard 115.42: Use of screening information

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*)

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."

Per the Department of Public Safety, PREA Screening Tool Instructions (07/2015), "When an offender is designated as a 'victim, potential victim, sexual predator, or potential sexual predator...the Facility COS

[Chief of Security] 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 Facility COS or Watch Commander shall document their assessment citing key facts in the comments section. The Facility COS or WC shall identify the recommended housing and the final housing designation. 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. It is important that the housing assignment also considers the programmatic access the offender will encounter based on the housing assignment. The PREA screening instrument scoring is to be utilized to formulate housing assignments, cell or bed assignments, work assignments, education and other programmatic access for the offender."

During the 12 months preceding the on-site review, KCF received only one offender with a PREA risk identifier as noted above. The Auditor was provided with documentation contained in the PREA Screening Tool of Captain review and approval of housing as required in agency policy.

In interviews conducted with those responsible for the completion of risk assessments, the Auditor was informed that if an offender had any type of risk identifier, the assessor would notify the Watch Commander, ensure the offender was housed in a safe location, and review the work crew assignment for that offender.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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."

During the 12 months preceding the on-site review, KCF received only one offender with a PREA risk identifier as noted above. The Auditor was provided with documentation contained in the PREA Screening Tool of Captain review and approval of housing as required in agency policy.

In interviews conducted with those responsible for the completion of risk assessments, the Auditor was informed that if an offender had any type of risk identifier, the assessor would notify the Watch Commander, ensure the offender was housed in a safe location, and review the work crew assignment for that offender.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.42 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 26.0.1 through .3 (page 27 – 28) states that, "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. In the event that an offender's sex designation is changed as specified under Hawaii Revised

Statutes §338-17.7, 'Establishment of new certificates of birth' (effective July 1, 2015), the facility, housing, and programming assignments shall be made as indicated in .2, but the PREA Coordinator shall be included in the case-by-case assessment."

The placement of a transgender offender at KCF is determined by classification action based on work crew and custody level specifications. There are currently no restrictions for the placement of a transgender offenders at KCF as long as the offender meets general placement requirements as there are appropriate medical and mental health services available. Once assigned to KCF, all transgender offenders are placed in Unit 7, as this is the only location with private shower facilities.

In an interview, the PCM reported that the facility determines housing for transgender and intersex offenders by reviewing overall classification and make individualized plan for each offender, taking into account the offender's health and safety, any applicable management or security concerns, and the expressed concerns of the offender. Transgender offenders interviewed reported that staff did not ask them questions about perceptions of safety until recently. These offenders reported that they were housed in Unit 7 as this was the only housing unit that offered individual showers.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.42 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 26.0.3 and .4 (page 28) requires that, "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. The completed PREA Mandated Reporting Form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days."

Department of Public Safety, PREA Screening Tool Instructions (07/2015) states, "The PREA Standards requires that housing and programming assignment for each transgender or intersex offender shall be reassessed at least twice each year to review any threats to safety experienced by the offender. The two periodic reviews conducted annually should occur during initial classification and reclassifications. The Warden and/or the Facility PREA Manager shall ensure that the bi-annual reviews are documented on the PREA Mandated Reporting Form (PSD 8317) based on a list provided by the PSD PREA Coordinator."

The PCM has been assigned responsibility for the required review of all transgender and intersex offenders housed at KCF. During his interview, he reported that he had been conducting these reviews annually, rather than semiannually as required. However, since the on-site review, the PCM provided the Auditor with the documentation of review completed and established a tracking system to ensure these reviews are completed as required in the future.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.42 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 26.0.5 (page 28) requires that, "A transgender or intersex offender's own views with respect to his or her own safety shall be given serious consideration."

The requirement to include the offender's own views in all related reviews was confirmed in an interview with the PCM, who is assigned this responsibility. Both offenders interviewed indicated that this had not occurred, however, it was determined at the time of the on-site review, semi-annual reviews were not being conducted. However, since the on-site review, the PCM provided the Auditor with the documentation of review completed and established a tracking system to ensure these reviews are completed as required in the future.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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."

At KCF, all transgender offenders are housed in Unit 7. This is the only housing unit with separate private shower provisions. All other housing units have gang or open shower arrangements. Housing of transgender / intersex offenders in this unit was confirmed in an interview with the PCM and transgender offenders currently housed at KCF.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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."

Prior to the on-site review, the Auditor requested documentation of housing assignments for all LGBTI offenders. It was determined that a list would be based on risk assessment information. The OffenderTrak system currently does not have the ability to generate such a report. Such a list would be dependent on staff's perception of LGB status, which is not what is required for interviews. As a result, no offenders were specifically identified as gay or bisexual for interview purposes for this audit.

Per interviews conducted, all housing assignments are based on classification level and job assignment. All newly arriving offenders are generally placed in Units 1 and 2 and progress to other units based on behavior. All transgender offenders are housed in Unit 7 due to the availability of private, separate shower facilities.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Department of Public Safety, PREA Screening Tool Instructions (07/2015)
- Required review of identified transgender offender
- PREA Screening Tool for identified offender

Interviews conducted:

- PREA Compliance Manager
- Staff Responsible for Risk Screening

- Transgender / Intersex Offenders
- PREA Coordinator and Program Specialist
- Transgender / Intersex / Gay / Lesbian / Bisexual Offenders

Standard 115.43: Protective Custody

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*)

115.43 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 27.0.1 and .2 (page 28) states, "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."

It is noted that during the 12 months preceding the on-site review, no offenders were placed in segregated housing based on risk of victimization; as such, there is no secondary documentation available for review. In an interview, the Warden confirmed that such placement would only be used as a last resort, when no other options were available.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.43 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 27.0.3 through .4 (-age 28 – 29) requires that, "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.”

It is noted that during the 12 months preceding the on-site review, no offenders were placed in segregated housing based on risk of victimization; as such, there is no secondary documentation available for review. In an interview, the staff who supervise segregation confirmed that if an offender were to be placed in this unit based on risk of victimization, the offender would be afforded library, education, recreation, religious services, phones, etc., the “regular” programming opportunities provided in general population. The only exception would be visiting and the ability to work since the focus of the facility is work crews in which an offender in segregated housing would not be able to participate.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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.”

It is noted that during the 12 months preceding the on-site review, no offenders were placed in segregated housing based on risk of victimization; as such, there is no secondary documentation available for review. In an interview, the Warden confirmed that such placement would only be used as a last resort, when no other options were available and would end as soon as a viable alternative was identified. The Warden noted that such a placement would generally not last more than 48 hours; that if the issue was identified over the weekend, it may take as long as 72 hours, but generally no longer.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.43 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 27.0.6 (page 29) requires that, “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.”

It is noted that during the 12 months preceding the on-site review, no offenders were placed in segregated housing based on risk of victimization; as such, there is no secondary documentation available for review.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.43 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 27.0.7 and .8 (page 29) states that, “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.”

COR.11.01, *Administrative Segregation and Disciplinary Segregation* (11/28/2014) section 4.0.1.g.6 through .10 (page 7) requires the following:

Thirty (30) days after an inmate's initial placement in administrative segregation and every thirty (30) days thereafter, the Warden or designee shall personally interview the inmate, reassess the case management action plan, and make a written record of his/her decision to either confirm the continued administrative segregation housing or to release the inmate back to the general inmate population. A copy of the decision shall be provided to the inmate on PSD 8226, Part D. The Warden shall notify the IDA [Institutions Division Administrator] every thirty (30) days of an inmate's continued placement in administrative segregation and the status of the inmate's compliance with the case management action plan. The IDA shall conduct monthly reviews of all inmates who have been in administrative segregation for thirty (30) days or more. This shall include a review of all documentation relevant to the inmate's placement including, but not limited to: Incident reports or IOMs [Inter-Office Memorandums] generated as part of the initial placement; case management action plan; documentation justifying continued placement; grievance appeals; and medical/mental health assessments. The IDA shall consider whether a transfer of the inmate to a facility where he/she may be placed in the general inmate population would be appropriate or if continued placement in administrative segregation is warranted. The IDA shall submit a written report of the results of each thirty (30) day review to the Deputy Director of Corrections (DEP-C).

As there were no offenders housed in segregated housing due to risk of sexual victimization, there was no secondary documentation available for review. Staff who supervise offenders in segregated housing reported that there has been no offender housed in the area due to risk of victimization in the time the staff has been assigned to the area. He indicated that he knew regular reviews would be conducted.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Agency policy COR.11.01, *Administrative Segregation and Disciplinary Segregation* (11/28/2014)

Interviews conducted:

- Warden
- Staff who Supervise Offenders in Segregated Housing

REPORTING

Standard 115.51: Inmate reporting

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*)

115.51 (a)

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 articulates that offenders may report in the following manners:

1. Using available means of communication, including but not limited to verbal or written reports to any PSD employee, contract employee or volunteer
2. Calling or writing the Ombudsman or the Department of the Attorney General (note, the policy is missing a number in the zip code for the Attorney General), the Sex Abuse Treatment Center, the agency PREA Coordinator, the Director, a relevant Deputy Director,
3. Writing to a legislative or political representative or Internal Affairs
4. Contacting the facility warden or investigator at the relevant facility;
5. Notifying a family member
6. Filing an emergency grievance and/or
7. Contacting the relevant county law enforcement agency

Offenders are provided with a brochure entitled, “An Informational Guide for Offenders” which also indicates the above reporting options. It indicates that the offender can use the regular grievance system, as well as submitting a kite, which can be anonymous. The brochure states that calling the SATC and the ombudsman are free of charge and the offender doesn’t have to input their PIN number. However, the GLT directions attached start with the requirement that the offender has to enter his/her 7-digit identification number followed by his/her 4-digit PIN which appears contradictory.

Interviews conducted with random staff while on site confirmed a sound knowledge of the reporting venues available to offenders. Offenders interviewed were also able to articulate multiple reporting avenues available to them.

During the last week of November 2018, test letters were sent by members of the audit team to the PREA Coordinator, Internal Affairs, Agency Director, Institutions Administrator, Deputy for Corrections, Attorney General, and Ombudsman; it is noted that the suite number for the PREA Coordinator is listed as 400 in the policy, but 116 in the information posted to the public website. The Audit Team received acknowledgement of receipt of these letters, noting that all such letters would be forwarded to the agency PREA Coordinator for action as needed and response.

While on site, members of the Audit Team attempted tests of the ability of offenders to place calls to the Ombudsman, victim advocate and PREA Coordinator hotline. The calls required the use of an offender identification number and, despite several attempts by several individuals to each of the noted reporting options, only one successful call was made to the Ombudsman Office and one to the PREA Coordinator’s hotline. Administrators responsible for the telephone system are currently working with the phone

service provider to correct access and dialing issues. Additionally, while on site, members of the Audit Team dropped two kites in two different locations, requesting that the recipient process the kite as though it were from an offender and notify the Auditor of the receipt of those kites. As of 02/02/2019, confirmation of the receipt of only one of the two kites was provided.

During a February 2019 visit to another PSD facility, the Audit Team was able to place calls to all reporting venues via the use of offender phones. This confirmed that the issues previously identified had been corrected by the vendor.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.51 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 28.0.4 (page 30) indicates that “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.” The Auditor was also provided with a brochure entitled “An Informational Guide for Offenders: Offender Sexual Abuse and Sexual Harassment by Officers, Staff, Volunteers, and Contractors” (dated 10/17/2018) that stated,

External/Confidential/Anonymous Reporting Options – SATC is also an option for emotional support counseling services:

1. You may contact the designated EXTERNAL & CONFIDENTIAL agencies (SATC @ 808-524-7273 or State Ombudsman @ 808-587-0770) via the GTL HI PSD Speed Dial List & Instructions, to report any sexual abuse or sexual harassment by an inmate or staff member.
2. You may contact the Sex Abuse Treatment Center Hotline (808-524-7273) utilizing the GTL HI PSD Speed Dial List & Instructions, to report any sexual abuse and/or obtain Emotional Support Counseling Services.
3. These calls are free of charge. It does not require inputting your pin number and at your option are CONFIDENTIAL & EXTERNAL options.
4. You may also file a criminal complaint within the appropriate County Police Department as an EXTERNAL reporting option.
5. State Ombudsman’s Office – 06

Also provided to the Auditor was the HI PSD Speed Dial List with instructions for use: (NOTE the speed dial instructions indicate that the caller must dial 0 for a collect call and enter their 7-digit Inmate ID number followed by the individual’s 4-digit PIN number. This is contrary to the information provided in the brochure.

