

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

Interim       Final

Date of Report 04/13/2020

### 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

Telephone: 360-725-8789      Date of Facility Visit: 09/22-26, 2019

### 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      City, State, Zip: same

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, Director

Email: Nolan.p.espinda@hawaii.gov      Telephone: 808-587-1350

### Agency-Wide PREA Coordinator

Name: Shelley Harrington, Intake Service Center Division Administrator

Email: shelley.harrington@hawaii.gov      Telephone: 808-587-1260

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

**Facility Information**

**Name of Facility:**      Waiawa Correctional Facility

**Physical Address:**      94-560 Kamehameha Highway, Waipahu, Hawaii 96767

**Mailing Address (if different than above):**      PO Box 1839, Pearl City, Hawaii 96782

<b>The Facility Is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Private not for profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal

**Facility Type:**       Jail       Prison

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

**Has the facility been accredited within the past 3 years?**       Yes       No

**If the facility has been accredited within the past 3 years, select the accrediting organization(s) – select all that apply (N/A if the facility has not been accredited within the past 3 years):**

ACA  
 NCCHC  
 CALEA  
 Other (please name or describe): [Click or tap here to enter text.](#)  
 N/A

**If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:**  
 DOJ PREA audit, final report dated 11/08/2016

**Warden/Jail Administrator/Sheriff/Director**

**Name:**      Sean Ornellas, Warden

**Email:**      sean.ornellas@hawaii.gov      **Telephone:**      808-677-6129

**Facility PREA Compliance Manager**

**Name:**      Sean Ornellas, Warden

**Email:**      sean.ornellas@hawaii.gov      **Telephone:**      808-677-6129

**Facility Health Service Administrator**       N/A

**Name:**      Tanya Menino, Acting CSA

**Email:**      Tanyalee.Menino@hawaii.gov      **Telephone:**      808-677-6160

### Facility Characteristics

<b>Designated Facility Capacity:</b> 334	
<b>Current Population of Facility:</b> 229	
<b>Average daily population for the past 12 months:</b> 281	
<b>Has the facility been over capacity at any point in the past 12 months?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Which population(s) does the facility hold?</b>	<input type="checkbox"/> Females <input checked="" type="checkbox"/> Males <input type="checkbox"/> Both females and males
<b>Age range of population:</b>	21 to 66 years
<b>Average length of stay or time under supervision:</b>	6 to 12 months
<b>Facility security level/inmate custody levels:</b>	Minimum / Community
<b>Number of inmates admitted to facility during the past 12 months</b>	515
<b>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:</b>	509
<b>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:</b>	476
<b>Does the facility hold youthful inmates?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Number of youthful inmates held in the facility during the past 12 months (N/A if the facility never holds youthful inmates)</b>	Click or tap here to enter text. <input checked="" type="checkbox"/> NA
<b>Does the audited facility hold inmates for one or more other agencies (e.g., a State correctional agency, U.S. Marshals Service, Bureau of Prisons U.S. Immigration and Customs Enforcement)?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

<p><b>Select all other agencies for which the audited facility hold inmates. Select all that apply (N/A if the audited facility does not hold inmates for any other agency or agencies):</b></p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Federal Bureau of Prisons</li> <li><input type="checkbox"/> U.S. Marshals Service</li> <li><input type="checkbox"/> U.S. Immigration and Customs Enforcement</li> <li><input type="checkbox"/> Bureau of Indian Affairs</li> <li><input type="checkbox"/> U.S. Military branch</li> <li><input type="checkbox"/> State or Territorial correctional agency</li> <li><input type="checkbox"/> County correctional or detention agency</li> <li><input type="checkbox"/> Judicial district correctional or detention facility</li> <li><input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail)</li> <li><input type="checkbox"/> Private corrections or detention provider</li> <li><input type="checkbox"/> Other - please name or describe: Click or tap here to enter text.</li> <li><input checked="" type="checkbox"/> N/A</li> </ul>
--	---

<b>Number of staff currently employed by the facility who may have contact with inmates:</b>	138
<b>Number of staff hired by the facility during the past 12 months who may have contact with inmates:</b>	5 + 2 in Correctional Industries
<b>Number of contracts in the past 12 months for services with contractors who may have contact with inmates:</b>	4
<b>Number of individual contractors who have contact with inmates, currently authorized to enter the facility:</b>	41
<b>Number of volunteers who have contact with inmates, currently authorized to enter the facility:</b>	174
<b>Physical Plant</b>	
<b>Number of buildings:</b>  Auditors should count all buildings that are part of the facility, whether inmates are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house inmates, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.	14
<b>Number of inmate housing units:</b>  Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house inmates of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows inmates to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.	5
<b>Number of single cell housing units:</b>	0
<b>Number of multiple occupancy cell housing units:</b>	0
<b>Number of open bay/dorm housing units:</b>	5
<b>Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):</b>	2 holding cells
<b>In housing units, does the facility maintain sight and sound separation between youthful inmates and adult inmates? (N/A if the facility never holds youthful inmates)</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

## Medical and Mental Health Services and Forensic Medical Exams

<b>Are medical services provided on-site?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Are mental health services provided on-site?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Where are sexual assault forensic medical exams provided? Select all that apply.</b>	<input type="checkbox"/> On-site <input type="checkbox"/> Local hospital/clinic <input checked="" type="checkbox"/> Rape Crisis Center <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> )

### Investigations

#### Criminal Investigations

<b>Number of investigators employed by the agency and/or facility who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment:</b>	0
<b>When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.</b>	<input type="checkbox"/> Facility investigators <input type="checkbox"/> Agency investigators <input checked="" type="checkbox"/> An external investigative entity
<b>Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)</b>	<input checked="" type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> ) <input type="checkbox"/> N/A

#### Administrative Investigations

<b>Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?</b>	6 from Internal Affairs and 16 from the facility
<b>When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply</b>	<input checked="" type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
<b>Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)</b>	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> ) <input checked="" type="checkbox"/> N/A

# 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 Waiawa Correctional Facility (WCF) in Waipahu, Hawaii. The on-site review of WCF was conducted September 22 through 26, 2019. It is noted that the main tour and a majority of the interviews were conducted September 22 – 23, 2019, but the Auditor was provided the opportunity to visit the community-based victim advocacy organization on September 24, 2019 and returned to the facility on September 26, 2019 to conduct the remaining two contractor interviews. WCF is operated by the Hawaii Department of Public Safety (PSD). The on-site review was conducted with the assistance of support staff Lori Scamahorn. During the audit, Beth Schubach conducted the documentation review, informal interviews with random staff and offenders, a complete tour / inspection of all offender-accessible areas of the facility, formal interviews with random and specialty staff, and authored this report. The Support Team Member conducted a complete tour / inspection of all offender-accessible areas of the facility, a review of the intake process, and formal and informal interviews with random and specialty staff and random and specialty offenders.

### Pre-Audit Phase:

The notice of audit posted at WCF stated:

DOJ PREA AUDIT  
WAIAWA CORRECTIONAL FACILITY  
SEPTEMBER 23, 2019 to SEPTEMBER 24, 2019

During the dates listed above a U.S. Department of Justice Certified PREA Auditor will conduct a PREA audit at this facility. If you want to provide information or talk 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  
PO BOX 41131  
Olympia, WA 98504-1131

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

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

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

On August 12, 2019, the Auditor received photographic documentation of the audit notice posting along with a list of posting locations, which included:

- Administration
- Building 1 Correctional Industries
- Building 3 Housing Unit
- Building 4 Housing Unit
- Building 5 Housing Unit
- Building 6 Housing Unit
- Building 9 Housing Unit (posted on both wings)
- Building 10 Housing Unit (posted on both wings)
- Central Control to include the two (2) holding cells
- Chapel
- Education
- Farm
- Food Services
- Intake
- KASHBOX (substance abuse) office and program rooms
- Medical
- Offender store
- Operations (Maintenance)
- Sergeant's office
- Staff dining
- Tool control room
- UA Lab

It is noted that agency PREA posters / brochures and posters announcing the audit were observed throughout offender, staff and visitor accessible areas of the facility. Logbooks were also checked throughout the facility. Red ink is used to note staff unannounced rounds and any unusual incidents.

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 WCF offenders, staff or any other individuals between the posting of the notification and the authoring of this report.

During the posting of the auditor notice, the Chief of Security noted in documentation provided to the Auditor that there were three (3) blind spots that needed to be addressed. He reported the following:

*“While in the chapel the layout of the inmate restroom prevents a clear view of the interior into the old shower area (no longer in use) which creates a blind spot. Inmate Store, there was a blind*

*spot in the back room where inmate clothing, work shoes and bedding are stored. In education, a blind spot was observed in classroom one. To assure compliance with our upcoming audit, mirrors were installed in all blind spots that were observed during my tour.”*

The Auditor was provided with photographic documentation confirming the installation of the identified mirrors.

The Auditor exchanged an introductory email with the Warden, PREA Compliance Manager (PCM), and PREA Coordinator on 08/14/2019. Included in the email was an introduction to the Audit Team, pre-audit activities, logistics for the on-site review, and processes for additional document requests.

On 03/20/2019, the Auditor received confirmation from Just Detention International (JDI) that the organization had not received any information regarding PREA allegations or issues regarding offender sexual safety at WCF.

The Auditor received proof documents via a password protected flash drive from the PREA Program Specialist on 08/12/2019. 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 PCM, PREA Coordinator, and Program Specialist as they related to follow up questions and concerns regarding the received documentation. The Auditor also reviewed the WCF PREA Audit report from previous audits with final reports dated 02/17/2015 and 11/08/2016, the agency's public website and related PREA information, and the agency's annual PREA reports. Prior to arrival, members of the Audit Team conducted telephone interviews with the PREA Coordinator, the PREA Program Specialist, the Contract Administrator, the Director's designee, SAFE/SANE representatives and victim advocates from the Kapiolani Medical Center for Women and Children, from which both forensic medical examinations and advocacy services are provided.

#### On-Site Phase:

On Sunday, 09/22/2019, the on-site team arrived at WCF at 0745 and were met at the gatehouse by the assigned Adult Correctional Officer (ACO). Team members were asked to provide photo identification which is reviewed against the approved access documentation the ACO has been provided. All visitors are also required sign into a logbook and have a search of the interior of the vehicle conducted. This is the standard process for any visitor entering the facility. It is noted that all vehicles, including those of staff, have the interior searched when exiting the facility. Following clearance, the team was met by the PREA Coordinator and PREA Officer (rank of Sergeant), who provided escort into the facility. Prior to arrival, Team members submitted information required to conduct the criminal background check mandated of all visitors and Team members were escorted at all times while inside the facility. At 0800, an initial meet and greet was held in the Administration Building multi-purpose room, attended by the agency PREA Coordinator, PREA Officer, Chief of Security and a Lieutenant. 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 on-site team was provided with a thorough and comprehensive tour of the entire facility, visiting any area in which an offender may be present. The tour was attended by the PREA



Coordinator, PREA Officer, Chief of Security, and Lieutenant. It included, but was not limited to, housing units, medical services, kitchen and dining areas, programming and work areas, maintenance, industries, warehouses, master control, 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. The Team also engaged in informal discussions with staff and offenders while touring. Throughout the tour, ACO's assigned to housing units announced the entry of any female into those units. The Agency PREA brochure detailing reporting processes and access to victim advocates was observed throughout the facility.