The information from the website for the Hawaii Ombudsman provided indicates, “By law, the Ombudsman is authorized to investigate the administrative actions of state and county agencies...We are authorized by law to receive inquiries on a confidential basis. If we can, we will investigate your complaint without revealing your identity, although this is not always possible. If you have concerns with confidentiality, please feel free to discuss them with us.” Additionally, during discussions while on site and following the on-site review, it was learned that since the Ombudsman is available by phone, offenders normally do not write to them. Per the former PREA Coordinator, if the Ombudsman received a complaint, then they would: (1) First determine if the inmate wants to remain anonymous. (2) If yes, they would provide the details and keep the inmate anonymous to the PREA Coordinator to initiate an investigation and other action. (3) If no, they will provide all information to the PREA Coordinator to initiate an investigation and other action. Of the test calls made while on-site, members of the Audit Team were able to place one call to the ombudsman Office.

In an interview, the PCM indicated that offenders were able to report allegations to the ombudsman, to any staff member, via a grievance or kite, or by having another individual report for them. He was not certain about the independent external reporting entity, but the process was clarified for him. Offenders articulated multiple reporting avenues but were uncertain about the independent external reporting entity. Offenders did indicate that they were able to make reports without having to leave their names and that another individual could report allegations for them. As a result, it is recommended that clarifying / refresher information be provided to offenders.

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 28.0.5 (page 30) states, "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."

Based on the above, KCF is assessed as compliant with the requirements of this subsection, although the provision of refresher information to offenders is recommended.

115.51 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 28.0.6 (page 30) states, "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."

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training was provided to all staff in 2017. This training informed all participants, "Offenders, staff and others may report incidents of sexual abuse, sexual harassment, and retaliation for reporting by (allowing reporter to remain anonymous upon request): Contacting the Ombudsman; Mailing a letter to the Department PREA Coordinator; Mailing a letter to Internal Affairs, a Facility Investigator, a Warden, Deputy Director, or Director; Notifying a family member who can initiate a telephone call or a letter to Key Staff indicated above; or Filing an Emergency Offender Grievance Complaint." Per the Program Specialist, staff are required to complete an incident report which is then submitted to the Watch Commander, who is required to submit the Mandated Reporting form to the PREA Coordinator.

A review of the reports related to allegations received during the documentation period indicated that staff responded to allegations received as required by policy. Packets included incident reports along with Mandated Reporting forms. Staff interviewed were knowledgeable about reporting requirements, regardless of the method in which the allegation was reported; however, a few staff indicated they would require the offender write down any verbal reports made. It is recommended that a reminder of reporting requirements be provided to facility staff.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.51 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 28.0.7 (page 30) states, "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. This information is included in the policy section on offender reporting, but there is nothing included in the policy section on staff reporting. It is recommended that on the next

policy revision, the information about privately reporting be added to the staff reporting section of this policy.

During interviews conducted while on site, staff were knowledgeable about ways in which they could privately report PREA-related information, to include reporting to someone higher up in the chain of command, reporting to another Watch Commander, or using any of the reporting venues available for offenders.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Brochure entitled "An Informational Guide for Offenders: Offender Sexual Abuse and Sexual Harassment by Officers, Staff, Volunteers, and Contractors" (dated 10/17/2018)
- GTL HI PSD Speed Dial Instructions (undated)
- Excerpt from the agreement with the Sex Abuse Treatment Center
- Excerpt from the public website of the State of Hawaii Ombudsman
- Curriculum Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017
- Copies of the investigation report packets resulting from the three allegations reported during this documentation period.

Interviews conducted:

- Random sample of Staff
- Random sample of Offenders
- PREA Compliance Manager

Standard 115.52: Exhaustion of administrative remedies

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*)

115.52 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 29.0.1 (page 31) states, "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." The remainder of section 29.0 details timeframes, third party submissions, and other procedures related to grievance containing PREA allegations.

Based on the above, KCF is not exempt from standard 115.52 as the agency has in place administrative procedures to address offender grievances, along with PREA-related grievances.

115.52 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 29.0.2 (page 31) states, "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 information 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."

Clarification regarding this policy language was requested from the former PREA Coordinator as policy appears to indicate that there are no time limitations associated with sexual abuse, but limitations may apply to grievances regarding allegations of sexual harassment or retaliation. It was reported that all grievances would fall under these provisions. As a result, it is recommended that clarification be added to policy on its next revision.

The Auditor was provided with an offender handbook for KCF and found that it contained no information regarding the reporting of PREA allegations via grievances or timeframes associated with those grievances. It is recommended that this information be added to the handbook on its next revision.

As no grievances were filed in the 12 months preceding the on-site review regarding sexual abuse or sexual harassment, no secondary documentation was available for review.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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."

Clarification regarding this policy language was requested from the former PREA Coordinator as policy appears to limit provision of the standard only to grievances alleging sexual abuse. It was reported that all grievances would fall under these provisions. As a result, it is recommended that clarification be added to policy on its next revision.

The Auditor was provided with an offender handbook for KCF and found that it contained no information regarding the reporting of PREA allegations via grievances or the provisions of this subsection. It is recommended that this information be added to the handbook on its next revision.

As no grievances were filed in the 12 months preceding the on-site review regarding sexual abuse or sexual harassment, no secondary documentation was available for review.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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."

During the audit documentation period, there were no PREA allegations reported through the grievance process. As a result, there was no secondary documentation available for review. Additionally, there were no offenders housed at KCF at the time of the on-site review who had reported an allegation and, as such, no applicable interviews were conducted.

While on site, members of the Audit Team submitted two (2) grievances through the processes established for offenders (e.g., requesting a grievance form from staff, signing for the grievance in the log book in which all grievance forms are numbered, and dropping the grievance into the designated box). The grievance indicated that the purpose was to test the reporting mechanism and requested that a response be provided to the Auditor. The Auditor received confirmation of the receipt of the noted test grievances. In order to ensure the grievance system overall was operational and a lack of grievances was not limited to only PREA allegations, the Auditor requested a breakdown of the total number of grievances submitted for the 12-month timeframe preceding the on-site review. The Auditor was provided

with information that a total of 4,050 grievances had been received from offenders agency-wide between 09/01/2017 and 09/01/2018 which is indicative of a grievance system being used by offenders even if they are not using grievances to report PREA allegations.

UPDATE: Following the issuing of this interim report, the Auditor was provided with documentation that KCF offenders submitted a total of fifty (50) grievances in the 12 months preceding the on-site review, adding further evidence of the grievance system being used by offenders to address concerns and issues, even though no PREA allegations were received using this method.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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. (a) If a third party files such a request on behalf of an offender, 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 on the administrative remedy process. (b) If the offender declines to have the request processed on his or her behalf, PSD shall document the offender's decision on 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."

During the audit documentation period, there were no PREA allegations reported through the grievance process. As a result, there was no secondary documentation available for review.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.52 (f)

Agency policy COR.12.03, *Inmate Grievance Program* (07/01/2015) section 8.0.3.c (page 6) states, "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."

Agency policy ADM.08.08, Prison Rape Elimination Act (09/22/2017) section 29.0.6 (page 32) PSD's current Grievance policy establishes procedures for filing an emergency grievance alleging that an offender is subject to a substantial risk of imminent sexual abuse. This section is intended to supplement the Grievance policy by requiring that: (a) An initial response is provided within forty-eight (48) hours. (b) After receiving an emergency grievance alleging an offender is subject to a substantial risk of imminent sexual abuse, the PSD staff member shall immediately forward the grievance or any portion thereof that alleges the substantial risk of imminent sexual abuse to a level of review where immediate corrective action may be initiated. (c) PSD shall issue a final agency decision within five (5) calendar days. The decision shall include a determination as to whether the offender is at substantial risk of imminent sexual abuse and it shall describe the action taken in response to the emergency grievance.

It is noted that 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. As a result, clarification was requested from the former PREA Coordinator. It was reported that offenders can submit allegations using both general and emergency grievances, that emergency grievances are just processed through a different route, but that all grievances are forwarded to the PREA Coordinator. As a result, it is recommended that clarification be added to policy on its next revision.

The Auditor was provided with an offender handbook for KCF and found that it contained no information regarding the reporting of PREA allegations via grievances or the use of the emergency grievance system. It is recommended that this information be added to the handbook on its next revision.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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."

During the audit documentation period, there were no PREA allegations reported through the grievance process. As a result, there were no infractions issued for the filing of grievances in bad faith and hence no secondary documentation available for review. An interview was conducted with the Disciplinary Hearing Officer who confirmed that offenders could only be infraacted if it was proven that a grievance was filed in bad faith. She noted that this would be difficult to prove and, as such, it was unlikely that such an infraction would be issued.

The Auditor was provided with a copy of the KCF offender handbook as revised 07/2016; however, it does not include information regarding PREA. It is recommended that PREA-related information (e.g., zero tolerance, reporting, retaliation, response, self-protection, etc.) be included in the handbook on its next revision.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act (09/22/2017)*
- Agency policy COR.12.03, *Inmate Grievance Program (07/01/2015)*
- Hawaii Department of Public Safety Grievance Statistics 09/01/2017 through 09/01/2018

Interviews conducted:

- Offender Disciplinary Hearing Officer

Standard 115.53: Inmate access to outside confidential support services

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*)

115.53 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 30.0.1 (page 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 detained 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.”

The agency has an agreement with the Kapiolani Medical Center for Women and Children (KMCWC) (contract number 16-HAS-01) that went into effect 07/01/2015. This agreement expired 06/30/2017. A second agreement (18-HAS-01) extends the previous contract until 06/30/2019. The agreement includes, but is not limited to the following services:

1. *Core crisis response services will be available to the sexual assault victim at all times. The hotline in all counties will enable victims to access personnel trained in crisis intervention strategies 24 hours, 365 days a year. These personnel will remain on-call, ready to assess and respond to crises over the phone as well as in-person when needed.*
2. *Very frequently, additional follow-up from the initial phone intake is necessary to thoroughly address the needs of a caller...Program staff in all counties will be available to respond to these needs, and to provide the on-going crisis phone support needed while longer term counseling services are being arranged.*
3. *In-person crisis counseling is available in all counties for victims and family members...Crisis counseling may entail the provision of sexual assault education to address misconceptions, support and containment of feelings and symptoms resultant from the assault, assistance with safety issues, management of familial/significant other concerns, provision of personal advocacy to assist the individual in securing rights and services from other agencies, emergency assistance, and referrals to community resources.*
4. *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.*
5. *In situations where a victim has been sexually assaulted and is need pf 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.*

The Auditor was provided with the brochure, “State of Hawaii Department of Public Safety: An Informational Guide for Offenders” (10/18/2018) that includes information about how to access the Sex Abuse Treatment Center (SATC) via a telephone number or the GTL HI PSD speed dial system. The Auditor was also provided with a poster that included reporting options for offenders, to include SATC. While on site, members of the Audit Team attempted tests of the ability of offenders to place calls as indicated. The calls required the use of an offender identification number and, despite several attempts by several individuals, no calls to the advocacy organization were successful. Administrators responsible for the telephone system are currently working with the phone service provider to correct access and dialing issues.

A member of the Audit Team made several attempts to contact the advocates at the YWCA. While on-site, the telephone number to be dialed from offender phones was out of order and the Audit Team was unable to make contact. During the post-on-site audit phase, the Audit Team member was able to make contact with an advocate at the listed telephone number, but the individual who answered the call was unable to answer questions regarding service provision to offenders at KCF. Instead, the Audit Team

member was provided with another telephone number in order to talk with a supervisor who would be familiar with applicable services. The Team member attempted to call the supervisor on three (3) separate occasions, but calls went unanswered and the Team member was not provided with an option to leave a message. However, during a February 2019 visit to another PSD facility, the Audit Team was able to place calls to all reporting venues via the use of offender phones, including the advocates. This confirmed that the issues previously identified had been corrected by the vendor.

While on site, interview with a random sample of offenders revealed that most of these offenders were aware of available services but were uncertain of what these services consisted of. It is recommended that refresher information be provided to offenders regarding community-based advocacy services. This will be resolved with the corrective action associated with subsection 115.53 (b). As there were no offenders who reported allegations currently housed at KCF, no corresponding interviews were conducted.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.53 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 30.0.2 (page 33) specifies that, "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."

The Auditor was provided with the brochure provided to offenders regarding PREA, which includes information about access to victim advocacy support services. This brochure says, in part, "External/confidential/anonymous reporting options. SATC is also an option for emotional support counseling services... You may contact the Sex Abuse Treatment Center Hotline (808-524-7273) utilizing the GTL HI PSD Speed Dial List & Instructions, to report any sexual abuse and/or to obtain Emotional Support Counseling Services." This information is not sufficient to meet the requirements of the standard regarding the informing of offenders of the extent to which communications with victim advocates will be monitored and the extent to which reports of abuse will be forwarded. Additionally, during on-site interviews, offenders predominately expressed a lack of knowledge regarding advocacy support services overall, and particularly concerning privacy regarding communications with these individuals. As a result, KCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include a revision to the information currently provided to offenders or the development of a brochure for offenders specific to access to advocacy support services that includes the standard required information. Corrective action should also include some form of offender education regarding advocacy services.

UPDATE: The Auditor was provided with an updated brochure provided to offenders. The brochure now reads,

The designated EXTERNAL & CONFIDENTIAL agencies above are Sex Abuse Treatment Center (SATC) @808-524-7273 or State Ombudsman @ 808-587-0770 via the HI PSD Speed Dial List or you may write to report any sexual abuse or sexual harassment by an inmate or staff member. Your contact with SATC can be in writing or the Hotline at (808-524-7273) by utilizing the HI PSD Speed Dial List, to CONFIDENTIALLY report any sexual abuse or harassment incident and/or to obtain Emotional Support Counseling Services.

These calls are free and for SATC a pin is not required. You may elect to remain anonymous and be CONFIDENTIAL, which means your identity and report will not be disclosed to PSD, unless authorized the release or your statement indicates that you will harm yourself or others.

Based on the revisions to the offender brochure, KCF is now assessed as compliant with the requirements of this subsection.

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."

The agency has an agreement with the Kapiolani Medical Center for Women and Children (KMCWC) (contract number 16-HAS-01) that went into effect 07/01/2015. This agreement expired 06/30/2017. A second agreement (18-HAS-01) extends the previous contract until 06/30/2019.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Agreement with the Sex Assault Treatment Center (SATC) (contract number 16-HAS-01) that went into effect 07/01/2015 and expired 06/30/2017
- Agreement with the Kapiolani Medical Center for Women and Children, Sex Abuse Treatment Center (KMCWC-SATC) (18-HAS-01) which extends the previous contract until 06/30/2019

Interviews conducted:

- Random sample of Offenders

Standard 115.54: Third-party reporting

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*)

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. The site contains general explanatory information regarding PREA and the PREA poster for inmates, staff and family members. The poster includes information about how to report by writing or calling:

- The Department PREA Coordinator;
- PSD Internal Affairs;
- The Office of the Ombudsman;
- PSD Director, Deputy for Corrections, or Institutions Administrator;
- The Sex Abuse Treatment Center; and
- Facility Administrators, Facility PREA Compliance Manager, and the County Police Departments.

Additionally, posters containing PREA-related information were maintained in the dining hall, which is also the location of visitation with offender family and friends. The Auditor confirmed the presence of these posters during the on-site review.

A reporting option on the poster for family/friends is the Sex Abuse Treatment Center (SATC). Per discussions with the former PREA Coordinator, based on confidentiality parameters afforded victim advocacy organizations, SATC staff would only report the information if the caller agreed.

During the last week of November 2018, test letters were sent by members of the audit team to the PREA Coordinator, Internal Affairs, Director, Institutions Administrator, Deputy for Corrections, Attorney General, and Ombudsman; it is noted that the suite number for the PREA Coordinator is listed as 400 in the policy, but 116 in the information posted to the public website. The Audit Team received acknowledgement of receipt of these letters, noting that all such letters would be forwarded to the agency PREA Coordinator for action/response as needed.

On 11/29/2018, the Auditor tested the ability to report via telephone:

- The PREA Coordinator – the telephone rang 15 times and I was not provided with the opportunity to leave a message
- The Director, Institutions Administrator and the Deputy for Corrections – the telephone number in policy and on the public website is for the Office of the Director; left voice message requesting confirmation of receipt of message via return email
- Internal Affairs – left voice message requesting confirmation of receipt of message via return email.

As of the writing of this report, responses to phone message left had not been received. However, the process was discussed with the former PREA Coordinator and Program Specialist who reported that all such phone messages would be forwarded to the HQ PREA office to address as applicable.

Based on the standard requirement that venues are available to receive reports and there is no requirement to provide a response to these reports, KCF is assessed as compliant with the requirement of this subsection. However, it is recommended that information regarding response is included in the next revision to poster and website information or a method to ensure response requirements are developed.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)

Interviews conducted:

- None

OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

Standard 115.61: Staff and agency reporting duties

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*)

115.61 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 32.0.1 through 3 (page 33) states that, "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." The requirement to complete a PSD PREA Response Incident Checklist (PSD 8313) for all allegations of sexual abuse and sexual harassment, with submission of the completed form to the Agency PREA Coordinator, is included in the 2017 training all staff were required to complete (*Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017*).

The requirement to report was confirmed in all interviews conducted with KCF staff.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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." This is also addressed in the 2017 training all staff were required to complete (*Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017*). Knowledge regarding confidentiality restrictions was confirmed in interviews conducted with staff during the on-site review.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.61 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 32.0.5 (page 34) requires that, "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."

During the on-site review, the Auditor was informed by medical providers that offenders new to the facility are asked about prior sexual abuse during the medical intake and chart review. The Auditor was provided with an example of a completed Chart Review form where this information would be documented. The form includes the following questions:

- Victim of sexual assault / abuse
- If response is yes, what is the nature of the sexual abuse
- Abuse / assault reported to Watch Commander

allowing the provider to document all pertinent information in one location, including the reporting of information received.

The mental health practitioner interviewed clearly articulated the requirement to inform offenders of the limits to confidentiality before the provision of services, indicating that this is explained to every offender during intake. However, medical practitioners articulated that this information is provided to an offender only when the offender has come for services and starts disclosing something related to PREA. Medical practitioners also indicated that information regarding the limits to confidentiality is not shared with offenders during the facility intake process, where an offender is reportedly asked if they know about PREA. As a result, this subsection is being assessed as non-compliant and corrective action is indicated. Corrective action should involve a reminder to all medical practitioners of the subsection requirement and policy mandates to provide the information at the initiation of services. Additional actions could include revision to the offender handbook to include this information as well as posting this information in medical and mental health offender accessible areas.

UPDATE: The Auditor was provided with a notification for offenders that is now posted in all medical / mental health areas. This notice informs offenders prior to the onset of services of the reporting requirements of all medical and mental health staff. Based on this information, KCF is now assessed as compliant with the requirements of this subsection.

115.61 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 32.0.6 through 8 (page 34) requires that, "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. HRS §346, Part X: Adult Protective Services, defines a "vulnerable adult" as a person eighteen (18) years of age or older who because of mental, developmental, or physical impairment, is unable to: (a) Communicate or make responsible decisions to manage his/her own resources; (b) Carry out or arrange for essential activities of daily living; or (c) Protect oneself from abuse, including physical abuse, psychological abuse, sexual abuse, financial exploitation, caregiver neglect, or self-neglect. HRS §346, Part X: Adult Protective Services, mandates that personnel employed in health care, social services, LE, and financial assistance are required to report suspected abuse or neglect of a vulnerable adult. The law mandates reporting when there is reason to believe abuse has occurred or the vulnerable adult is in danger of abuse, if immediate action is not taken."

It is noted that the definition of vulnerable adult as outlined in state law (HRS § 346-222) is included in the curriculum, *Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training* as revised 02/02/2017, which was the training required of all staff in 2017. Included in this training is information regarding mandatory reporting requirements.

During the 12 months preceding the on-site review, there were no allegations reported involving a youthful offender or a vulnerable adult. KCF does not house youthful offenders. Additionally, based on its mission as a work camp, offenders classified as vulnerable adults would not be housed at this facility. It was confirmed in interviews with the Warden and the former PREA Coordinator that if an offender currently housed at the facility reported a historical allegation that involved a juvenile facility, the allegation would be reported to that facility as well as the appropriate agency having jurisdiction (e.g., law enforcement, child protective services, etc.).

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.61 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 32.0.9 (page 34) indicates that, "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."

Per the Program Specialist, all allegations are reported through the chain of command up to the Warden; if the incident is deemed to be a priority, reporting continues up to the Director as dictated in agency procedures. The Wardens delegate the assignment of investigations to the Chief of Security and the PCM follows up to ensure investigations are completed as assigned. The Auditor was provided with the PREA Incident Process Map (09/2017) which details this process. The Auditor was also provided with a directive from the Director of the Department of Public Safety (dated 07/01/2015) which lines out the prioritization of incident reporting and notifications throughout the Department. This directive indicates that, "Any Prison Rape Elimination Act (PREA) reported incident of Sexual Abuse or criminal incident of Sexual Harassment (usually involves a threat)" is considered a Priority I incident, requiring immediate telephone notification "...through the Facility, Law Enforcement, and Department (Division Administrator, Deputy Director, and Director) chain of command and the Public Information Officer (PIO) as soon as possible. Following the chain of command notification, the Director shall direct IAO [internal Affairs Office] and/or the AG [Attorney General] Investigator as needed. The details/reports are to be emailed to the individuals in the chain of command by the end of the shift."

During an interview, the Warden reported that staff are required to report all allegations, regardless of the method in which the allegation was received. He added that allegations are reported first to the sergeant, then up through the chain of command and that the staff member receiving the allegation would also complete the policy-specified report.

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training was provided to all staff in 2017. This training informed all participants, "PSD requires all staff to report: Any knowledge, suspicion or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility; Retaliation against inmates or staff who reported such an incident; and Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation." Information regarding the reporting process is also detailed in this training.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Curriculum Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017
- PREA Incident Process Map (09/2017)
- Director Memorandum Incident Reporting and Notification (07/01/2015)

Interviews conducted:

- Random sample of Staff
- Medical and Mental Health Staff
- Warden

- PREA Coordinator and Program Specialist

Standard 115.62: Agency protection duties

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*)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 33.0.1 and .2 (page 34) requires that, "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." Knowledge of actions to be taken with the primary purpose of protecting the offender were clearly articulated in interviews with the Director's designee, Warden, and random KCF staff.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)

Interviews conducted:

- Director designee
- Warden
- Random sample of Staff

Standard 115.63: Reporting to other confinement facilities

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*)

115.63 (a)

Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017) requires,
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. The Facility Head or Warden shall include the department PREA Coordinator in the formal notification to the non-PSD facility, via "Carbon Copy" for email notifications, or by emailing the fax transmittal to the head of the facility for fax notifications.

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. The Facility Head or Warden shall include the department PREA Coordinator in the formal notification to the PSD facility, via "Carbon Copy" for email notifications, or by emailing the fax transmittal to the head of the facility for fax notifications.