### Site Review:

The facility is comprised of the following areas:

**Farm:** There are large hydroponics growing systems along with typical earth-based growing beds. The food produced is used by the facility, with any excess donated to local food banks. Offenders working the farm also raise tilapia. The area maintains an offender bathroom with stalls for privacy and a staff bathroom that is locked when not in use. There is an office area for the farm management staff with windows allowing observation of the entire growing areas and a bathroom for use only by staff. The area is operated by two farm supervisors and an ACO who conducts security checks. The building also has a storage area that is locked when not in active use and is posted for no offender access.

**Recreation:** The area has an open courtyard for some sports along with an enclosed /gated covered area that is open for viewing by staff from all angles, including those working in other areas of the facility. There is no offender bathroom and all offenders needing to use the restroom are required to return to their housing area. All recreation is conducted by schedule. There is also an open grass area with a wooden altar for Hawaiian religious observances. The area is surrounded by tall California grass (reeds) and a chain link fence. The area drops off to a ravine.

**Industries:** The area serves as the base of operations for approximately thirty (30) of the facility's work line offenders who are assigned to work on county roads. Offenders in the area also maintain officer uniforms. The offices and storage areas off the main common area are marked off for no offender access. This is common throughout the facility and offenders are informed on intake that any entry into these marked areas is considered an escape, followed by an immediate transfer to the Halawa Correctional Facility (HCF) followed by disciplinary action. The industries area has larger storage areas and offices with windows to the outside and in all doors. Industries staff are just moving into the area from a central office location (training area) and are in the process of organizing all materials and equipment. It is recommended that this is completed as soon as possible, with staff ensuring that shelving and other objects are placed to ensure continued visibility throughout the area. Offenders work in an area with a section fenced off for tool control. It is recommended that the opaque glass on the bottom half of the louvered windows be replaced with clear glass to ensure visibility from the outside, a mirror is added in the alcove where the washing machine is housed, and a mirror is added in the storage room as one window is too high to look in and the other window is opaque.

**Central Control:** This is a three-floor building with no offenders allowed access to the top two floors unless under direct escort and supervision by staff.

The first floor houses intake, laundry, and property. It is noted that all offender laundry is transported to HCF for cleaning as the facility's water capacity is too low to allow that large an operation. A small laundry area is maintained to wash only the clothing of offenders coming through intake. Two offenders work in the area and the door to the outside is required to be open at all times when the area is in use. The windows to the outside are too high up to allow visibility

into the laundry area, but there are multiple windows from the adjoining intake area that provide needed observation of offenders in the area. There was one blind area in the back of the room where plywood blocked the open windows. This floor also includes state issued offender clothing and inmates work in that area. There is a mirror that shows all areas of the storage room in the clothing area. The hygiene storage area was locked. All areas were locked and opened by our escort. There was very good visibility throughout the areas. Offenders are shown the PREA video on arrival. Intake usually occurs once per week and most offenders come from HCF. The orientation video room has good windows. Intake risk screening is also conducted one-on-one in the area by the intake officer before offenders are allowed to go to their housing units. There is a chemical storage area on the ground level of the building that is accessed from the outside, where all windows are blocked with plywood.

The second floor of the Central Control building houses a staff bathroom, an emergency response ready / equipment room, a supply room, the office of the Chief of Security, an office for the key control officer, an unoccupied office, and a training room for use with staff training only.

The third floor houses master control which has an excellent view all around the facility. There are two holding cells in the master control area that are used to temporarily maintain offenders pending transfer out of the facility, which usually occurs on the same day as placement in the holding cell. The cells have toilets and there is a small shower to the side of the cells. Any female working master control is required to knock on the entry door and announce that a female is entering the area to allow for offender privacy. It was noted that female ACO's rarely work master control. There are no cameras in the facility except those noted in the KASHBOX area (following). Also on the third floor are staff bathrooms and locker rooms, an office for the five Lieutenants, a breakroom, an interview room to which offenders are escorted as needed for confidential investigatory interviews, and the locksmith office.

**Food Service:** There are separate areas for staff and offender dining, both of which are open with easy visibility through windows to the outside. The area is decorated with murals that were created by offenders. The Food Service Supervisor's office is off the offender dining area. Curtains that blocked visibility into the area were removed by the Chief of Security while the tour was being conducted. The supply closet was not locked and there is no visibility into the area. It is recommended this be kept locked when not in use. There is a roll-up window in the dish tank area. When offenders are in this area, the window is open and the Officer Station allows visibility into the area. The women's bathroom has a slide lock on the inside that should be removed. The offender bathroom does not have a lock and it was not marked as the offender bathroom. The Dry Storage area was locked and offenders are only allowed in the area under direct supervision. The outside freezer was locked and has a window. Inside freezers were all locked.

**Education and Library:** The area maintains a staff bathroom, janitor closet, offender bathroom and ACO's desk. In the library, there is a staff office that had paper covering the windows, which was removed before the Team left the area. There is good visibility into the library proper with numerous windows to the outside enhanced by the placement of the shelving to ensure clean lines of site. Classroom One has a mirror and windows to the outside to address visibility. It is recommended that a mirror be added to Classroom Two and Classroom Three to allow visibility into the back corners. There were no identified issues / concerns in Classroom Four or the staff office. In Classroom Five, a cabinet blocking some visibility was moved from in front of one of the hallway windows before the Team left the area.

**Pavilion:** This is an open stage and seating area where visitation takes place, offenders gather when called to various work lines, and various activities, to include religious services, take place.

Medical: The area is in operation 16-hours per day, 7-days per week. During off hours, the Watch Commander could make use of telemedicine systems or call the physician from HCF if an offender was in need of medical care. The area maintains an offender bathroom and waiting area. Offenders are not permitted beyond this area unless escorted by medical staff on duty. The building also maintains a medical records area, which is off limits to all offenders. There is an office, a nurses' area with four (4) cubicles in which nurses can meet with offenders to discuss concerns, treatment plan, etc. All of these areas have good visibility from the outside. The opaque film covering the windows into the copy room blocking visibility was removed before the Team left the area. The Team also recommended clearly identifying the area as allowing no access by offenders. Also in the building are an emergency equipment closet, two (2) treatment rooms, a staff restroom, a staff breakroom with windows to the outside, and a dental area. Within the dental area is a dental x-ray area. The Team recommended that the door to the dental area be locked and signage added that it is to remain locked when not in use.

Chapel: The area maintains a religious library and offender bathroom. No offenders are permitted past the library into the staff office / work areas and only one offender is permitted to use the library or restroom at a time. The Team requested the removal of the slide lock from the Chaplain's office. The Team also recommended blocking off the old shower area in the offender restroom that is no longer in use.

Administration Building: This building maintains the offices of the Case Managers, Case Management Supervisor (PCM), the Plant Manager, the Warden and the Warden's support staff. Also in the area are records, the business office, staff restrooms, and a multi-purpose room. Offenders are not permitted to go beyond the area in which the Case Managers are stationed. The area is currently undergoing an extensive remodel. The PREA Coordinator had been working closely with the Warden regarding layout, access, procedures, etc. However, a while ago a very significant storm came through the area, blowing the roof off and causing a wall to collapse in the area being remodeled. This disaster accelerated the remodel process to be able to enclose the building again. However, future plans to address multi-purpose room use and procedures are in the planning stages, based on available funding. The PREA Coordinator has been involved with this phase of the planning as well. The area has good visibility through windows both inside to the reception area and to the outside of the building.

Operations: This area houses the Maintenance Department. Offenders are required to wait outside the building to be picked up by supervisors before proceeding to work areas. Offenders are only permitted entry into the building for cleaning purposes, and then only under direct supervision by staff. The building also maintains a conference room, staff offices, and a staff bathroom. The Team requested that the slide lock and hook latch in the staff bathroom be removed. Outside of the Operations building is a large building with four divisions identified with roll-up doors which comprise the building maintenance shops (e.g., general building maintenance, wood shop, plumbing, HVAC, etc.). There are tool control areas in these shops, in which all tools are issued by staff and no offender workers are allowed in these clearly identified areas. Offenders working in these areas are picked up by supervisors at the pavilion after their crew has been called for and all roll up doors are required to remain open whenever anyone is working inside the shop. Currently, only three shops are in operation due to a vacancy in a shop supervisor position.

Tent Buildings: In 2007 or 2008 two (2) tents were erected over concrete floors for the purpose of additional housing units. However, there are currently issues with flooding / water drainage and there is no perimeter lighting installed. As a result, the buildings are only used for facility functions, such as graduation and similar large gatherings. The two "tents" are large open areas with only a bathroom enclosure and good visibility from exterior windows.

Housing Unit 4, 5 and 6: These are identical housing units that had served as army barracks during World War II. The ACO's announced female entry into each housing unit entered. The Team learned that the practice was to have a male ACO (if on shift) make the announcement for the female entering the unit to ensure the announcement was clearly heard throughout the unit. The lower level of the unit is comprised of the ACO station, dayroom, and television area. The upper floor is divided into four sections – section "A" houses 10 offenders, while sections "B" through "D" house 11 offenders in each section. There are also four identical offender restrooms on the upper floor. It is recommended that opaque shower rod to floor-length curtains be shortened to allow the ACO to determine how many offenders are in the shower. An alternative recommendation was to replace the current curtains with ones that are clear on the top and bottom with a center opaque panel allowing for privacy while showering but providing for security in the area. The Team also recommended the addition of mirrors in the sections on the first floor allowing the ACO to see if there were any offenders hiding behind the partial wall as he/she moved from one portion of the area to another. This is not a PREA-related concern as the area has excellent visibility from the outside via exterior windows; however, the recommendation is made based on staff safety concerns.

Housing Units 9 and 10: These units also mirror each other, with Unit 9 housing general population offenders and Unit 10 housing KASHBOX therapeutic community offenders. The units are separated from the rest of the compound by a chain link fence with a large gate through which staff and offenders pass.