The PAQ reports that there were no applicable allegations received by KCF in the past 12 months, which was confirmed by the Warden. As a result, there was no secondary documentation available for review

to confirm such notifications are being made in compliance with policy. However, the Warden clearly articulated the requirements of this subsection during an interview.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.63 (b)

Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017) requires, "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 PAQ reports that there were no applicable allegations received by KCF in the past 12 months, which was confirmed by the Warden. As a result, there was no secondary documentation available for review to confirm such notifications are being made in compliance with policy. However, the Warden clearly articulated the requirements of this subsection during an interview.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.63 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) requires, "The Facility Head or Warden shall document that he/she has provided such notifications within seventy-two (72) hours of receiving the allegation." (section 34.0.4, page 35).

The PAQ reports that there were no applicable allegations received by KCF in the past 12 months, which was confirmed by the Warden. As a result, there was no secondary documentation available for review to confirm such notifications are being made in compliance with policy. However, the Warden clearly articulated the requirements of this subsection during an interview.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.63 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) (section 34.0.5) requires that, "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."

The same agency policy also states, "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." (section 6.0) and "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..." (section 17.0.1).

The Warden clearly articulated this requirement and assertion that any allegation received would be thorough investigated, regardless of the source of the allegation.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)

Interviews conducted:

- Director designee

- Warden

Standard 115.64: Staff first responder duties

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*)

115.64 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 35.0.1 (page 35 – 36) requires the following:

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.

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training was provided to all staff in 2017. This training informed all participants, "Upon learning of an allegation that an offender was sexually abused, the first staff member to respond to the report is require to: Separate the alleged victim and abuser; Preserve and protect any crime scene; If the abuse occurred within 72 hours, request that the alleged victim not take any actions that could destroy physical evidence (washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating)." The training also provided detailed information for first responders:

Separate victim from alleged perpetrator, including transportation to medical/mental health exams.

Tell the chain of command of the incident, including the health care unit.

Obtain a brief statement from the victim.

Provide medical and mental health treatment and support services.

Report incident by completing an incident report prior to the end of the shift.

Alert Internal Affairs and Law Enforcement.

Preserve forensic evidence, secure the crime scene, place offender suspect in "dry cell."

Staff were very familiar with the requirements of first responders, which is commendable given the small number of allegations this facility receives. This is a tribute to the formal training and informational discussions held within the facility.

The Auditor reviewed the KCF response plan which indicates:

The following required actions are in response to sexual / physical abuse, harassment and misconduct allegations. Assure that this protocol is followed when dealing with these types of allegations...Inmate Victim and inmate suspect are not allowed to shower, change clothes or remove any clothing without medical supervision, use the restroom, brush teeth, or consume any liquids in order to preserve the evidence. [emphasis added]

The Auditor also reviewed the Department of Public Safety PREA Response Incident Checklist (PSD 8313) which indicates:

"Inmate Victim" and "Inmate Suspect" are not allowed to shower, change clothes or remove any clothing without medical supervision, use the restroom, brush teeth, or consume any liquids in order to preserve the evidence. [emphasis added]

Although agency policy requires that alleged victims be asked not to take any of the identified actions, both agency and facility-level response plans require that staff not allow the victim to do so. This is contradictory to policy and not in compliance with standard requirements. As such, KCF is found to be non-compliant with this standard. Corrective action should include the revision to both agency and facility-level response checklists with distribution to all applicable facility staff.

UPDATE: The Auditor was provided with the updated form PSD 8313 PREA Incident Checklist as amended 03/14/2019. The form now reads, "Request that the 'Inmate Victim' not shower, change clothes or remove any clothing without medical supervision, use the restroom, brush teeth or consume any liquids in order to preserve the evidence. 'Inmate Suspect' is not allowed to take any of the above actions in order to preserve the evidence." This corrected information was also incorporated into the facility's PREA Coordinated Response Plan dated 03/28/2019. On 03/25/2019, the Auditor was forwarded an email from the Chief of Security to all KCF Watch Commanders regarding revisions to the checklist and requesting they remove all previous checklists, replacing them with the updated one. As a result of these actions, KCF is now assessed as compliant with this subsection.

115.64 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 35.0.2 (page 36) states that, "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."

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training was provided to all staff in 2017. This training informed all participants, "Upon learning of an allegation that an offender was sexually abused, the first staff member to respond to the report is require to: Separate the alleged victim and abuser; Preserve and protect any crime scene; If the abuse occurred within 72 hours, request that the alleged victim not take any actions that could destroy physical evidence (washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating)."

Staff were very familiar with the requirements of first responders, which is commendable given the small number of allegations this facility receives. This is a tribute to the formal training and informational discussions held within the facility.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017
- Copies of the investigation report packets resulting from the three allegations reported during this documentation period.
- KCF Facility Coordinated Response Plan

Interviews conducted:

- Security Staff and Non-Security First Responders
- Random sample of Staff
- VolinCor Administrator

Standard 115.65: Coordinated response

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*)

The agency maintains a PREA Response Plan that is made up of the following:

- PSD P&P COR.10.1B05: Procedure in the Event of Physical or Sexual Assault.
- PSD P&P COR.13.03: Serious Misconduct Violations and Minor Misconduct Violations.
- Standards of Conduct for Corrections & Law Enforcement.
- PSD's Directive on Fraternalization with Inmates and Reporting of Incarcerated Relatives.
- Criminal Investigation and Administrative Investigation.
- Inmate Classification and Programmatic Review.
- PSD P&P COR.08.13 Duty Assignment for Corrections Officers.
- Departmental PREA Policy – ADM.08.08. Handouts, Posters, and Videos.
- Complete PREA Checklist Form for any PREA allegation.
- PREA Screening Tool and OffenderTrak Alerts.
- Awareness Training for Staff and Offenders.

This is detailed in Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training (as revised 02/02/2017), training that was recently required of all staff members.

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 36.0.1 and .2 (page 36) required that, "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. Each facility's written institutional plan shall incorporate the PREA Incident Checklist (PSD 8313) and other PREA forms. If a facility has developed a Facility PREA Coordinated Response Incident Checklist, then it must incorporate at a minimum all variables included on the Department's PREA Response Incident Checklist (PSD 8313)." The same policy details the duties of first responders (section 35.0.1.c and .d; page 35) which include, "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 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, staff shall ensure that the alleged abuser not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes,

urinating, defecating, smoking, drinking, or eating”

Per the Program Specialist, each facility is required to develop a facility-specific response plan. Each facility, including KCF, mirrored the PSD checklist with the same steps and coordinated response. Additionally, each facility is required to develop a plan, but when an incident occurs, they are required to document their response on the agency-level checklist (PSD 8313 PREA Response Incident Checklist). The Program Specialist also reported that the KCF response plan is maintained by the PCM and is available to all staff as it is not confidential; however, this individual did not articulate where the plan is actually maintained or how it is accessible to all staff. The plan provided by KCF does not appear to be facility specific but does meet the standard requirement for the development of a coordinated response plan. During an interview, the Warden expressed a foundational knowledge regarding the response plan, but did not have specific information about what the plan included. It is noted that the Warden was recently assigned to the facility and was working with the PREA Coordinator and PCM to broaden his knowledge of PREA-related procedures and documents.

Based on the above, KCF is assessed as compliant with the requirements of this standard.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training (as revised 02/02/2017)
- KCF Facility Coordinated Response Plan

Interviews conducted:

- Warden

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

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*)

115.66 (a)

Within the agency, all uniformed staff with the exception of captains and majors, food service staff and operations staff are covered under the AFSCME Local 646 AFL-CIO UPW United Public Workers Unit 10 collective bargaining agreement. All other non-uniform staff (including wardens), captains, and majors are covered under the AFSCME Local 152, AFL-CIO HGEA Hawaii Government Employees Association collective bargaining agreement. Both of these agreements expired 06/30/2017 and are currently in negotiations. The expired agreements remain in place until such time as new agreements are ratified and enacted. Per the Program Specialist, both agreements have been in place, unchanged for over 20 years and are currently in arbitration due to cost items only.

The Hawaii Government Employees Association collective bargaining agreement states in part:

Whenever an investigation of charges against an Employee is pending and the Employee's presence at the work site is deemed by the Employer to be detrimental to the proper conduct of the investigation or the operations of the work place, the Employee may be placed on a leave of absence without pay pending investigation...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 and in the same or different capacity. The action shall be for the length of time as may be necessary to conclude the investigation.

The United Public Workers Unit 10 collective bargaining agreement states in part:

Whenever an investigation of charges against an Employee is pending, the Employer shall have the option to:

Retain the Employee at work,

Place the Employee on leave of absence with pay,

Return the Employee to work from leave without pay pending an investigation, or

Reassign the Employee to a temporary workplace in the same or different position.

The decision of the Employer shall be for the length of time necessary to conclude the investigation.

These provisions were confirmed in interviews with the Warden and Director's designee.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.66 (b)

The Auditor was provided with copies of applicable sections of the two bargaining agreements in place at KCF and confirmed compliance with this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- AFSCME Local 152, AFL-CIO HGEA Hawaii Government Employees Association collective bargaining agreement 07/01/2013 – 06/30/2017
- AFSCME Local 646 AFL-CIO UPW United Public Workers Unit 10 collective bargaining agreement 07/01/2013 – 06/30/2017

Interviews conducted:

- Director designee

Standard 115.67: Agency protection against retaliation

115.67 (a)

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

115.67 (b)

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

115.67 (c)

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

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

115.67 (d)

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

115.67 (e)

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

115.67 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

115.67 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 39.0.1 (page 37) states that, "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."

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.67 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 39.0.2 (page 37) states that, "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.”

During on-site interviews conducted, the Director’s designee and Warden reported actions would be monitored and any allegations of retaliation would be investigated. They both also reported that the parties would be separated in order to ensure the continued safety of the individual alleging retaliation. It is noted that the individual charged with retaliation monitoring has never had an applicable case that required monitoring as the only allegations reported since he assumed these duties were harassment and did not require formal monitoring; however, documentation of any formal retaliation monitoring conducted would become a part of the formal investigation report.

As no offenders who reported a PREA allegation were still housed at KCF, no corresponding interviews were conducted.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.67 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 39.0.3 through .5 and .8 (page 37 - 38) requires that, “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...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). A copy of this form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days.”

There were no allegations reported in the 12 months preceding the on-site review that required or warranted formal retaliation monitoring. As such, there was no secondary documentation available for review. During interviews conducted, the Warden was very familiar with actions that might indicate retaliation. The individual charged with retaliation monitoring was relatively new to the responsibility and indicated there had not been an allegation reported that required formal monitoring since he assumed responsibilities. Based on this, it is recommended that the agency provide the individual with the opportunity to shadow an individual in another facility to ensure he thoroughly understands all aspects of the retaliation monitoring process.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.67 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 39.0.6.d (page 38) requires that, “In the case of offenders, monitoring by the Facility PREA Compliance Manager shall also include periodic status checks, preferable conducted weekly, at a minimum.”

There were no allegations reported in the 12 months preceding the on-site review that required or warranted formal retaliation monitoring. As such, there was no secondary documentation available for review. During interviews conducted, the Warden was familiar with the required status checks. The individual charged with retaliation monitoring was relatively new to the responsibility and indicated there had not been an allegation reported that required formal monitoring since he assumed responsibilities. Based on this, it is recommended that the agency provide the individual with the opportunity to shadow an individual in another facility to ensure he thoroughly understands all aspects of the retaliation monitoring process.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.67 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 39.0.7 (page 38) requires, "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."

During the audit documentation period, there were no applicable issues raised or indicated related to the three (3) investigations conducted. However, the Director's designee and Warden were familiar with related policy provisions. Additionally, the Auditor was provided with the curriculum for the formal PREA-related training most recently required of all staff (*Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017*). Included in that training is information regarding the prohibition of all forms of retaliation, examples of overt and indirect retaliation, and the assertion that all offenders and staff have the right to be free from retaliation. Incorporated into the training is the inclusion of retaliation-related actions in the agency's zero tolerance policy ("PSD has a zero tolerance policy concerning all forms of sexual abuse, sexual harassment, and retaliation for reporting incidents...Any retaliation against individuals for reporting an incident is also prohibited and will be investigated.")