- There are several old shipping containers that have been refabricated into a large open room that is currently used for visiting and programming spaces. On the edge of the fenced off area are two (2) rows of small offices that are individual buildings / hut-like structures that are hooked together, but staff cannot pass from one office to the next without going outside and then re-entering the next office. These hold the offices of the counselors and sergeant as well as an area to conduct strip searches as needed for visiting / for cause. The Team requested the removal of the slide lock into the bathroom in the area followed by any needed modifications to the warped door to ensure it remains closed when in use. The Team also recommended the removal of a cabinet creating a blind spot in one of the offices along with boxes blocking visibility into the storage area. Following an allegation several years ago, KASHBOX installed stand-alone cameras in each of the counselors' offices. The cameras feed only to a video recorder and no monitors. The supervisor has the ability to pull video in response to any allegation or incident. There is currently no end retention date or maximum capacity determined for the system and since its installation, no video has been deleted.
- Both units are open dorm areas with partial (pony) walls dividing cubicles that house four (4) offenders per area in two (2) bunk beds. One cubicle houses only two (2) offenders with no bunk beds as it was designated as an ADA compliance room for use by identified offenders as needed. The ACO station is located in an open area upon entry into the unit. There is a central dayroom / television room with an offender bathroom and offender shower room on each side. The area also has two wings of offender cubicles for housing branching off the central open area. The offender bathroom has individual stalls as does the shower room. It was recommended that the shower curtains be shortened or replaced as noted for housing units 4, 5 and 6. Based on interviews conducted rather than tour notations, it is also recommended to add weight to the bottom of the shower curtain in one of the shower areas in Unit 9 as it was reported that the curtain blows up due to ventilation and anyone in the area can then see directly into the showers.

Staff work out area (by the gate house) is also used for storage. It used to be an area housing furlough offenders, but there isn't a furlough program at WCF any longer. Offenders clean the area but are under direct supervision by staff at all times. The area maintains a workout space, staff restrooms, and locker rooms.

The following recommendations were made while conducting the on-site review:

- Replace the opaque glass on the bottom half of the louvered windows in the Industries area that also houses tool control with clear glass to ensure visibility from the outside.
- Add a mirror in the alcove where the washing machine is housed in the Industries building.
- Add a mirror in the storage room in the Industries building as one window is too high to look in and the other window is opaque.
- Remove a portion of the plywood covering the windows in the laundry area in intake and replace it with a window or Plexiglas panel to allow visibility from the outside.
- Remove side locks in identified areas of the facility (e.g., staff restrooms, Chaplin's office).
- Block off the old shower area in the offender restroom in the chapel area.
- Remove a portion of the plywood in the chemical storage area on the ground floor of Central Control and replace it with a window or Plexiglas panel to allow visibility into the area. Also relocate boxes that are limiting the view into the area.
- Remove the curtains from the windows in the food service supervisor's office. The facility indicated they would frost the window half way up to allow privacy with sufficient visibility.
- Mark the Food Service Supervisor's office area and staff restroom with signage indicating access only by staff
- Add a mirror be added to Classroom Two and Classroom Three to allow visibility into the back corner.
- Ensure the door to the dental area is locked and signage added that it is to remain locked when not in use.
- Remove the opaque film from the window in the medical copy machine area and mark the area that no offenders are permitted access.
- Remove the cabinet creating a blind spot in one of the offices along with boxes blocking visibility into the storage area.
- Either shorten all opaque shower rod-to-floor-length curtains in all housing units or replace them with curtains that are opaque on the top and bottom to allow the ACO to determine how many offenders are in the shower.

NOTE: All identified recommendations were completed while the Team was still on-site. The Auditor was also provided photographic documentation of completion.

Additional recommendation as the result of interviews conducted:

- Add weight to the bottom of the shower curtain in one of the shower areas in Unit 9 as it was reported that the curtain blows up due to ventilation and anyone in the area can then see directly into the showers. This information was passed along to the Warden during closeout.

Team members noted that the facility was clean and well maintained. All staff members were very friendly, and welcoming. Staff were observed monitoring offenders and conducting security checks in housing areas. During the on-site review, staff were very professional, willing to discuss issues and procedures with the Team. The Team observed productive interaction and respect between staff and between staff and offenders. Individuals were observed engaged in casual conversations, but all were very aware of personal boundaries. Staff at all levels were receptive to suggestions made by the Team, all of which were implemented before completion of the on-site review. Offenders were all very polite and willing to speak with the Team.

WCF currently has no video monitoring system, however, legislative requests have been submitted. To date, none of these requests have moved forward due to associated costs and lack of any current infrastructure. It is noted that there is a system in place to record activities in the KASHBOX (substance

abuse treatment) offices, but this is a record only system that cannot be viewed at any monitor. Any viewing is done by downloading recorded footage. This was installed following a significant substantiated allegation in the area a number of years ago. The system is owned and operated by contract administrators and currently there is no retention in place with unlimited system capacity.

The custody staffing structure is Adult Correctional Officer, Sergeant, Lieutenant, and Chief of Security. Custody shift hours are first watch 0600 – 1400, second watch 1400 – 2200, and third watch 2200 - 0600. Non-custody staff include maintenance operations, food service, administration, support personnel, case management, medical, and mental health.

On 09/22, 23, and 26/2019, interviews were conducted with WCF staff, contractors, volunteers and offenders. All interviews were conducted with the established USDOJ PREA interview templates. Specialized interviews were conducted based on lists provided by the facility of all available individuals who filled each specialty role. Both staff and offender interviews were conducted based on complete lists of individuals also provided by the facility. All interviewees were identified 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.

Private locations were provided within the administration building (multi-purpose room and vacant office). ACO's, the PREA Officer, and PREA Coordinator served as escorts during all interview processes. Staff were contacted via radio or telephone for interviews while offenders were located on housing units via the Shift Sergeant based on lists of selected offenders provided by the Audit Team. All individuals interviewed were informed of confidentiality and provided with the opportunity to decline any interview. Mental health services were also available as requested by interviewed offenders.

On 09/26/2019, the Team was given the opportunity to visit the community-based victim advocacy organization and meet with representatives to discuss procedures for services for WCF offenders. The Team also had the opportunity to view the area in which services are provided at the center to ensure privacy but provide needed security.

While on site, the Team also reviewed additional documentation provided by the facility in response to Auditor request. This included examples of investigation reports, documentation of evidence control, and selected risk assessments. A member of the Team was also able to walk through the intake and initial assessment process but was not able to view it in process as no offenders were received during the on-site review period.

There were 138 staff assigned to WCF on the first day of the on-site review. A total of 55 staff interviews were conducted during the initial site review.

Staff Category	Number of interviews conducted
Random staff	12
Specialized staff	42
Total staff interviewed	54
Agency head or designee	1
Warden	1

Staff Category	Number of interviews conducted
PREA Compliance Manager (also interviewed PREA Officer)	2
PREA Coordinator (also interviewed PREA Program Specialist)	2
Contract administrator	1
Intermediate or higher-level supervisor	2
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	1
SAFE/SANE staff	1
Volunteers who have contact with offenders	2
Contractors who have contact with offenders	2
Investigative staff	5
Staff who perform screening for risk of victimization and abusiveness	3
Staff who supervise offenders in segregated housing – not applicable as there is no segregated housing at WCF	0
Staff on the incident review team	3
Designated staff member charged with retaliation monitoring	1
First responders	3
Intake staff	2
Non-medical staff involved in cross-gender strip or visual searches	2
Representative from community-based victim advocacy organization	2
Representative from organization that conducts criminal investigations – were not able to connect with Honolulu Sex Crime Division lead detective despite multiple attempts	0
Offender disciplinary hearing officer	1
Mailroom staff / supervisor	2

The offender count was 229 on the first day of the on-site review. The facility capacity is 334 and its average daily population over the last twelve (12) months has been 281. It is noted that the facility has never been over capacity in the past 12 months.

- Unit 4 = 20 offenders
- Unit 5 = 37 offenders
- Unit 6 = 16 offenders
- Unit 9, A wing = 46 offenders
- Unit 9, B wing = 43 offenders
- Unit 10, A wing = 34 offenders
- Unit 10, B wing = 33 offenders

The facility does not hold offenders for other agencies, to include the U.S. Marshals Service, the Bureau of Prison, or U.S. Immigration and Customs Enforcement; nor does the facility hold youthful offenders.

A total of 23 formal offender interviews were conducted. No letters were received for WCF offenders prior to the on-site review. Based on the population of the facility, a total of 20 offender interviews were dictated by the USDOJ PREA auditor handbook.

Category	Number of interviews conducted
Random offenders – a total of 10 is required by the handbook	10
Specialized offenders – a total of 10 is required by the handbook	13
Total offenders interviewed – a total of 20 is required by the handbook	23
<b>Breakdown of specialty offender interviews conducted</b>	
Youthful offenders – not applicable as no youthful offenders were housed at the facility	0
Offenders with a physical disability, blind, deaf, or hard of hearing	6
Offenders who are LEP – not applicable as none were currently housed in the facility	0
Offenders with a cognitive disability	3
Offenders who are lesbian, gay or bisexual – none are currently housed at WCF	0
Transgender or intersex offenders	1
Offenders in segregated housing for high risk of sexual victimization – there is no segregated housing at WCF	0
Offenders who reported sexual abuse – no offenders who reported remained housed at WCF at the time of the on-site review	0
Offenders who disclosed victimization during a risk assessment	3

The Audit Team concluded the on-site portion of the audit on 09/26/2019. An out-brief was conducted with the Warden and PREA Coordinator, which included a high level review of information collected to date and a discussion regarding the next phases of this audit.

Post-Audit Phase:

Upon return from the on-site review, the Auditor compiled information from the review, incorporating information and data obtained with the documentation review already completed. The Auditor, Warden, and PREA Coordinator agreed to communication via email to resolve any questions pending, provide any needed clarification, and submit any additional requested documentation. The Warden and PREA Coordinator also agreed to provide proof of practice documentation as it relates to identified corrective action items. All communication was to include the PREA Coordinator who would serve as the conduit for information flowing to and from the facility. The Auditor initiated the writing of the interim audit report, which detailed standard subsection by standard subsection the information obtained from document review, interviews, and the on-site review. All subsections were evaluated independently for compliance with all requirement elements. The interim report was submitted to the PREA Coordinator on behalf of the facility on November 11, 2019, detailing that the facility did not exceed standard requirements on any standard, met requirements associated with 38 standards, and was non-compliant with 7 standards as detailed below.



## 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 mission of the Hawaii Department of Public Safety is, "To uphold justice and public safety by providing correctional and law enforcement services to Hawaii's communities with professionalism, integrity, and fairness."

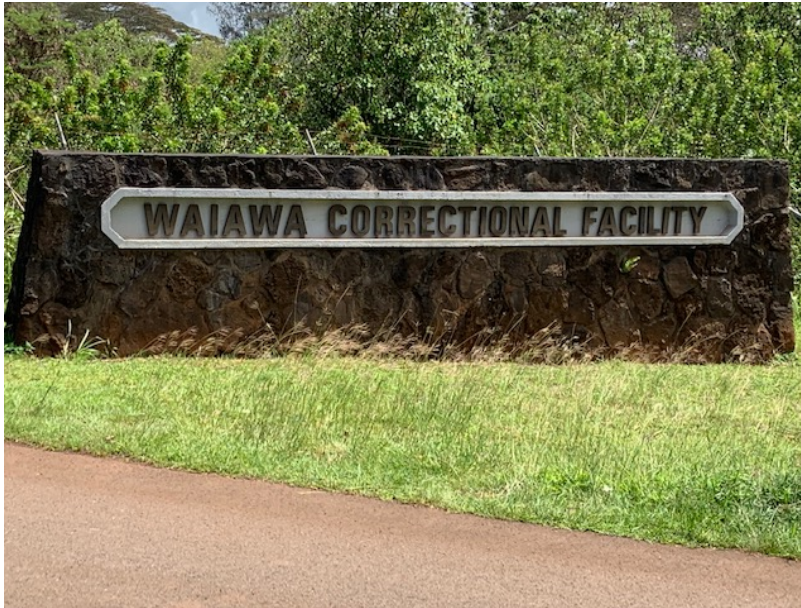
The Waiawa Correctional Facility (WCF) is situated between the Ko'olau and Wai'anae mountain ranges in central O'ahu. It originally served as a military installation that was activated in 1941 following the attack on Pearl Harbor and was used to observe / guard the shoreline. In 1985, the State of Hawaii initiated the process to acquire the 192-acre parcel from the federal government through a quick claim deed for a period of 30 years and WCF opened as a correctional facility in 1985. One of the conditions of the deed was that all offenders housed at WCF were required to actively participate in educational programs and worklines, which continue as mandatory to this day. On 07/07/2015, the State of Hawaii assumed full ownership of the property. Four of the current housing units (3, 4, 5, and 6) originally served as barracks for soldiers stationed at the base. The facility still has an underground tunnel that runs from the facility to the North Shore that is blocked up with concrete so no one can enter due to the risk of escape as well as the asbestos in the tunnel. Vents from the tunnel are observable in multiple areas on facility grounds, but these are also blocked to prevent entrance. There is a secure entry to the tunnels where a covered area is used for storage of large infrequently used items. If staff need to move items into the area, three to four work line offenders are escorted into the area, which is accessible only by vehicle down a very rough, non-maintained dirt road. The facility is surrounded on all sides by the Circle K cattle ranch.

The facility gets its water from the windward side of the island through a pipeline system. Water is stored in a catchment area that the facility is working to replace due to needed additional capacity. The facility does their own sewage treatment through a leaching system, which also limits the facility's ability to expand its current physical footprint.

According to the agency's public website, WCF "...has 240 beds that are devoted to KASHBOX, an intensive residential substance abuse treatment program for inmates with serious substance abuse problems. Supporting Keiki of Incarcerated Parents, which is a unique program designed to help male inmates with substance abuse issues become better fathers. This program allows the inmate to participate in parenting groups, and structures playgroups, and reading activities with their children...There are ample educational and vocational training programs for all inmates, especially ones that show a willingness to learn new things that will prepare them for a better life when they are released. Hawaii's mission is to promote and prepare the offender to leave in better shape when they arrived, giving them the best chance to never come back and thus lower the state's recidivism rate...[WCF] has facilities onsite to meet most of the inmate's needs, including dietary, health, fitness, education, religious practices, entertainment, and many others."

The public website also notes that WCF "...provides general education programs, which allow inmates to work toward an associate of arts degree. Also, in-facility worklines such as food service, building maintenance, heavy equipment, farm, janitorial, educational tutoring, and landscaping help inmates acquire skills, and practice good work habits."

WCF provides both medical and mental health services on-site. Medical staff are available seven days per week, sixteen hours per day and procedures are in place to ensure access to needed health care when medical staff are not on duty. Mental health services are furnished on a weekly basis by a provider from the HCF on a weekly basis. Forensic medical examinations are conducted at a local hospital. The facility has not been accredited by any other organization within the last three (3) years.



Grounded in its original purpose from the quick claim deed, WCF provides a vast array of offender programming with a goal of successful reintegration into the community. These include:

Substance Abuse Treatment	Educational	Vocational
KASHBOX Therapeutic Community 12 – 15 month program	General Educational Development (G.E.D.)	Food Services
	Adult Basic Education	Education
	Life Skills	Administration
		Landscaping
8 month Intensive Out Patient	Restorative Justice	Ground Keeping
	Interactive Parenting Skills	Carpentry
	Tutor Practicum Training	Farming
4 month Out Patient programming	Self-Improvement	Hydroponics
	Plato Web (on-line learning management system)	Aquaponics
	Building Maintenance	Auto Mechanics
4 month Continuing Care	Makahiki (Hawaiian religious education)	Barber
		Chapel
	Office Worker Business Application	Library
		Electrical
4 month Relapse Prevention Program	Hatha Yoga	Welding
	Keyboarding	Small Engine Repair
	Test Strategies	Facility Operations
		Forklift Certification

Substance Abuse Treatment	Educational	Vocational
	Introduction to Information Technology	Support Services
	Health Management	Roofing
	Cognitive Skills	Culinary Arts
		Painting
4 month Cognitive Skills / Lifestyles Program	Coding with Altino Cars (coding for non-coders)	Plumbing
	Read to Me Program	Building Maintenance Repair and Construction
	Choir	Hawaii Correctional Industries
		Community Service Worklines

WCF maintains partnerships with many community and educational organizations within their farm operations, which includes aquaponics and hydroponics programs. Offenders are taught skills that are transferrable to the community on release while learning about giving back to the community. Most of the produce is used within the facility or provided to other agency facilities to supplement meals. Produce is also provided to local food banks, the YMCA and the Kapiolani Community College. In 2017, WCF distributed more than 82,000 pounds of produce with an excess in donations of 15,000 pounds. Per the facility’s media materials packet, “Waiawa wishes to employ ALL inmates so that they can have a source of experience, work ethics, stamina, pride, self-reliance...so they can go back into the community with a head start and contribute immediately. The Farm keeps them from being idle in a housing unit and significantly lowers inmate misconducts by inmates remaining active and contributing to the community...Inmates are able to pay down restitution, court fees, purchase items, save money into their restricted account and to not rely on outside family members to send them money.”



The facility also manages a Community Service Workline program, with offenders providing services for various agencies, such as the Department of Education, Department of Health, the Attorney General’s Office, the Division of Public Safety, the Department of Hawaiian Home Lands, community cultural centers, Honolulu City and County Refuse and Sewer Divisions, the State Capitol, and protected areas / wetlands for endangered plants, wildlife, and species.

The Auditor was provided with documentation that a total of 515 offenders were received during the facility’s documentation period. This document also noted that a total of 325 of these offenders were transferred out during the same period. The Auditor requested additional information regarding the

significant movement of offenders in and out of the facility and was informed that if any offender receives a moderate or higher rule violation, he is transferred back out to HCF. This is due to the fact that WCF does not maintain any form of segregated housing; the facility only has two (2) temporary holding cells for offenders pending transfer, which usually occurs the same day as the incident in question. Additionally, WCF was designed as a short-term facility for offenders who, when criteria is met, the offender is transferred out to their home island or the Oahu Community Correctional Center (OCCC) for furlough programs.

Offenders are required to have a pass to go anywhere in the facility with the exception of work and chow, when they are called. If an offender violates this rule or enters an area that is clearly marked as no offenders allowed, the offender can be given a major infraction which could result in a transfer back to HCF.

The Audit Team was impressed with the disciplined yet calm atmosphere of the facility. Offenders were actively engaged in work, programming and education activities. Offender movement throughout the facility was purposeful and direct, with offenders engaging in small talk, yet being polite and orderly in their movements and interactions. Offenders engaged in recreational activities, yet in a calm and communicative manner. The facility administration clearly practices the expectations of communication and civility the facility holds for offenders, who are expected to greet those he meets and engage in behaviors and communications he would practice in the community. The behaviors demonstrated throughout the facility are very pro-social and productive.

## 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.

### Standards Exceeded

**Number of Standards Exceeded:** 0  
**List of Standards Exceeded:** not applicable

### Standards Met

**Number of Standards Met:** 38  
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

### **Standards Not Met**

**Number of Standards Not Met:** 0

**List of Standards Not Met:** not applicable

All standards assessed as non-compliant in the interim report were brought into compliance during the corrective action period.



## PREVENTION PLANNING

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

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

#### 115.11 (a)

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

#### 115.11 (b)

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

#### 115.11 (c)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

### 115.11 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017), section 6.0 (page 11 – 12), states, "PSD has a zero tolerance policy concerning all forms of sexual abuse, sexual harassment, and retaliation for reporting incidents...A 'zero tolerance' policy means that sexual abuse and sexual harassment in any form is strictly prohibited and all allegations of such conduct will be investigated. Any retaliation against individuals for reporting an incident is also prohibited and will be investigated. This policy is intended to set forth the procedures to implementing and managing a 'zero tolerance' policy." 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 Waiawa Correctional Facility Coordinated Response Plan (no revision date) detailing step-by-step actions to be taken in response to sexual or physical abuse, harassment, and misconduct allegations.

Based on the above, WCF 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 positions 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 [ISCDA] 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 was initially anticipated that this would take approximately six (6) months. In the meantime, the former Litigation Coordinator was 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 hired in August 2018 and will not assume responsibilities until she is off probation and has been trained. In the meantime, the individual identified formerly as the PREA Coordinator, now the ISCDA, will retain position responsibilities until further notice. 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 ISCDA, but most line-level staff do not. Due to the confusion expressed in interviews, the Director 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 clarification is provided to all agency staff and a final reorganization take place, conclusively placing responsibilities with the LCO or the ISDA.

Based on the above, WCF 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 WCF, the PREA Compliance Manager (PCM) duties had been assigned to the Corrections Supervisor 1 within the Offender Services Section. This section reports directly to the Warden. The Auditor was provided with the position description for the Corrections Supervisor 1, whose responsibilities include offender needs assessments; identification of service providers and oversight of programs; development of community networks; and educational, vocational and treatment service evaluation for efficiency and effectiveness. The Auditor was also provided with a 10/20/2015 memo from the Warden assigning PCM responsibilities to this individual

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 month.
- 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.

During an on-site interview with the PCM, this individual reported that she did not have the time or authority to complete all duties associated with the position. The PCM struggled with articulating several PREA-related procedures and reported a lack of involvement in essential functions. She reported that implementation of PREA processes and policies on a facility level generally consisted of notifying security of actions needed. She also reported that when identifying an issue with PREA compliance, she can only notify the Chief of Security and the Warden, that she can do nothing but notify and then stay on top of it to see that it gets done.

The Auditor was informed that the facility maintained a "PREA Officer" who is a Sergeant. The Auditor interviewed this individual and learned that she is responsible for security checks, following up with issues related to LGBTI individuals, wellness checks of offenders involved in ongoing investigations separate from retaliation monitoring, and addressing physical plant issues. The individual is new to the role, just initiating participation in the Sexual Abuse Review committee and other related meetings. However, a majority of the staff interviewed look to this individual for knowledge regarding PREA-related procedures and requirements. The PREA Officer led the tour of the facility and oversaw all identified / recommended physical plant modifications prior to the completion of the on-site review. It was very clear that the PREA Officer is very knowledgeable, eager to learn, and well respected by facility staff at all levels.