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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 PREA Compliance Manager, Warden, and/or Sheriff to monitor shall terminate, if the investigation concludes that the allegation is unfounded."

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Copies of the investigation report packets resulting from the three allegations reported during this documentation period
- Training curriculum for *Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017*

Interviews conducted:

- Director designee
- Warden
- Designated Staff Member Charged with Monitoring Retaliation

Standard 115.68: Post-allegation protective custody

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*)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 27.0.1 through .8 states the following:

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. 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. 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, then such an assignment should not normally exceed a period of thirty (30) days. If an involuntary administrative segregated housing assignment 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 the 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.

While on site, some staff reported that offenders are placed in segregated housing after reporting an allegation or when being named as the alleged victim in an allegation. During the audit documentation period, three allegations were reported and investigated. All three were sexual harassment. The placements and movements of the alleged victims were reviewed with the former PREA Coordinator and it was determined that no offender was placed in segregated housing following the reporting of or being named as the alleged victim in an allegation. It is recommended that the PCM provide clarifying information regarding the noted misconception to facility staff.

During an interview, the Warden reported that placement in segregated housing would be used only as a last resort, noting that if needed, the offender could be temporarily transferred to another facility until the issue was resolved. He added that if such a placement was required, it would generally only be for 48 hours until a viable alternative could be developed. Staff who supervise offenders in segregated housing confirmed that offenders would have access to library, education, recreation, religious services, and telephones, adding that the offender would continue with the regular programming, just doing it in segregation. He added that no offender has been placed in segregated housing following the report of an allegation since he was assigned to the post.

Based on the above, KCF is assessed as compliant with the requirements of this standard.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)

Interviews conducted:

- Warden
- Staff who Supervise Offenders in Segregated Housing

INVESTIGATIONS

Standard 115.71: Criminal and administrative agency investigations

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*)

115.71 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.1 (page 38) requires, "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."

The Auditor was provided with reports from the three (3) investigations conducted during the audit documentation period. All were thorough and completed in a timely manner, regardless of how the allegation had been reported. The Auditor was also provided with a directive from the Director of the Department of Public Safety (dated 07/01/2015) which lines out the prioritization of incident reporting and notifications throughout the Department. This directive indicates that, "Any Prison Rape Elimination Act (PREA) reported incident of Sexual Abuse or criminal incident of Sexual Harassment (usually involves a threat)" is considered a Priority I incident, requiring immediate telephone notification "...through the Facility, Law Enforcement, and Department (Division Administrator, Deputy Director, and Director) chain of command and the Public Information Officer (PIO) as soon as possible. Following the chain of command notification, the Director shall direct IAO [internal Affairs Office] and/or the AG [Attorney General] Investigator as needed. The details/reports are to be emailed to the individuals in the chain of command by the end of the shift." This directive highlights the level of importance placed by the agency on PREA-related investigations.

During interviews, investigative staff reported that investigations would be initiated immediately following receipt of an allegation. They also reported that all allegations would be treated in the same manner, regardless of the way they were received or if the allegation was reported anonymously.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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." The policy specifically addresses the training requirement for those who conduct sexual abuse investigations and is silent regarding those who conduct sexual harassment investigations as this is not a requirement of the standard. Per the Program Specialist, any staff member who conducts investigations can conduct sexual harassment investigations. However, it is a practice that only those individuals who have completed PREA investigations training conduct both abuse and harassment investigations.

The Auditor was provided with documentation of the completion of the National Institute of Corrections training in PREA investigations for randomly selected individuals designated as investigators. It is noted

that this training does not appear on the individual's official training transcript as it is a web-based training that is not organized by the agency's training unit. However, proof of completion is maintained in the staff member's training record file. The Auditor was also provided with reports from the three (3) investigations conducted during the audit documentation period and confirmed completion of the noted investigator training for the two individuals who completed these investigations. Completion of training was also confirmed in interviews with investigative staff.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.71 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 41.0.4 (page 39) requires that, "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 interviewed clearly articulated the investigation process, to include interviews, evidence management, collaboration with law enforcement as applicable, and report writing. They both demonstrated a solid understanding of both direct and circumstantial evidence and proper evidence handling procedures.

The Auditor reviewed the reports from the three (3) investigations conducted as a result of allegations received during the reporting period. Per the Program Specialist, "The PREA Compliance Manager has a confidential control log of all incidents that occurred at their facility. The investigator [and/or] Warden checks with the PCM. Review of prior complaints was recently implemented and discussed with PCM's at the annual meeting this past October. A new template for inmate on inmate investigations was distributed also during the annual meeting." The Auditor was provided with the new template and confirmed the inclusion of documentation of prior allegations as required by the standard in offender-on-offender investigations. KCF has not had an offender-on-offender allegation reported since the implementation of this new template and therefore, has no secondary documentation available to demonstrate use. However, the Auditor also reviewed the template for staff-on-offender investigations as provided by the Program Specialist and found no similar language or requirement in the template. The template does require the investigator to document a review of personnel files, requiring:

In the event that an employee is under investigation for a misconduct, Investigator should review the employee's personnel file and documented relevant information. The information contained in this section should show the time, date, and day the personnel file was reviewed; if any letters of appreciation, certificates, commendations, and/or awards were received and any prior record of disciplinary action received that complies with CBA requirements.

While this type of review may provide valuable information regarding an employee's prior behavior, it does not meet the standard requirement of a review of all prior allegations as the information gleaned from this review would only constitute substantiated allegations and would not include a history of all complaints made regarding the individual, to include unsubstantiated or unfounded allegations. As a result, KCF is found non-compliant with the requirements of this subsection. Corrective action should include modification of the template in use for staff-on-offender allegations and applicable dissemination / training for potential users.

UPDATE: Revisions were made to the investigation report template which requires the inclusion of the following information:

Verify with PREA Coordinator or PREA Facility Compliance Manager as to whether the alleged inmate victim has a prior history of sexual abuse or sexual harassment reporting as a victim or predator.

Verify with PREA Coordinator or PREA Facility Compliance Manager as to whether the alleged staff member has a prior history of sexual or sexual harassment reporting as a predator.

Based on the inclusion of this information, KCF is now assessed as compliant with the requirements of this subsection.

115.71 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.5 (page 39) requires that, "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."

The Auditor was provided with copies of the reports from the three investigations conducted during the documentation period. All were allegations of sexual harassment; however, two were referred for criminal investigation based on the possibility of threats contained in the harassment. Both of these investigations were declined for criminal prosecution. As a result, there is no secondary documentation available for review. However, it was confirmed in interviews with investigative staff that criminal investigation take priority over administrative investigations with administrative investigations generally placed on hold until the criminal investigation and related proceedings were complete.

However, the policy language itself does not meet compliance with the standard as it only affords staff protections under Garrity, instructing investigators that they "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. The Auditor was informed that investigators from the Internal Affairs Unit would conduct investigations that are potentially criminal and, as these individuals are sworn officers, the requirements of this standard are addressed. However, two of the investigations reviewed were referred for possible criminal investigation, but the administrative investigation was conducted by a KCF trained investigator who is not a sworn officer. Finally, the provision in policy only addresses investigations in which a staff member is accused but does not address compelled interviews when an offender is accused. For these reasons, KCF is found to be non-compliant with the requirements of this subsection. Corrective action should include a revision to policy and provision of applicable information to all trained investigators.

UPDATE: The following clarifying information was received from the former PREA Coordinator:

The Department of Public Safety (PSD) has developed a process with each County Prosecuting Attorney's Office through the relevant County Law Enforcement responsible for the criminal investigation to allow PSD to proceed with its administrative investigation, unless a the County entity has specifically requested a deference to the criminal investigation. The language in ADM.08.08 allow for this process to continue and the "should" language was intended to maintain this process.

In practice, our County Law Enforcement has benefited from the information gained through the administrative investigation through subpoenas. It is important to note that all staff investigative forms comply with Garrity notice and rights; however it is the Law Enforcement entity, who is responsible to ensure Garrity after the administrative documents are produced pursuant to a subpoena.

In short, the working relationship between PSD and the County has proven to be beneficial to securing convictions against staff, who commit sexual abuse as the administrative process is more efficient (quicker) than the criminal process, which is subject to delays in scheduling or by defense counsel to achieve a “speedy trial” dismissal.

Based on the above, KCF is now assessed as compliant with the requirements of this subsection.

115.71 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.6 and .7 (page 39) requires that, “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).”

During interviews, investigative staff reported that they would never require an offender who alleged sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with an investigation.

The Auditor was provided with a 2015 substantiated staff investigation for standard 115.76 in order to document prior disciplinary procedures. This investigation contained the results of Computer Voice Stress Analysis (CVSA) Reports for two offenders named as alleged victims in the investigation. Per the Program Specialist, the CVSA was not required of the offenders, nor were the offenders forced to participate; offenders were asked and freely volunteered to take a CVSA. This is an option to attain clarity in the investigation. Although this practice is in compliance with the requirements of this subsection, it is recommended that the agency develop some form of documentation that the offender is participating in a CVSA is truly voluntary and wholly of their own volition. This documentation should also include the reasoning behind requesting the offender’s participation and/or a request for a CVSA initiated by an offender.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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.”

Knowledge of subsection requirements were confirmed in interviews with investigative staff, who reported that the investigation process would include a review of all individual involved to determine if anyone contributed to the abuse taking place and to see if the abuse could have been avoided. A part of the investigation process is to look for any violations of the agency’s code of conduct and deliberate indifference, which would result in the initiation of another formal investigation. Investigative staff also reported that investigations are documented in written reports that follow an established template that includes a synopsis, identification of individuals involved, witness statements, details regarding evidence, and recommendations for findings.

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training was provided to all staff in 2017. This training provided all participants with the definition of investigation outcomes as follows: “Substantiated Allegation – an allegation that was investigated and determined to have occurred. Unsubstantiated allegation – an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as whether or not the event occurred. Unfounded Allegation – an allegation that was investigated and determined not to have occurred.”

The Auditor was provided with reports from the three (3) investigation conducted as the result of allegations reported during the documentation period. All were thorough and reviewed all aspects of the allegations, including details of evidence and witness testimony. Investigative staff reported that all information available is examined to determine if any staff member contributed to the abuse, to see if there was any act of deliberate indifference or code of conduct violations, and to see if the abuse could have been avoided. If such actions were suspected, a separate investigation would be initiated. This did not occur during the audit documentation period.

During a review of all investigation templates and completed investigation reports provided, the Auditor was not able to locate how an investigator and/or final finder of fact detailed the reasoning behind credibility assessments. The Auditor requested clarification but as of the writing of this report, had not received any applicable information. As a result, KCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include the development of a process to document credibility assessment information relied on in an investigation coupled with applicable dissemination of information to investigators.

UPDATE: The Auditor was provided with a revised investigation report template, which included the following language:

Include in analysis when assessing the totality of circumstances and credibility to formulate findings/conclusions.

Based on this update and the subsequent requirement to include credibility assessment information in the investigation report, KCF is now assessed as compliant with the requirements of this subsection.

115.71 (g)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.2 and .11 (page 38 – 40) requires that, “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.”

Investigative staff reported that criminal investigations are documented in written reports that are documented in a manner similar to agency administrative investigations. These reports are available from law enforcement officials.

The Auditor was provided with the reports from the three (3) investigations conducted during the reporting period. Of these, two were referred but subsequently declined by law enforcement. As a result, there are no criminal investigation reports available for review. However, the investigative staff interviewed reported that the Internal Affairs Unit (IAU) are able to obtain criminal reports from law enforcement as applicable.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.71 (h)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0.2 and .11 (page 38 – 40) requires that, “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.”

The Auditor was provided with the reports from the three (3) investigations conducted during the reporting period. Of these, two were referred but subsequently declined by law enforcement. As a result, there are no criminal investigation reports available for review. However, the investigative staff interviewed were knowledgeable of the requirements of this standard and appeared to have a cooperative relationship with law enforcement officials.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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.”