Based on the PCM interview and demonstrated deficiencies in PREA-related processes and requirements, an internal decision was made to transfer the PCM responsibilities from the Corrections Supervisor 1 to the facility Warden. The Auditor was provided with a 09/23/2019 memo to the PREA Coordinator confirming same. In discussions with the Warden, he has established a network of PREA-related activities, assigning oversight responsibilities to various members of his executive management team. With the shift in PCM responsibilities, the Warden now serves as the central coordinator and assumes ultimate coordination responsibilities. The Warden has a thorough and comprehensive knowledge of PREA standard requirements and related policies and procedures. He also works closely and collaboratively with the agency PREA Coordinator to ensure comprehensive implementation and sustainability. The Auditor believes that this shift will maximize the success of PREA sustainability at WCF.

Based on the noted shift in PCM responsibilities to the Warden, WCF 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)

- State of Hawaii, Department of Public Safety, Office of the Director, Position Organizational Chart (06/30/2017)
- 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)
- WCF organizational chart dated 06/30/2018
- 10/20/2015 memo from the Warden assigning PCM responsibilities to the Corrections Supervisor 1
- Position description for Corrections Supervisor 1
- 09/23/2019 memo from the Warden reassigning PCM responsibilities to the Warden

Interviews conducted:

- PREA Compliance Manager
- PREA Coordinator
- PREA Officer

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

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

#### 115.12 (a)

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

#### 115.12 (b)

- Does any new contract or contract renewal signed on or after August 20, 2012 provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards? (N/A if the agency does not contract with private agencies or other entities for the confinement of inmates OR the response to 115.12(a)-1 is "NO".)  Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### 115.12 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) states, "PSD mandates that any new contracts or contract renewals with private agencies or other entities for the confinement of PSD's offenders shall include language that the private entity is required to adopt and comply with PREA, specifically the finalized PREA Standards. 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 the CoreCivic for the confinement of offenders in the Saguaro Correctional Center. Amendment S1, section t (page 11) 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 none-compliant with 0 standards. It is also noted that the DPS public website contains information regarding the Saguaro Correctional Center, to include multiple contractual compliance checklists from 2012 through 2018. It is recommended that DPS 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, Federal Detention Center, Honolulu for the housing of DPS 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](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, WCF 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 DPS 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 DPS 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, Federal Detention Center, Honolulu for the housing of DPS 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.

Based on the above, WCF 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 07/31/2020
- 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](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

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

#### 115.13 (a)

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



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

#### 115.13 (b)

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

#### 115.13 (c)

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

#### 115.13 (d)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

115.13 (a)

Agency policy ADM.08.08 Prison Rape Elimination Act (09/22/2017) section 9.0.1 (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. In calculating adequate staffing levels and determining the need for video monitoring, each facility shall take into consideration...(a) Generally accepted detention and correctional practices; (b) Any judicial findings of inadequacy; (c) Any findings of inadequacy from federal investigative agencies; (d) Any findings of inadequacy from internal or external oversight bodies; (e) All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated); (f) The composition of the inmate population; (g) The number and placement of supervisory staff; (h) Institution programs occurring on a particular shift; (i) Any applicable State or local laws, regulations, or standards; (j) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and (k) Any other relevant factors."

The Auditor was provided with the WCF staffing plan and annual reviews dated 07/24/2018 and 08/08/2017, confirming inclusion of all standard-required elements. It is noted that the average daily number of offenders on which the staffing plan was predicated is 334, but that the average daily population since the last Department of Justice (DOJ) PREA audit is 281. Information received from the PREA Coordinator indicated that the agency does not have a real issue with overcrowding due to the contract with CoreCivic to house offenders in an out-of-state facility. Additionally, the population at WCF is dictated by "...viable candidates for minimum custody, who are able to manage the environment at WCF and [the] Mainland flight schedule."

An interview with the Warden confirmed compliance with all standard-required elements. There are currently no judicial findings of inadequacy or findings of inadequacy by federal investigative agencies or internal or external oversight bodies.

The PCM indicated that she is not involved in the staffing plan process. As noted with standard 115.11, the PCM responsibilities have now been reassigned to the Warden with assistance from his administrative team.

As noted in the narrative section of this report, during the on-site review, the Team noted areas in which blind spots were identified. None of these rose to the level of non-compliance with standard requirements and all were addressed before the Team completed the on-site review. The Auditor was also provided photographic documentation of physical plant modifications completed.

Based on the above, WCF 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 (page 13) 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."

The WCF PCM reported that during the audit documentation period, there were no deviations from the facility staffing plan. As such, there is no secondary documentation available for review.

The Warden reported that all deviations from the staffing plan are documented in shift logs. He noted that he always hires at one above the staffing plan in order to have sufficient staff to respond to any incident that may occur. This is due to the location of the facility and the generally small staffing contingent. This is reflected in the shift logs and staffing rosters.

Based on the above, WCF 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."

It is noted that agency policy requires a formal meeting between the PREA Coordinator and the facility Warden. Per the information received from 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.

The Auditor was provided with a review of the staffing plan dated 07/24/2018 and a second one dated 08/08/2017. The PREA Coordinator noted that, as of the writing of this report, they are in the process of conducting the 2019 staffing plan review.

Based on the above, WCF 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-throughs 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).

Per the Program Specialist, unannounced rounds are completed by Sergeants, who are Watch Commanders, Lieutenants, and the Captain (Chief of Security). The Auditor was provided with example housing unit logs that demonstrate completion of unannounced rounds by identified supervisors. The Team was informed that these rounds are documented in red in the logbooks, which was confirmed by documentation review and review of currently logbooks while on site. Documentation addressed all shifts and all days of the week.

Supervisors interviewed reported that rounds are consistently made throughout the facility, covering all shifts and days of the week. Interviewees confirmed the requirement to log these rounds in red in logbooks. They also confirmed the purpose of these rounds, namely to deter PREA-related incidents and ensure the overall safety of the facility. When entering the facility to conduct rounds, interviewees noted that they would ask the Watch Commander and the staff posted at the front gate not to mention the staff member's presence at the facility. They noted walking the compound rather than driving and changing the course they followed while touring. One interviewee noted that staff alerting others about rounds only occurred once that he could think of, adding that it was quickly addressed.

Based on the above, WCF 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)
- Curriculum *Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training* as revised 02/02/2017
- WCF staffing plan and annual review dated 07/24/2018 and 08/08/2017
- Email dated 08/15/2019 from PREA Coordinator regarding facility population
- Examples of housing unit logbooks from each unit showing the completion of unannounced rounds

Interviews conducted:

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

## Standard 115.14: Youthful inmates

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

#### 115.14 (a)

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

#### 115.14 (b)

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

#### 115.14 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's*

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

115.14 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) 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 this does not occur.

Based on the above, WCF 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 this does not occur.

Based on the above, WCF 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 this does not occur.

Based on the above, WCF 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

Interviews conducted:

- Due to the confirmation that WCF does not house youthful offenders, no related interviews were conducted

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

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

### 115.15 (a)

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

### 115.15 (b)

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

### 115.15 (c)

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

### 115.15 (d)

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

### 115.15 (e)

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



## 115.15 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### 115.15 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 11.0.1 (page 15) requires 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 WCF in the 12 months preceding the on-site review as there were no exigent circumstances that required deviation from search policy requirements.

Agency policy COR.08.13, *Duty Assignment for Corrections Officers* (05/07/2018), section 4.0.1 through .3 and .7 through .9 (page 2 - 3), requires that, "Corrections Officers shall not participate in, or watch strip searches of offenders of the opposite gender, unless it is an exigent circumstance. Corrections Officers shall not conduct pat or frisk searches of the opposite gender, unless it is an exigent circumstance. Non-uniformed female staff members who have been trained may conduct pat or frisk searches of female offenders at the authorization of the Facility Warden...In an exigent circumstance, as determined by the highest ranking officer of the watch, commonly referred to as the Watch Commander, Corrections Officers may be authorized to conduct or witness searches of offenders of the opposite gender only when: (a) There is an exigent situation and there are no Corrections Officers of the same gender immediately

available to perform such duties, and (b) The exigent circumstance based on facts available at the time reasonably indicates that there is a threat to the security or good management of the facility, or that human life and safety are in imminent danger. Immediately after the managing the incident based on exigent circumstances whereby a Correctional Officer of the opposite gender conducted a pat search or strip search the Watch Commander shall complete the PREA Mandatory Reporting form PSD 8317 to document the actions of staff and distribute as required by ADM.08.08: PREA. The Watch Commander shall also submit a written report to the Warden via the Chief of Security, which shall detail the specific exigent circumstances, the action taken, and reports from all of the participants. This report shall be kept on file by the Chief of Security for a period of three (3) years.”

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. This was confirmed in interviews conducted while on site. Staff could not recall an incident in which such a search was required.

There were no cross-gender searches conducted during the WCF audit documentation period. As a result, there is no secondary documentation available for review.

Based on the above, WCF 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 (page 15) 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 WCF in the 12 months preceding the on-site review and, as such, no applicable searches were conducted.

Based on the above, WCF 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 WCF during the audit documentation period. As such, there is no secondary documentation available for review.

Staff confirmed that if a cross-gender search was ever required, it would be approved by the Watch Commander and documented with the PREA Mandated Reporting Form.

Based on the above, WCF 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)... 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 or 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.’”

Agency policy COR.08.13, *Duty Assignment for Corrections Officers* (05/07/2018), section 4.0.4 through .6 (page 2) requires that, “Corrections Officers of the opposite gender are required to ‘knock and announce’ their presence when entering an offender housing unit and ensure that this notice is logged in the Informer or Log Book. This is called the ‘PREA Knock and Announce’ requirement. Corrections Officers shall not participate in an occupied toilet (actually using the restroom) or shower inspections (actually showering) of offenders of the opposite gender, unless the audible ‘PREA Knock and Announce’ requirement was initiated and logged. Corrections Officers shall comply with the ‘knock and announce’ requirement prior to conducting an inspection or head count of dormitories or cells occupied by offenders of the opposite gender.”

Random samples of staff and offenders interviewed confirmed that female staff are announced when entering a housing unit usually by announcing “female in the house” or “female on the floor”. Most added that the announcement is generally made by the male ACO working the housing unit to ensure offenders throughout the unit can hear the announcement. This was witnessed consistently while the Audit Team was on-site.

Staff and offenders also confirmed that offenders are able to shower, dress and use the toilet without being seen by female staff. One exception was related to the shower area in Unit 9, where air flow in the unit caused the shower curtain to blow up occasionally, exposing the offenders who were using the shower. Staff indicated that often offenders place a chair in the area to prevent this from happening. The Warden indicated that Maintenance staff would promptly explore the possibility of adding weight to the bottom of the curtain to address the concern.

During an on-site interview, the Warden informed the Auditor that no civilian staff, regardless of gender, go into housing units unless they are escorted by security staff. He added that this was for their safety. This was confirmed during the tour of the facility.

Based on the above, WCF 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 (page 16) 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.”

The prohibition of searching transgender offenders for the sole purpose of determining genital status was confirmed in all interviews conducted with random staff. Staff noted that this type of function would be the responsibility of medical staff. The transgender offender interviewed also confirmed that she had never been subjected to such a search.

Based on the above, WCF 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 (page 16) 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, include, but not limited to:

- The prohibition of “dual” searches where the staff of one gender searches the top half of the inmate and staff of the other gender searches the bottom half of the inmate;
- Use of the back of the hand to search an inmate’s chest area;
- Using the blade of the hand to sweep across the side and bottom of the inmate’s chest; and
- Requiring the inmate to shake out the bra.

The Auditor was provided with a spreadsheet that tracks the most recent PREA-related training completed for all staff. The Auditor selected every 10<sup>th</sup> custody staff name on the roster and requested training transcripts to confirm training completion. A review of these training transcripts indicated that eight (8) of nine (9) individuals had completed training that included pat search training. It was later learned that the one (1) individual originally assessed as non-compliant had been on extended leave for a number of years and should not have been included in compliance calculations. This leaves an overall compliance rate of 100% for training transcript review. Additionally, a review of compliance for the entire master training spreadsheet indicates compliance for all but one (1) of the eighty-five (85) custody positions, leaving an overall compliance rate of 99%.

All custody staff interviewed confirmed completion of pat search training. Additionally, several non-custody staff confirmed completion of the same training, adding that they would not be responsible for the conduct of such searches, but could assist as needed during emergent situations. Based on some hesitancy expressed by a few staff interviewed, the Warden issued a 09/25/2019 memo to all corrections staff, providing policy and training excerpts as a refresher regarding the searches of transgender and intersex offenders.

Based on the above, WCF 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.08.31, *Searches of Inmates* (07/01/2010)
- Agency policy COR.08.13, *Duty Assignment for Corrections Officers* (05/07/2018)

- Training curriculum Prison Rape Elimination Act of 2003, PREA, Corrections and Law Enforcement Training (02/02/2017)
- Selected training transcripts
- 09/25/2019 reminder from the Warden to all corrections staff providing refresher information regarding searches of transgender and intersex offenders

Interviews conducted:

- Non-Medical Staff involved in Cross-Gender Strip or Visual Searches
- Random Sample of Offenders
- Random Sample of Staff
- Transgender / Intersex Offenders

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

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

#### 115.16 (a)

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

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

#### 115.16 (b)

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

#### 115.16 (c)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

#### 115.16 (a)

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."

The Auditor was provided with Prison Rape Elimination Act, PREA, Corrections and Law Enforcement Training curriculum (02/02/2017), which provides the following information to participants:

*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.*

Per information received from the PREA Coordinator, "An inmate needs to be medically cleared to transfer to WCF. Based on the physical plant inmates with disabilities would normally not meet this clearance. These individuals would bypass WCF and transfer to furlough at [the Oahu Community Corrections Center] if their classification warrants it. Limited hearing would be met with written documentation if can't verbally." There have been no applicable examples during the facility's audit documentation period and therefore, no secondary documentation available for review.

In an interview, the Director's designee confirmed the availability of identified serviced for any disabled offenders. She added that the agency was in the process of installing Purple Communications in some of its facilities to address the needs of deaf or hard of hearing offenders.

Disabled offenders interviewed noted the provision of equipment, such as hearing aids, or staff assistance as needed to ensure a thorough understanding of all information provided to them. Most indicated their Case Managers were always available to assist, with nurses and other staff available when needed. One offender noted the availability of "comic books" in the library to assist low comprehension offenders with understanding PREA reporting and investigation procedures. Offenders and the Intake staff member also confirmed the availability of closed captioning with the PREA video to assist deaf or hard of hearing offenders as needed.

Based on the above, WCF 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.

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

The Auditor was provided with Prison Rape Elimination Act, PREA, Corrections and Law Enforcement Training curriculum (02/02/2017), which provides the following information to participants:

*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 Rights Compliance Office (CRCO) has designated procedures for the use of authorized interpreters. Pacific Interpreters at 1-866-421-3463 shall be contacted for interpreters.*

Per the PREA Coordinator, use of the language line would be documented via a PREA Mandated Report Form. There have been no uses of this line during the audit documentation period and therefore, no secondary documentation available for review. However, staff interviewed were generally familiar with the line and use procedures. No limited English proficient offenders were currently housed at WCF; as such, no related interviews were conducted.

Based on the above, WCF 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."

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).

During interviews conducted while on-site, five (5) of twelve (12) staff interviewed indicated they would use an offender to interpret regarding PREA reporting, adding that they would first confirm with the offender that he trusted the offender interpreter before proceeding. No staff indicated being able to recall this ever occurring.

Based on the information obtained from a random sampling of WCF staff interviews, the Warden issued a 09/25/2019 memo regarding the use of contracted interpreters accessible via the Watch Commander. This memo included applicable policy excerpt language and was distributed to all facility staff.

During the audit documentation period, there were no exigent circumstances that required the use of an offender interpreter.

No limited English proficient offenders were currently housed at WCF; as such, no related interviews were conducted.

Based on the above, WCF 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)
- 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.
- DPS 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
- 09/25/2019 Warden memo regarding the use of contracted interpreters

Interviews conducted:

- Agency Head
- Offenders with Disabilities or who are LEP
- Random Sample of Staff

## Standard 115.17: Hiring and promotion decisions

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

#### 115.17 (a)

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

#### 115.17 (b)

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

#### 115.17 (c)

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

#### 115.17 (d)

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

#### 115.17 (e)

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

#### 115.17 (f)

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

#### 115.17 (g)

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

#### 115.17 (h)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

115.17 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 14.0.1 (page 17) states 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:*

- *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;*
- *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;*
- *Has been civilly or administratively adjudicated to have engaged in the activity described in the paragraphs above.*

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 process.

The Auditor was provided with a list of all facility employees, which included start/hire dates. This indicated there were five (5) for the facility with an additional two (2) designated as Correctional Industries. The Auditor requested documentation of sexual misconduct disclosure for four (4) of the individuals designated as new hires, selecting every other name on the applicable list. It is noted that Correctional Industries employees are not employees of the facility, but of a division within the agency, separate from the facility. They are also not considered contractors. As a result, they were not included in staff information used during this audit. The Auditor requested and received hiring packets for four (4) of the five (5) identified new hires. The Auditor was able to confirm completion of a criminal background check, sexual misconduct disclosure, and institutional employer verification for all individuals prior to their dates of hire.

The same information was requested and received for two (2) of the four (4) promotions during the documentation period. The Auditor was able to confirm completion of a criminal background check and sexual misconduct disclosure for all selected individuals. Also included in documentation was review of agency PREA and investigative databases to ensure there was no applicable allegation and/or investigation information included in these sources.

The Auditor was provided with a listing of all contractors providing services at WCF, to include the date services were initiated. Of the forty-one (41) contractors, twenty-one (21) individuals began service since 05/01/2018, which is the initial date of documentation provided by the facility. The Auditor selected every fifth name on the list and received documentation of the initial criminal background check for of four (4) identified individuals. The packets received indicate that the potential contractor is not specifically asked the same direct questions regarding sexual misconduct that are asked of potential employees.

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 many 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 completion of the noted criminal background checks for new contractors is sufficient to demonstrate compliance with this subsection as it applies to contractors.

Based on the above, WCF is 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 was provided with a list of all facility employees, which included start/hire dates. This indicated there were five (5) for the facility with an additional two (2) designated as Correctional Industries.

The Auditor requested documentation of sexual misconduct disclosure for four (4) of the individuals designated as new hires, selecting every other name on the applicable list. It is noted that Correctional Industries employees are not employees of the facility, but of a division within the agency, separate from the facility. They are also not considered contractors. As a result, they were not included in staff information used during this audit. The Auditor requested and received hiring packets for four (4) of the five (5) identified new hires. The Auditor was able to confirm completion of a criminal background check, sexual misconduct disclosure, and institutional employer verification for all individuals prior to their dates of hire.

The same information was requested and received for two (2) of the four (4) promotions during the documentation period. The Auditor was able to confirm completion of a criminal background check and sexual misconduct disclosure for all selected individuals. Also included in documentation was review of agency PREA and investigative databases to ensure there was no applicable allegation and/or investigation information included in these sources.

The Auditor was provided with a listing of all contractors providing services at WCF, to include the date services were initiated. Of the forty-one (41) contractors, twenty-one (21) individuals began service since 05/01/2018, which is the initial date of documentation provided by the facility. The Auditor selected every fifth name on the list and requested documentation of initial criminal background check and verification of sexual misconduct disclosure for a total of four (4) individuals. See 115.17 (a) for PRC direction regarding background checks regarding new contractors. As a result of this information, WCF is compliant with requirements of the subsection as they relate to contractors.

The requirement to review all applicants for previous sexual misconduct was confirmed in an interview with staff from Human Resources.

Based on the above, WCF is 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.

The Auditor was provided with a list of all facility employees, which included start/hire dates. This indicated there were five (5) for the facility with an additional two (2) designated as Correctional Industries. The Auditor requested documentation of sexual misconduct disclosure for four (4) of the individuals

designated as new hires, selecting every other name on the applicable list. It is noted that Correctional Industries employees are not employees of the facility, but of a division within the agency, separate from the facility. They are also not considered contractors. As a result, they were not included in staff information used during this audit. The Auditor requested and received hiring packets for four (4) of the five (5) identified new hires. The Auditor was able to confirm completion of a criminal background check, sexual misconduct disclosure, and institutional employer verification for all individuals prior to their dates of hire.

Staff from Human Resources confirmed the completion of criminal background checks and institutional employer review for all new employees.

Based on the above, WCF is 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.a (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 listing of all contractors providing services at WCF, to include the date services were initiated. Of the forty-one (41) contractors, twenty-one (21) individuals began service since 05/01/2018, which is the initial date of documentation provided by the facility. The Auditor selected every fifth name on the list and received documentation of initial criminal background checks for a total of four (4) selected individuals.

Staff from Human Resources confirmed the completion of criminal background checks and institutional employer review for all new employees and promotions. She added that the VolinCor manager was responsible for all activities associated with contractors. Completion of the required criminal background checks for contractors was then confirmed in an interview with this individual. She added that she maintains a thorough database of all contractors and volunteers to track all related activities in addition to application and training-related information. She reported that training is completed prior to the running of the background checks as they only runs checks for those individuals who have successfully completed pre-assignment / service training.

Based on the above, WCF is 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."

Regarding the requirement to complete criminal background checks for all staff, the Auditor was informed that all criminal background check activities are completed by Headquarters HR staff stationed at headquarters, rather than at the facility. This was confirmed in interviews with Human Resources 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 reviewed these lists for completion of the required checks for every 10<sup>th</sup> custody and non-custody staff member identified on the



training tracking spreadsheet provided and added the Warden, Chief of Security and PCM. All individuals were located on the criminal background documents except for one. The criminal background check documentation for this one individual was provided separately.