All reports are maintained within data systems managed by the PREA Coordinator. All investigation report requested for review were readily available upon request. Additionally, the former PREA Coordinator was very knowledgeable regarding the requirements of this standard.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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.”

Investigative staff reported that the departure of a staff member from employment does not provide a basis for terminating an investigation, that the investigation continues based on the totality of circumstances and evidence. It was also reported that the same would be true if an offender identified as an alleged victim and/or abuser leaves the facility prior to the completion of the investigation.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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.”

This was confirmed in interviews with investigative staff. The former PREA Coordinator also reported that at one time, an attempt was made to establish a memorandum of understanding with local law enforcement. This process was never completed as these officials reported that it was their statutory obligation to conduct all criminal investigations for police powers on the relevant islands. Facility administrators and the Internal Affairs Unit Chief are in continual discussions with law enforcement officials regarding PREA standard-related requirements to ensure all criminal investigations are compliant with these standards.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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."

During interviews with investigative staff, the Auditor was informed that facility and agency level investigators are provided with a law enforcement case number for any criminal investigation being conducted. The authorized individual can then contact the law enforcement agency to obtain updates and status information regarding the investigation. Designated staff are also able to conduct regular status checks with the criminal investigator as needed to remain abreast of the investigation. The PCM also indicated that they would assist with logistics, documentation, coordinating interviews with law enforcement, etc. to assist criminal investigators as needed and directed. This was confirmed in interviews with the Warden and PREA Coordinator.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017
- Copies of the investigation report packets resulting from the three allegations reported during this documentation period.
- Director Memorandum Incident Reporting and Notification (07/01/2015)
- Template for staff investigations dated 10/13/20146 (date is as included on the template)
- Template for offender investigations dated 05/01/2018
- Template for investigations report as revised 05/13/2019 and 05/28/2019

Interviews conducted:

- Investigative Staff
- Warden
- PREA Coordinator and Program Specialist
- PREA Compliance Manager

Standard 115.72: Evidentiary standard for administrative investigations

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*)

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."

The Auditor was provided with copies of the three (3) investigations that were conducted during the audit documentation period and all appeared to have findings consistent with the preponderance of the evidence standard. Each investigation report is required to contain a summary sheet that details justification of the findings based on the totality of the investigation completed. Additionally, investigative staff interviewed were knowledgeable of the level of proof required for PREA investigations.

Based on the above, KCF is assessed a compliant with the requirements of this standard.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act (09/22/2017)*
- Copies of the investigation report packets resulting from the three allegations reported during this documentation period.

Interviews conducted:

- Investigative Staff

Standard 115.73: Reporting to inmates

115.73 (a)

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

115.73 (b)

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

115.73 (c)

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

115.73 (d)

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

alleged abuser has been convicted on a charge related to sexual abuse within the facility?
 Yes No

115.73 (e)

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

115.73 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

115.73 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 43.0.1 requires that, "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."

The requirement to notify an offender who makes an allegation of sexual abuse with investigative findings was confirmed in interviews with the Warden and investigative staff. As no offenders who reported allegations were still housed at KCF, no corresponding interviews were conducted.

As there were no applicable investigations conducted at KCF during the 12 months preceding the on-site review, the Auditor was provided with examples of notification to offenders at the other agency facilities (08/02/2017 and 02/09/2017). Additionally, the Auditor was provided with the investigation reports from the three (3) allegations received during the documentation period and was able to confirm notification of investigation outcome to the named victim in each case. These were all sexual harassment investigations and, as such, notifications are not required by the standard.

Based on the above, KCF exceeded the requirement of this subsection.

115.73 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 43.0.2 (page 40) requires that, "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 three investigation reports for this reporting period were reviewed and offender notification of outcomes were confirmed. Two of the three of these investigations were referred to law enforcement for allegations of sexual harassment that may have included threats and were therefore criminal in nature.

These were referred to law enforcement and were subsequently declined. As a result, there is no secondary documentation available for review relative to this subsection.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.73 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 43.0.3 (pages 40 – 41) requires that, “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.”

As no offenders who reported allegations were still housed at KCF, no corresponding interviews were conducted.

The Auditor was provided with investigation report packets based on the three (3) allegations reported during the 12 months preceding the on-site review. All were based on allegations of sexual harassment, two (2) of which were allegations against staff. As a result, there were no investigations applicable to this subsection and, as such, there was no secondary documentation available for review. It is noted that since the standards were implemented, there has been only one substantiated allegation of staff sexual abuse of an offender. The suspect in this investigation resigned in 2015 and, due to the age of the investigation, it would have been addressed in the facility’s last DOJ PREA audit (final report dated 02/26/2016). It is noted in that report that the offender was notified of the staff member’s resignation.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.73 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 43.0.4 (page 41) requires that, “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.”

As no offenders who reported allegations were still housed at KCF, no corresponding interviews were conducted.

The Auditor was provided with investigation report packets based on the three (3) allegations reported during the 12 months preceding the on-site review. All were based on allegations of sexual harassment, two (2) of which were allegations against staff. As a result, there were no investigations applicable to this subsection and, as such, there was no secondary documentation available for review. Additionally, following a review of all allegations investigated since standard implementation in 2013, there have been no substantiated investigations of offender-on-offender sexual abuse or assault.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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). A copy of this form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days."

The Auditor was provided with investigation report packets based on the three (3) allegations reported during the 12 months preceding the on-site review. All were based on allegations of sexual harassment, two (2) of which were allegations against staff. As a result, there were no investigations applicable to this subsection and, as such, there was no secondary documentation available for review.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.73 (f)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 43.0.6 (page 41) states that, "The facility's or PSD's obligation to report under this section shall terminate, if the offender victim is released from PSD's custody."

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- PREA Mandated Reporting Form (PSD 8317) notifying a Maui Community Correctional Center offender of the outcome of an investigation (dated 08/02/2017).
- PREA Mandated Reporting Form (PSD 8317) notifying a Women's Community Correctional Center offender of the outcome of an investigation (dated 02/09/2017)
- Copies of the investigation report packets resulting from the three allegations reported during this documentation period

Interviews conducted:

- Warden
- Investigative Staff

DISCIPLINE

Standard 115.76: Disciplinary sanctions for staff

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*)

115.76 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 33.0.1 (page 41) states that, "Staff are subject to disciplinary sanctions up to and including termination for PREA sexual abuse or sexual harassment policy violations."

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training was provided to all staff in 2017. This training informed all participants, "Staff are subject to disciplinary sanctions up to and including termination for PREA sexual abuse or sexual harassment policy violations"

During the documentation period, there was one substantiated investigation of sexual harassment in which the accused was a staff member. The Auditor was provided with documentation regarding discipline commensurate with the allegation following the conclusion of this investigation.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.76 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 33.0.2 (page 41) states that, "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." As there were no substantiated sexual abuse investigations involving KCF staff in the 12 months preceding the on-site review, the Auditor was provided with documentation of staff disciplinary actions from other facilities / departments within the agency. These included several terminations and a resignation. Also included in the documentation reviewed was the resignation of a KCF staff member in 2015.

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training was provided to all staff in 2017. This training informed all participants, "Termination will be the presumptive disciplinary action."

During the audit documentation period, there were no substantiated allegations of sexual abuse on the part of staff. There was one substantiated staff abuse investigation from 2015 in which the staff member resigned as a result.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.76 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 33.0.3 (page 41) states that, "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."

During the documentation period, there was one substantiated investigation of sexual harassment in which the accused was a staff member. The Auditor was provided with documentation regarding discipline commensurate with the allegation following the conclusion of this investigation.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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."

During the audit documentation period, there were no substantiated allegations of sexual abuse on the part of staff. As a result, there is no applicable documentation available for review.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Documentation of staff disciplinary records for other locations within the agency
- Training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017
- Documentation of staff discipline following investigation

Interviews conducted:

- None

Standard 115.77: Corrective action for contractors and volunteers

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*)

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." As there were no substantiated allegations in the 12 months preceding the on-site review, there was no secondary documentation available for review.

Since the implementation of the PREA standards and initiation of allegation tracking, there have been no substantiated investigations at KCF that involved a contractor or volunteer. As a result, there is no documentation available for review.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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."

Since the implementation of the PREA standards and initiation of allegation tracking, there have been no substantiated investigations at KCF that involved a contractor or volunteer. As a result, there is no documentation available for review. However, in an interview, the Warden reported that if such were to occur, he would remove the individual from the facility and refer the allegation to law enforcement if it were criminal in nature.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)

Interviews conducted:

- Warden

Standard 115.78: Disciplinary sanctions for inmates

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*)

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." During the 12 months preceding the on-site review, there were no substantiated offender-on-offender allegations of sexual abuse or harassment; as such, there was no proof documentation to review. It is noted that based on an unsubstantiated investigation of offender-on-offender sexual harassment, a no contact direct order was issued to the involved offenders. Based on the lack of available applicable documentation, the Audit Team interviewed the Offender Disciplinary Hearing Officer. This individual was very well trained in disciplinary procedures and understood the requirements of related PREA standards.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.78 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 46.0.2 (page 42) requires that, "Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the offender's disciplinary history, and the sanctions imposed for comparable offenses by other offenders." During the 12 months preceding the on-site review, there were no substantiated offender-on-offender allegations of sexual abuse or harassment; as such, there was no proof documentation to review. Based on the lack of available applicable documentation, the Audit Team interviewed the Offender Disciplinary Hearing Officer. This individual was very well trained in disciplinary procedures and understood the requirements of related PREA standards.

During an interview, the Warden confirmed that offenders perpetrating sexual abuse or harassment would be issued a misconduct report and sanctioned subsequent to a disciplinary hearing. He indicated that the sanction would be based on the act of misconduct and the offender would likely be transferred out of the facility, based on a change in his classification level.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.78 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 46.0.3 (page 42) states that, "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." During the 12 months preceding the on-site review, there were no substantiated offender-on-offender allegations of sexual abuse or harassment; as such, there was no proof documentation to review. Based on the lack of available applicable documentation, the Audit Team interviewed the Offender Disciplinary Hearing Officer. This individual was very well trained in disciplinary procedures and understood the requirements of related PREA standards.

During an interview, the Warden confirmed that offenders perpetrating sexual abuse or harassment would be issued a misconduct report and sanctioned subsequent to a disciplinary hearing. He indicated that the sanction would be based on the act of misconduct, the offender's disciplinary history, and sanctions imposed on other offenders for committing similar acts, based on an established sanctioning grid. He added that an offender's mental disability or mental illness is not taken into account in these hearings as KCF does not house offenders with mental disabilities or illnesses.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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." During the 12 months preceding the on-site review, there were no substantiated offender-on-offender allegations of sexual abuse or harassment; as such, there was no proof documentation to review. Based on the lack of available applicable documentation, the Audit Team interviewed the Offender Disciplinary Hearing Officer. This individual was very well trained in disciplinary procedures and understood the requirements of related PREA standards.

The availability of sex offender treatment programming at KCF was confirmed in interviews with health services staff. However, it was reported that the program at KCF is only in response to court orders and, as such, an offender sanctioned for perpetrating sexual abuse would not be referred unless criminal charges and a judge's order resulted. Additionally, if a KCF offender received such a sanction, he would be transferred out of KCF based on resulting custody level changes.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.78 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 46.0.6 (page 42 – 43) requires that, "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 KCF, the Auditor was provided with documentation from another agency 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.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.78 (f)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 46.0.7 (page 43) states that, "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."

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training was provided to all staff

in 2017. This training informed all participants, "PSD prohibits disciplinary action for a report of sexual abuse made in good faith based upon a reasonable belief that the allegation conduct occurred."

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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."

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act (09/22/2017)*
- 2015 disciplinary packet from the Halawa Correctional Facility
- Training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017

Interviews conducted:

- Offender Disciplinary Hearing Officer
- Warden
- Medical and Mental Health Staff

MEDICAL AND MENTAL CARE

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

115.81 (a)

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

115.81 (b)

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

115.81 (c)

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

115.81 (d)

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

115.81 (e)

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

Auditor Overall Compliance Determination

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

115.81 (a) and (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 47.0.1 (page 43) requires that, "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."