The Auditor was provided with a listing of forty-one (41) contractors who provided services at WCF. Twenty (20) of these had initiated services prior to the facility's audit documentation period. The Auditor requested and received documentation of 5-year criminal background checks for every fifth remaining individual on the list. It was noted by the Program Specialist that criminal background checks are run on all contractors and volunteers every two (2) years when these individuals complete their PREA refresher training. Completion of these regular criminal background checks was confirmed in an interview with the individual responsible for oversight of all agency contractors and volunteers.

Based on the above, WCF is 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, "Any PSD staff, who materially omits reporting such misconduct or provide materially false information shall be subject to discipline based on the just and proper cause standard, up to and including discharge."

The Auditor was provided with a list of all facility employees, which included start/hire dates. This indicated there were five (5) for the facility with an additional two (2) designated as Correctional Industries. The Auditor requested documentation of sexual misconduct disclosure for four (4) of the individuals designated as new hires, selecting every other name on the applicable list. It is noted that Correctional Industries employees are not employees of the facility, but of a division within the agency, separate from the facility. They are also not considered contractors. As a result, they were not included in staff information used during this audit. The Auditor requested and received hiring packets for four (4) of the five (5) identified new hires. The Auditor was able to confirm completion of a criminal background check, sexual misconduct disclosure, and institutional employer verification for all individuals prior to their dates of hire.

In an interview, Human Resources staff reported that all potential employees and promotional candidates are required to report such information during the application process, being required to complete a separate PREA form with the on-line application that includes the four related questions. She reported that the forms completed prior to criminal background checks requires the individual to respond to these questions again when applicant names are moved forward to the manager for consideration for hire. The individual reported that for employees on probation, a performance appraisal is completed at three months, six months, and nine months and then annually thereafter; all other employees receive annual performance appraisals. She indicated that staff do not participate in interviews during the evaluation process. The Auditor confirmed with the PREA Coordinator that employee performance reviews do not include interviews or written self-evaluations as part of the review.

Based on the above, WCF is 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, "Any PSD staff, who materially omits reporting such misconduct or provide materially false information shall be subject to discipline based on the just and proper cause standard, up to and including discharge." This was confirmed in an interview with Human Resources staff.

Based on the above, WCF 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."

In an interview, the staff from the Human Resources department confirmed that requested information is provided, that all requests are referred to the PREA Program Specialist for review of all available information and disclosure if there are any related incidents. She added that the applicant usually completes a release of information form that is submitted by the requesting organization. She reported that the agency usually discloses general information but not the specifics of any related allegations.

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 WFC employees in the 12 months preceding the on-site review.

Based on the above, WCF 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 Lisa Capers regarding criminal background check requirements for contractors
- Confidential Employer Questionnaire blank form for the documentation of prior institutional employer checks
- List of promoted individuals during the documentation period
- Select contractor packets
- New hire and promotion packets for select staff

Interviews conducted:

- Human Resources Staff
- Volunteer / contractor (VolinCor) manager

## Standard 115.18: Upgrades to facilities and technologies

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

### 115.18 (a)

- If the agency designed or acquired any new facility or planned any substantial expansion or modification of existing facilities, did the agency consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not acquired a new facility or made a substantial expansion to existing facilities since August 20, 2012, or since the last PREA audit, whichever is later.)  
 Yes    No    NA

### 115.18 (b)

- If the agency installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology, did the agency consider how such technology may enhance the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012, or since the last PREA audit, whichever is later.)  
 Yes    No    NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### 115.18 (a)

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

Neither PSD nor WCF acquired any new facilities since the last WCF PREA audit (report dated 11/03/2016). Since the last PREA audit, the facility initiated a significant remodel / repurpose of the

administration building. The inclusion of the PREA Coordinator in planning processes along with procedure development was confirmed in an interview with the Warden and the PREA Coordinator. The Warden noted that all plans ensured the facility was compliant with ADA and PREA requirements. It was noted that during the modification process, a severe storm resulted in significant damage to the building, to include wind tearing off a large portion of the roof. As a result, the modification process was significantly accelerated, but the PREA Coordinator was in continuous communication with the Warden regarding related modifications. The front conference / general purpose room is currently used for Parole Board hearings, with plans to add the ability for offenders to participate via video viewing in court hearings. This room has large windows looking out into the staffed reception area, providing excellent visibility. The Auditor was informed that when construction to the area is complete, offenders will no longer be able to go to Case Manager offices adjacent to the room but will meet with staff in the multi-purpose room. Out of bounds areas currently are clearly marked and will be modified once this construction is complete. The Auditor was informed that due to the limited perimeter fencing at WCF, an offender in an out of bounds area is considered to have attempted an escape and is immediately removed from the facility

During an interview, the Director's designee confirmed that the PREA Coordinator is consulted in the planning, modifying, etc. of any of our facilities.

Based on the above, WCF is assessed as compliant with the requirements of 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."

Currently there is no video monitoring system in place at WCF. This was confirmed in an on-site interview with the Warden as well as observations during the facility tour. Facility administrators have submitted numerous unsuccessful legislative requests for the addition of a surveillance system and will work closely with the PREA Coordinator in planning if such a request were ever to be approved.

It is noted that following an allegation several years ago, KASHBOX (residential substance abuse treatment programming agency) installed stand-alone cameras in each of their counselor offices. The cameras feed only to a video recorder and have no monitors from which footage can be viewed. The supervisor has the ability to pull video in response to any allegation or incident. There is currently no end retention date or maximum capacity determined for the system and since its installation, no video has been deleted.

Based on the above, WCF 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:

- Agency Head
- Warden

## RESPONSIVE PLANNING

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

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

#### 115.21 (a)

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

#### 115.21 (b)

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

#### 115.21 (c)

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

#### 115.21 (d)

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

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

#### 115.21 (e)

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

#### 115.21 (f)

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

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

### 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.

Random staff interviewed confirmed a comprehensive knowledge of evidence collection, preservation, and documentation procedures. Non-custody staff indicated that these responsibilities would fall to custody staff but expressed an understanding of basic crime scene preservation and related required notifications.

Based on the above, WCF 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. It is noted that WCF does not house youthful offenders and therefore would not be involved in the collection of evidence involving juvenile victims or perpetrators.

Based on the above, WCF 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 WCF, the emergency medical center is identified as the Kapiolani Medical Center for Women and Children (KMCWC). In order to ensure the conduct of these examination by a SAFE/SANE, offenders are transported to KMCWC where, on arrival, the individual is medically cleared through an emergency room physician, and then the police department is notified. An advocate from KMCWC is with the offender from the onset and contacts on-call specially trained physicians from the Center to perform the forensic medical examination. Emergency room staff do not conduct forensic medical examinations. The agency maintains a contract with the Sex Assault Treatment Center through KMCWC that reads in part, “The SATC will provide oversight and maintain compliance with state public funds to deliver sexual assault services throughout the Hawaiian islands.”

In a telephone interview, the designated SAFE/SANE / physician confirmed that they perform all forensic medical examinations for all of the facilities on Oahu. She indicated that they are physician based forensic medical examiners who work on contract and have never had an issue when someone was not available for response. The Auditor was also able to meet personally with staff from the Kapiolani Medical Center for Women and Children. Staff reported that if a forensic medical examination is indicated, a treatment team goes to the hospital following a call from the either the Watch Commander or medical staff from the facility. The advocate meets them there and once the medical assessment is completed (triage, stabilization), the doctor comes to do the forensic examination. It was reported that the advocate is a crisis worker who provides emotional support, services, informs the offender of his rights, etc. The crisis worker determines needs and then calls the doctor who comes in to do the actual examination. The Auditor was informed that the Center works closely with law enforcement with sexual assault kits transferred to the criminal lab at the Honolulu Police Department (HPD) for DNA testing. The facility calls HPD even if the offender indicates that he does not want to pursue prosecution. Staff explained that if the victim signs a withdrawal form before the kit is turned over to HPD, the kit does not get processed and stays at the hospital, with the hospital maintaining chain of custody in case the victim later changes his mind. If the kit has gone into the cue, it gets processed even if the victim later indicates he doesn't want it to move forward. The Auditor was informed that recent legislation has established very specific and short timeframes for the processing of these kits, and there is currently no backlog of kits to be processed.

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 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, WCF 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. It is noted that as of the writing of this report, a contract extension is in work. Per the PREA Coordinator and AG Grants staff, the contract will be retroactive starting on 07/01/2019 and there will be no break between contracts.

UPDATE: During the corrective action period, the Auditor was provided with an amendment to the noted contract, extending it through June 30, 2021.

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.*

Interviews with representatives from the Kapiolani Medical Center confirmed an understanding of the services provided and response expected under the noted MOU. Initially, specific information regarding the provision of services to offenders was not available as messages left for the individual responsible were not returned as of the writing of this report. A member of the Audit Team did speak with one individual from the Center who confirmed the basics regarding service provision per the contract, but no additional information was provided. The Auditor was later provided with the opportunity to visit the Center and meet with staff there. Staff reported that if an offender is in need of a forensic medical examination, the offender is transported to the Center where he is met by an advocate. Once the medical assessment is completed (triage, stabilization), the doctor comes to do the forensic examination. The advocate is a crisis worker who provides emotional support, services, informs the offender of his rights, etc. The crisis worker determines the needs and then calls the doctor who comes in to do the actual examination. The advocate is there for the entire process.

During an on-site interview with the PCM, it was learned that she is not familiar with victim advocacy support services available to offenders. She was aware that posters were available that contained applicable information but thought that offenders secured their own advocates through their attorney or the agency PREA Coordinator. As noted with standard 115.11, the responsibilities of the PCM were reassigned to the Warden, supported by his administrative staff. Based on her interactions with offenders in her role as Corrections Supervisor, it is recommended that available victim advocacy services and contact procedures are review with the former PCM.

During the on-site review, no offenders who had reported sexual abuse were still housed at the facility. As such, related interviews were not conducted.

Based on the above, WCF 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. It is noted that as of the writing of this report, a contract extension is in work. Per the PREA Coordinator and AG Grants staff, the contract will be retroactive starting on 07/01/2019 and there will be no break between contracts.

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 Honolulu Police Department (HPD) is notified. Per the PREA Coordinator, the established contract with KMCWC includes provision of services to all community members on all islands. The Sex Assault Treatment Center (SATC), which is a part of KMCWC, conducts all needed forensic medical examinations. They also provide advocacy support services to all offenders. All interactions with these community-based advocates are confidential and not disclosed without the written release / permission of the offender. The Auditor was provided the opportunity to meet with staff from KMCWC and was informed that if the offender is being seen in follow up treatment, he can also have the advocate go to any court proceedings with him. Prosecutors also have advocates on staff that can provide support services during criminal proceedings. The Auditor was also informed that the offender is provided access to the advocate during investigatory interviews. The facility can contact the advocate for this purpose if there is an established relationship between the advocate and the offender (e.g., the offender coming in for in-person therapy) and the offender wants the advocate present, or the offender can receive support services from a psychiatric social worker from the facility.