No offenders in the 12 months preceding the on-site review reported prior sexual abuse, either prior to or during a period of incarceration; therefore, there is no documentation available for review. However, during interviews, staff who performed risk assessments were very knowledgeable of the requirements of this subsection, indicating the information would be provided to the Watch Commander who would follow up with a referral to medical. Continued referrals to mental health practitioners would be made as deemed applicable by the medical practitioner meeting with the offender.

Based on the above, KCF is assessed as compliant with the requirements of these subsections.

115.81 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 47.0.2 (page 43) requires that, "Any offender who has disclosed any previous perpetration of sexual abuse during an intake screening pursuant to §24.0 of this policy shall be offered a follow-up meeting with a mental health practitioner within fourteen (14) days of the intake screening."

The Auditor was provided with a PREA Health Care Report for KCF covering the period of 08/31/2017 through 09/30/2018. This report indicated that fifty-one (51) offenders assessed during the identified time period had a history of sexual abuse or assault in a non-correctional setting. It was learned that KCF is well known for the sex offender treatment programming provided to applicable offenders and, as such, a significant number of offenders have perpetrated sexual abuse or assault while in the community. However, these offenders were not being offered a follow-up meeting with a medical or mental health practitioner as required by this subsection. Both individuals involved in the completion of risk assessments indicated that they were not aware of this requirement.

As a result, KCF is found in non-compliance with this subsection. Corrective action will require the development of a system whereby the offender is offered a follow up meeting and documentation of the offender's declination or receipt of the meeting within 14 days.

UPDATE: KCF mental health staff evaluated their follow up meeting process based on an interpretation of the standard that the indicated follow up meetings were only required at initial agency intake, which occurs at another facility and is therefore not applicable to KCF. A query was submitted to the PREA Resource Center (PRC) to provide clarification regarding the requirements of this subsection. The following was received:

Standard 115.81 medical and mental health screening; history of sexual abuse provision (a) and (b) states if the “screening pursuant to 115.41” indicates that an inmate has experienced prior sexual victimization or previously perpetrated sexual abuse, staff shall ensure that the inmate is offered a follow-up meeting with a mental health practitioner (or medical practitioner for sexual victimization) within 14-days. I think that “the screening pursuant to 115.41” requires such referrals for intake screenings and for screenings at transfer. Standard 115.41 requires that inmates shall be assessed during intake as well as upon transfer to another facility (...). If an inmate has experienced prior sexual victimization or previously perpetrated sexual abuse, the inmate would need to be offered a follow-up meeting with a mental health practitioner. Relying on the phrase “intake screening” in 115.81 (a) and (b) to limit when the necessary offer of services is made may draw an improper distinction between intake screening and screening upon transfer. It may be helpful to remind the facility/agency of their screening obligations under 115.41(a) and ensure that they are making the proper referrals following on all required screenings.

Based on this PRC information, KCF initiated a system of follow up meetings with all offenders who had previously perpetrated sexual abuse, ensuring compliance with this subsection. As KCF maintains the sex offender treatment program for the state, all applicable offenders are evaluated by mental health and sex offender treatment providers. The Auditor was then provided with documentation of the completion of required follow up meetings for a list of identified offenders.

Based on this process and documentation, KCF is now assessed as compliant with the requirements of this subsection.

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.” Per discussion with the Program Specialist and medical and mental health staff, there have been no instances applicable to this subsection in the 12 months preceding the on-site review.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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.” Per discussion with the Program Specialist and medical and mental health staff, there have been no instances applicable to this subsection in the 12 months preceding the on-site review. However, medical and mental health practitioners are aware of standard and policy requirements regarding consent to release information.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- PREA Admissions Log (including released) 09/01/2017 through 08/31/2018
- Blank Authorization to Release Medical Information form (DOC0404A)

- PREA Health Care Report for KCF covering the period of 08/31/2017 through 09/30/2018
- Clarification from the PREA Resource Center regarding the requirements of 115.81 (a) and (b)
- Memorandum from the former PREA Coordinator regarding follow up meetings with mental health and sex offender treatment providers

Interviews conducted:

- Staff Responsible for Risk Screening
- Medical and Mental Health Staff

Standard 115.82: Access to emergency medical and mental health services

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*)

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."

Per documentation of allegations received and discussions with the Program Specialist and with medical staff, there have been no incidences applicable to this standard in the 12 months preceding the on-site

review. However, both medical and mental health staff along with all first responders interviewed were very knowledgeable regarding the provision of trauma care and crisis intervention to offenders.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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."

The Auditor was provided with training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017. This training was provided to all staff in 2017. This training informed all participants, "Offender victims of sexual abuse will receive timely, unimpeded access to emergency medical treatment and crisis intervention services (determined by medical and mental health practitioners). If no qualified medical or mental health practitioners are on duty, security staff first responders will take preliminary steps to protect the victim and will immediately notify the appropriate medical and mental health practitioners."

Per documentation of allegations received and discussions with the Program Specialist and with medical staff, there have been no incidences applicable to this standard in the 12 months preceding the on-site review. However, both medical and mental health staff along with all first responders interviewed were very knowledgeable regarding the provision of trauma care and crisis intervention to offenders.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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."

Per documentation of allegations received and discussions with the Program Specialist and with medical staff, there have been no incidences applicable to this standard in the 12 months preceding the on-site review. However, medical staff interviewed were very knowledgeable regarding the provision of trauma care as required in this subsection.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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 repeated in training provided to all staff members (*Prison Rape Elimination Act* of 2003 Corrections and Law Enforcement Training as revised 02/02/2017).

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Training curriculum for Prison Rape Elimination Act of 2003 Corrections and Law Enforcement Training as revised 02/02/2017

Interviews conducted:

- Medical and Mental Health Staff
- Security Staff and Non-Security Staff First Responders

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

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*)

115.83 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 48.0.1 (page 44) requires that, "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."

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.83 (b)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 48.0.2 (page 44) requires that, "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." Per discussion with the Program Specialist and a review of allegation information for the 12 months preceding the on-site review, there have been no applicable allegations made and, therefore, no secondary documentation available for review. However, medical and mental health staff interviewed confirmed systems established to provide very thorough and timely medical and mental health care for all offenders presenting any type of need.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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." Per discussion with the Program Specialist and a review of allegation information for the 12 months preceding the on-site review, there have been no applicable allegations made and, therefore, no secondary documentation available for review. However, medical and mental health staff interviewed confirmed the provision of services consistent with the community level of care.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.83 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 48.0.4 (page 44) requires that, "Offender victims of sexually abusive vaginal penetration, while incarcerated shall be offered pregnancy tests."

As confirmed via population reports, KCF does not house female offenders and is, therefore, compliant with the requirements of this subsection.

115.83 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 48.0.5 (page 44) requires that, "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."

As confirmed via population reports, KCF does not house female offenders and is, therefore, compliant with the requirements of this subsection.

115.83 (f)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 48.0.6 (page 44) requires that, "Offender victims of sexual abuse, while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate." Per discussion with the Program Specialist and a review of allegation information for the 12 months preceding the on-site review, there have been no applicable allegations made and, therefore, no secondary documentation available for review. Additionally, no offenders who reported allegations were available for interview.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.83 (g)

Agency policy ADM.08.08, *Prison Rape Elimination Act (09/22/2017)* section 48.0.7 (page 44) requires that, "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." This information was repeated in training provided to all staff members (*Prison Rape Elimination Act of 2003 Corrections and Law Enforcement Training as revised 02/02/2017*). It is noted that there were no allegations of abuse or assault received at KCF in the 12 months preceding the on-site review and, as such, there were no applicable offenders to interview or secondary documentation to review.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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."

A review of all investigations conducted at KCF since the implementation of standards indicates that there have been no substantiated investigations of offender-on-offender sexual assault or abuse. Additionally, per the Program Specialist, there has been no receipt of information indicating substantiated abuse or assault in another confinement facility. However, an interview with a mental health practitioner indicated an understanding of the requirement of this subsection.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act (09/22/2017)*
- Training curriculum for *Prison Rape Elimination Act of 2003 Corrections and Law Enforcement Training as revised 02/02/2017*

Interviews conducted:

- Medical and Mental Health Staff

DATA COLLECTION AND REVIEW

Standard 115.86: Sexual abuse incident reviews

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*)

115.86 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 49.0.1 (page 45) requires that, “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.”

As there were no applicable investigations at KCF in the 12 months preceding the on-site review, the Auditor was provided with samples of incident reviews from other facilities (Women’s Community Correctional Center and Maui Community Correctional Center).

The review process was detailed to staff in the training *Prison Rape Elimination Act of 2003 Corrections and Law Enforcement Training* as revised 02/02/2017. “PSD facilities will 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: Incident Reporting; Impact Assessment; Incident Escalation and Resolution; Incident Monitoring; Post Incident Review.”

Due to the mission of the facility and the nature of the offenders housed there, KCF has not had an extensive history of allegations being reported:

Calendar year	Type of allegation	Number received
2014	No allegations were reported	No allegations were reported
2015	Offender-on-offender sexual abuse	1 unsubstantiated
	Staff-on-offender sexual abuse	1 substantiated
2016	Offender-on-offender sexual abuse	2 unfounded
	Offender-on-offender sexual harassment	1 open at the time the annual report was issued
	Staff-on-offender sexual abuse	1 unsubstantiated
2017	Staff-on-offender sexual harassment	1 substantiated and 1 unsubstantiated
2018	Offender-on-offender sexual harassment	1 unsubstantiated

As a result, there have been only three (3) investigations that require a formal incident review as required by the standard and none since 2016.

Although none of the three investigations from this documentation period required an incident review, a review with the Chief of Security and Investigator was conducted regarding one of the staff sexual

harassment investigations. All documentation typically associated with a required incident review was provided and was assessed as meeting all standard requirements.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.86 (b)

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

As there were no applicable investigations at KCF in the 12 months preceding the on-site review, the Auditor was provided with samples of incident reviews from other facilities (Women's Community Correctional Center and Maui Community Correctional Center). A review of these documents confirmed that SAR's were completed within 30 days of the completion of the investigation.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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."

As there were no applicable investigations at KCF in the 12 months preceding the on-site review, the Auditor was provided with samples of incident reviews from other agency facilities. A review of these documents confirmed that the identified individuals participated in the SAR. This was also confirmed in an interview with the Warden

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.86 (d)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 49.0.4 and 5 (page 45) requires that,

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.

As there were no applicable investigations at KCF in the 12 months preceding the on-site review, the Auditor was provided with samples of incident reviews from other facilities (Women's Community Correctional Center and Maui Community Correctional Center). A review of these documents confirmed

that the elements detailed in the standard were a part of the SAR and documented on the Sexual Abuse Incident Review form.

However, both the PCM and Warden at KCF were not familiar with the incident review process. Both understood broad intent and parameters, but neither had participated in such a review previously and, as such, the requirements of the process were explained during interviews. As this level of knowledge and expertise is based only on experience, not on a failure to comply with policy and standard requirements, this subsection is being assessed as compliant with a recommendation that these two individuals be provided training by the PREA Coordinator / designee and provided the opportunity to participate in reviews at other agency facilities for more hands-on experience.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

115.86 (e)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 49.0.6 and .7 (page 45 - 46) specifies that, "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. The Warden shall then retain a copy of the completed Sexual Abuse Incident Review Report to the Institutions Division Administrator (IDA), the Facility PREA Compliance Manager and the Department PREA Coordinator."

As there were no applicable investigations at KCF in the 12 months preceding the on-site review, the Auditor was provided with samples of incident reviews from other facilities (Women's Community Correctional Center and Maui Community Correctional Center). A review of these documents confirmed that the Warden approved the recommendations made by the SAR Team.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Samples of incident reviews
- Sample administrative investigation report
- Training curriculum for Prison Rape Elimination Act of 2003 Corrections and Law Enforcement Training as revised 02/02/2017
- KCF Sexual Assault Review conducted 08/31/2017

Interviews conducted:

- Warden
- PREA Compliance Manager
- Incident Review Team

Standard 115.87: Data collection

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*)

115.87 (a) and (c)

PREA-related definitions are included in agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017) section 5.0 (pages 6 – 11). 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, interference with reporting an investigation, retaliation, strip search, and voyeurism.

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 fs. 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."

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 with the following response:

The final federal rule includes the following comment:

115.87: Comment: Several commenters recommended adding sexual harassment to this standard. Response. The Department declines to make this change, largely for the same reasons discussed above with respect to § 115.86. While sexual harassment may be a precursor to sexual abuse, it is both more frequent and less damaging than sexual abuse. Requiring the collection of incident-based data on sexual harassment would therefore impose a greater burden and result in fewer benefits than requiring the same data for incidents of sexual abuse.

I heard back from DOJ and they said that the comment in the final rule was the intent despite the fact the SSV collects sexual harassment information. Therefore...you do not have to collect SH data under 115.87 nor include it in the annual report under 115.88 in order to be compliant. All you must collect is all data on the SSV related to sexual abuse.

The Auditor was provided with Survey of Sexual Violence (SSV) data from 2013 and 2016. Discussion with the former PREA Coordinator and a review of system components while on site confirmed that current data collection systems do contain all data elements necessary to answer all questions from the most recent version of the SSV.

Based on the above, KCF is assessed as compliant with the requirements of these subsections.

115.87 (b)

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

The Auditor was provided with Survey of Sexual Violence (SSV) data from 2013 and 2016. This in conjunction with discussions with the former PREA Coordinator provided documentation of the required annual data review.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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]."

While on site, members of the Audit Team were able to view elements of the data system in which PREA-related information is maintained and were able to confirm compliance with the elements of this subsection.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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. Additionally, data reports, inspection reports, and the PREA audit for this facility are also posted to the agency's public website. It is noted that the agency no longer contracts with the Red Rock Correctional Center in Arizona and plans to remove related information from agency-level population reports.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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."

Per the Bureau of Justice Statistics website <https://harvester.census.gov/ssv/>, the following information was obtained: "Currently OMB approval is pending for the 2017 SSV data collection. We anticipate data collection to begin in Fall 2018. You will receive a letter before then which includes due dates and instructions for completing your SSV survey." As of the writing of this report, DOJ has not yet requested SSV data for the 2017 calendar year.

The Auditor was provided with Survey of Sexual Violence (SSV) data from 2013 and 2016. The deadline for the submission of the 2017 data was 01/18/2019, which is after the facility's on-site review. This in conjunction with discussions with the former PREA Coordinator provided documentation of the required annual data submission.

UPDATE: The SSV data from 2017 was received before the final audit report was issued.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act (09/22/2017)*
- Blank US Department of Justice, Bureau of Justice Statistics Survey of Sexual Victimization 2013, State Prisons Systems, Summary Form and Incident Form (Adult)
- PSD public website at www.hawaii.gov/psd
- Annual PREA reports 2011 – 2013, 2014, 2015, and 2016

Interviews conducted:

- None.

Standard 115.88: Data review for corrective action

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*)

115.88 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 51.0.1 and.2 (page 46) requires that, "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." The Auditor was provided with HRS §353-C, Sexual assaults in prison (2013) which states, "The department of public safety, to the best of the department's ability, shall address in prison and make every effort to seek grant moneys from the federal government to implement those efforts. The department shall place priority upon establishing: (1) Appropriate counseling services for sexual assault, to be made available to victims of prison rape within twenty-four hours of the report of an assault; and (2) Policies and standards of transparency to achieve a zero-tolerance policy for sexual assault." As a result of this legislation, the agency is required to annually report all related data to the legislature. These reports are also posted to the agency's public website (2010 through 2016) and were reviewed by the Auditor.

In interviews conducted with the Director's designee and the former PREA Coordinator, confirmation of the use of incident-based data to assess and improve prevention, detection, and response policies was confirmed. The former PREA Coordinator noted that throughout the year, the agency analyzes data to identify trends and resolve issues. Actions taken to address such trends may include revisions to training or policy requirements. A significant revision in training provided to newly hired employees was initiated based on an increase in the number of recruits being compromised. All interviewees confirmed the completion of an annual report based on analyzed data.

A review of the most recent annual PREA report posted to the agency's public website provides an assessment of how the agency is meeting standard requirements. "PSD continues its efforts to maintain compliance with the PREA standards. Some of these efforts include; but are not limited to updating policies, requesting community rape crisis centers to provide emotional counseling support services for offenders, updating PREA training with current information and materials, as well as appointing PREA Managers in each facility. Under the guidance of the PSD's PREA Coordinator, PREA Managers direct their facility's efforts to comply with the policies and directives that promote the PREA standards." Additionally, a more detailed section entitled, "PREA Progress and Summary" is included, providing more detailed information about steps the agency is taking to enhance sexual safety in all facilities.

It is noted that the 2017 annual report is not yet posted to the agency's public website. The report is based on the data reported federal Survey of Sexual Violence query. This was exceptionally late in being sent to facilities for completion and, as such, the agency's annual report is similarly delayed.

Per the Program Specialist, the annual PREA reports make reference to the DOJ PREA audit reports that are also posted to the agency' public website. The documentation regarding problem areas and corrective action would consist of the non-compliant standards and other related information contained in these audit reports. No information specific to the agency's internal analysis to identify problem areas and report on corrective action for each facility as well as the agency as a whole is contained in the annual reports as required by this subsection.

As a result, KCF is found to be in non-compliance with the requirements of this subsection. Corrective action should include the provision of required analysis and resulting information in the 2017 annual report, which has not yet been completed due to a delay in DOJ collection of data.

UPDATE: The 2017 annual agency PREA report was received and now includes all subsection requirements. Based on this, KCF is now assessed as compliant with this subsection.

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."

The annual PREA reports reviewed on the agency's public website include incident and finding data from 2011. A review of the most recent annual PREA report posted to the agency's public website provides an assessment of how the agency is meeting standard requirements. "PSD continues its efforts to maintain compliance with the PREA standards. Some of these efforts include; but are not limited to updating policies, requesting community rape crisis centers to provide emotional counseling support services for offenders, updating PREA training with current information and materials, as well as appointing PREA Managers in each facility. Under the guidance of the PSD's PREA Coordinator, PREA Managers direct their facility's efforts to comply with the policies and directives that promote the PREA standards." Additionally, a more detailed section entitled, "PREA Progress and Summary" is included, providing more detailed information about steps the agency is taking to enhance sexual safety in all facilities. However, the posted annual PREA reports do not contain a comparison of the current year's corrective actions with those from prior years as required by this subsection. As a result, KCF is found to be in non-compliance with the requirements of this subsection. Corrective action should include the provision of required analysis and resulting information in the 2017 annual report, which has not yet been completed due to a delay in DOJ collection of data.

UPDATE: The 2017 annual agency PREA report was received and now includes all subsection requirements. Based on this, KCF is now assessed as compliant with this subsection.

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."

Per the Program Specialist, the annual PREA report is posted to the agency's public website with the Director's approval; that it would not be posted without his authorization. Although this, coupled with the information obtained in an interview with the Director's designee indicates the Director's approval of the report and therefore demonstrates compliance with the requirements of this subsection, it is recommended that future reports contain the Director's actual signature or some other direct evidence of approval of the reports prior to publication.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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."

The Auditor reviewed annual PREA reports posted to the agency's public website and confirmed that these reports contained no personally identifying information. It was confirmed in an interview with the Program Specialist that no personal identifying information is contained in published annual reports, that all information relating to incidents is maintained in a confidential log on a secured drive and/or in secured access with limited access based on approval.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- PSD public website at www.hawaii.gov/psd
- Annual PREA reports 2011 – 2013, 2014, 2015, and 2016
- HRS §353-C, Sexual assaults in prison (2013)
- Act 194 Sexual Assaults in Correctional Facilities 2010, 2011, 2012, 2013, 2014, 2015, and 2016
- 2017 annual agency PREA report

Interviews conducted:

- Director designee
- PREA Coordinator and Program Specialist
- PREA Compliance Manager

Standard 115.89: Data storage, publication, and destruction

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*)

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."

Per the Program Specialist, access to the system files in which PREA information is maintained is tied to system sign-in parameters associated with the job classification of the position. Designated positions have been determined by responsibilities to require access to the system, which occurs automatically based on OTRAK permission profiles once the individual is officially assigned to that position. Any other access is granted on a case by case basis and only with the written approval of the PREA Coordinator. The Auditor was provided with a blank User Access Request Form, which would have to be completed, submitted, and approved prior to granting any exceptional access. It is noted that there were no examples of requests for access outside standard position access assignments during the 12 months preceding the on-site review.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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 contains the agency's annual PREA reports from 2011 through 2016. These reports detail aggregate investigation data and contain data from the Saguaro Correctional Center, a facility in Arizona privately contracted with to house offenders.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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 Uniform Information Practices Act states in part,

This chapter shall be applied and construed to promote its underlying purposes and policies which are to:...(5) Balance the individual privacy interest and the public access interest, allowing access unless it would constitute a clearly unwarranted invasion of personal privacy...Government records which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy...The following are examples of information in which the individual has a significant privacy interest...(2) Information identifiable as part of an investigation into a possible violation of criminal law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation.

The Auditor reviewed annual PREA reports posted to the agency's public website and confirmed that these reports contained no personally identifying information. It was confirmed by the Program Specialist that no personal identifying information is contained in published annual reports, that all information relating to incidents is maintained in a confidential log on a secured drive and/or in secured access with limited access based on approval.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

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.

It is noted that the 2017 annual report is not yet posted to the agency's public website. The report is based on the data reported federal Survey of Sexual Violence query. This was exceptionally late in being sent to facilities for completion and, as such, the agency's annual report is similarly delayed.

Based on the above, KCF is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)

- PSD public website at www.hawaii.gov/psd
- Annual PREA reports 2011 – 2013, 2014, 2015, and 2016
- Blank User Access Request Form
- HRS §92(F), Uniform Information Practices Act

Interviews conducted:

- PREA Coordinator and Program Specialist

AUDITING AND CORRECTIVE ACTION

Standard 115.401: Frequency and scope of audits

115.401 (a)

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

115.401 (b)

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

115.401 (h)

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

115.401 (i)

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

115.401 (m)

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

115.401 (n)

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

Auditor Overall Compliance Determination

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

Does Not Meet Standard (*Requires Corrective Action*)

The Hawaii Department of Public Safety ensured audits were conducted by DOJ certified auditors in all of its prison and jail facilities during the first DOJ audit cycle. PSD also monitors the PREA compliance in the private facility with which it contracts for the housing of offenders on its behalf. Although under supervision as a facility visitor, the Auditor was allowed free access to every part of the facility.

The Auditor was provided with policy and proof documentation for each standard, including the provision of documentation in response to Auditor requests. If any documentation was not available due to non-compliant processes, the information is noted with each individual standard in this report. It is noted with a few standards that the Auditor did not receive the documentation requested. As a result, the standard was assessed as non-compliant and corrective action developed.

Interviews were conducted based on lists provided by the facility, to include all specialty staff, all specialty inmates, all staff on shift for the days of the on-site review, and all offenders currently assigned to the facility. Selection of staff and offenders for random interviews were done from lists provided and included no specific method of selection, just a truly random selection while ensuring representation from all areas within the facility. Private locations within the administration building (a conference room and an office) along with office locations within the facility proper were provided and escorts were provided by the designated Adult Correctional Officers. Staff were contacted via radio or telephone for interviews while offenders were paged via the central intercom system. All individuals interviewed were informed of confidentiality and provided with the opportunity to decline any interview.

No letters were received from any KCF inmate, from the time of the initial audit notification posting to the issuing of the interim audit report.

Standard 115.403: Audit contents and findings

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*)

PSD posts all PREA audit reports to its public website (www.hawaii.gov/psd). This includes the report from the previous audit conducted at KCF.

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.

Beth Schubach

07/23/2019

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.