As there were no allegations reported during the facility's audit documentation period that indicated a need for a forensic medical examination, there is no secondary documentation available for review.

During the on-site review, no offenders who had reported sexual abuse were still housed at the facility. As such, related interviews were not conducted.

Based on the above, WCF 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."

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 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 perspective organizations, not just those related to PREA. The agency attempted to enter into a written agreement with law enforcement agencies but, per the PREA Coordinator, none of the agencies signed the MOU as they believed it was their statutory obligation to investigate criminal activity based on their police powers on the relevant island.

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

115.21 (h)

The agency has an agreement with the Kapiolani Medical Center for Women and Children, 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.

Based on the above, WCF 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
- Amendment to the above contract extending it through 06/30/2021
- Training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017
- 01/28/2019 email from the PREA Coordinator regarding draft MOU with law enforcement

Interviews conducted:

- PREA Compliance Manager
- Random Sample of Staff
- SAFE/SANE Staff
- Representative from Community-Based Advocacy Organization

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

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

### 115.22 (a)

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

### 115.22 (b)

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

### 115.22 (c)

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

### 115.22 (d)

- Auditor is not required to audit this provision.

### 115.22 (e)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

### 115.22 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act*, (09/22/2017), 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 WCF in the past 12 months.

An interview with the Director's designee confirmed that an administrative investigation is conducted for every allegation received. The Auditor was also provided with copies of all twelve (12) of the investigations conducted, further confirming the requirements of the standard.

Based on the above, WCF 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 (page 20) 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](http://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 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."

During the facility's documentation period, there was one substantiated allegation of staff sexual misconduct. The Auditor was informed that the noted investigation was actually completed in 2014 by Internal Affairs with a finding of substantiated unauthorized communication through mail along with deposits of money, but no sexual relationship. The investigation was added to the current log when the offender re-reported the allegation during readmission intake screening in 2019, but a no new information

was obtained, and no new investigation was initiated. As a result, the total number of investigations conducted is reduced from twelve (12) to eleven (11) with no current investigation substantiating staff sexual misconduct. It is noted that the Auditor was provided with the 2014 investigation report for review. Per the Program Specialist, the allegation did not warrant a criminal referral as there were no acts of sexual abuse. As a result, there is no secondary documentation available for review.

During interviews with investigative staff, it was confirmed that all allegations that appear to be criminal in nature are referred to the Honolulu Police Department. The Internal Affairs office out of Headquarters would oversee the parallel administrative investigation and the criminal investigation would be conducted by the Sex Crimes Detective Unit of HPD. The Auditor attempted to contact the HPD Sex Crime Units by telephone on several occasions, but was unable to connect with the lead detective.

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

#### 115.22 (c)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 41.0 (page 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](http://www.hawaii.gov/psd).

Based on the above, WCF 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. WCF is a Honolulu based facility and, as such HPD is the responsible criminal investigatory entity.

Based on the above, WCF 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, WCF 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](http://www.hawaii.gov/psd)
- Email from Just Detention International confirming no reports of allegations of issues regarding offender sexual safety at WCF
- Training curriculum for Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017
- Investigation report from the 2014 substantiated investigation along with 09/06/2019 explanatory email from the Program Specialist

Interviews conducted:

- Agency Head

- Investigative Staff



## TRAINING AND EDUCATION

### Standard 115.31: Employee training

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

#### 115.31 (a)

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

#### 115.31 (b)

- Is such training tailored to the gender of the inmates at the employee's facility?  Yes  No

- Have employees received additional training if reassigned from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa?  Yes  No

### 115.31 (c)

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

### 115.31 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### 115.31 (a)

Agency policy ADM.08.08, Prison Rape Elimination Act (09/22/2017) section 18.0.1 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 Warden, PSD Administrators, or Sheriff shall ensure that all current staff shall 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 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;
- (2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
- (3) Inmates' right to be free from sexual abuse and sexual harassment;
- (4) The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
- (5) The dynamics of sexual abuse and sexual harassment in confinement;
- (6) The common reactions of sexual abuse and sexual harassment victims;
- (7) How to detect and respond to signs of threatened and actual sexual abuse;
- (8) How to avoid inappropriate relationships with inmates;
- (9) How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates; and
- (10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Random staff interviewed confirmed completion of required training, able to articulate the contents of the training, to include the ten (10) elements specified in this subsection.

The Auditor was provided with the spreadsheet used to track training completion for WCF staff, to include the most recent PREA training completion. The spreadsheet documents current training completion dates for all but six (6) of the 138 facility staff, resulting in an overall training compliance rate of 96%. The Auditor requested training transcripts for sixteen (16) randomly selected staff to confirm spreadsheet information. These individuals were identified by selecting every tenth custody staff member and every tenth non-custody staff member on the master list, adding the Warden, Chief of Security, and PCM. It was later learned that two (2) of the identified individual had been on extended leave and should not have been included in the overall compliance assessment and reducing the assessment data set from sixteen (16) to fourteen (14). The Auditor identified compliance issues with seven (7) of the fourteen (14) records reviewed, to include no documentation of training completion, more than two years between training, documentation of only one PREA training completion, etc. This leaves a compliance rate of only 50%. Information was received from the PREA Coordinator that the position of WCF Training Officer was recently vacated and the facility is unable to locate some previous documentation. Additionally, WCF staff were occasionally required to piggy back their trainings with other facilities, participation in which was often not uploaded into training logs. To address the issue, the PREA Officer has recently been assigned responsibility of facility training and is working to resolve identified gaps.

Based on the above, WCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include a review of hardcopy records against the master training spreadsheet

with completion of training by any staff member identified as deficient and reconciliation of individual transcripts with the master training spreadsheet.

UPDATE: The Auditor was provided with additional documentation to include training transcripts and Acknowledgement of Training forms sufficient to demonstrate compliance with the requirements of this subsection. Additionally, the Auditor was informed that WCF was able to fill their training officer vacancy in April 2020. Pending the resolution of pending Union consultation issues, the position will be managed by a specific ACO versus other related duties for an identified Sergeant and other staff.

#### 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, WCF has exceeded the gender-specific training requirement of this subsection.

Based on the above, WCF 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."

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*. Each staff is required to complete formal training every two years. 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 most recent memo, dated 10/25/2018, 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 Auditor was informed that there is no documentation maintained of staff verification that they have received the distributed information.

The Auditor was provided with the spreadsheet used to track training completion for WCF staff, to include the most recent PREA training completion. The spreadsheet documents current training completion dates for all but six (6) of the 138 facility staff, resulting in an overall training compliance rate of 96%. The Auditor requested training transcripts for sixteen (16) randomly selected staff to confirm spreadsheet information. These individuals were identified by selecting every tenth custody staff member and every tenth non-custody staff member on the master list, adding the Warden, Chief of Security, and PCM. It was later learned that two (2) of the identified individual had been on extended

leave and should not have been included in the overall compliance assessment and reducing the assessment data set from sixteen (16) to fourteen (14). The Auditor identified compliance issues with seven (7) of the fourteen (14) records reviewed, to include no documentation of training completion, more than two years between training, documentation of only one PREA training completion, etc. This leaves a compliance rate of only 50%.

Based on the above, WCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include a review of hardcopy records against the master training spreadsheet with completion of training by any staff member identified as deficient and reconciliation of individual transcripts with the master training spreadsheet.

UPDATE: The Auditor was provided with additional documentation to include training transcripts and Acknowledgement of Training forms sufficient to demonstrate compliance with the requirements of this subsection. Additionally, the Auditor was informed that WCF was able to fill their training officer vacancy in April 2020. Pending the resolution of pending Union consultation issues, the position will be managed by a specific ACO versus other related duties for an identified Sergeant and other staff.

#### 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."

The Auditor was provided with the spreadsheet used to track training completion for WCF staff, to include the most recent PREA training completion. The Auditor was informed that staff participants can also complete a form entitled, "Acknowledgement of Training Received" form to document the acknowledgement of training understanding as required by the standard. Forms were requested for sixteen (16) randomly selected staff who were identified by selecting every tenth custody staff member and every tenth non-custody staff member on the master list, adding the Warden, Chief of Security, and PCM. The Auditor received the most recent training acknowledgement form for fifteen (15) of the sixteen (16) individuals selected with the one remaining individual as being out on extended leave for a lengthy period of time. This leaves an overall compliance rate of 100% for the records reviewed. The form reads, "I understand 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." Based on previous recent audits conducted, the acknowledgement form was revised to include the statement, "By signing, I acknowledge receipt of PREA training and understand the materials presented." The Auditor was provided with completed examples of revised acknowledgement form, dating back to 04/2019. Additionally, in a review of training curriculum conducted with the 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." Training rosters are required for all in-person training sessions completed, which addresses any participants prior to the acknowledgement form revision.

Based on the above, WCF 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)

- Prison Rape Elimination Act of 2003 PREA Corrections and Law Enforcement Training as revised 02/02/2017
- Acknowledgement of training received (blank and completed forms)
- 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
- Selected training transcripts and training acknowledgement forms

Interviews conducted:

- Random Sample of Staff

## Standard 115.32: Volunteer and contractor training

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

### 115.32 (a)

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

### 115.32 (b)

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

### 115.32 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### 115.32 (a)

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:

- 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."
- 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."
- "Confidentiality" form, which addresses the meaning of confidentiality, the requirement to inform inmates that any information shared could be reported to the individual's supervisor, and that inmates 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."
- "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.”

At the time of the initial documentation review, WCF employed the services of 41 contractors and 174 volunteers. The Auditor requested and received training completion documentation for eight (8) volunteers and four (4) contractors, identified by selecting every twentieth name on the list of volunteers provided and every tenth name on the list of contractors provided, confirming completion of standard-required training.

In an interview with the VolinCor Manager, the Auditor was informed that all contractors and volunteers are required to complete six (6) hours of training over the course of two (2) days. Training topics include personal and professional relationships, contraband, religious tolerance, PREA, writing recommendations for offenders for court hearings, sexual harassment the code of ethics, professionalism, reporting, how to report, who to report to, first responders, etc. The training for PREA is one to one and a half hours of the six (6) hour session and is taught by the VolinCor Manager and a Captain and other security staff member.

Completion of training requirements were also confirmed in interviews with volunteers and contractors while the Team was on-site. These individuals also confirmed inclusion and a thorough knowledge of the agency’s zero tolerance policy and reporting responsibilities associated with their position.

Based on the above, WCF 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 a facility for twenty (20) or more hours per week must attend the full PREA training provided to employees. Those volunteers and contractors who work less than twenty (20) hours per week are only required to attend the VolinCor training, which is an abbreviated version of the training provided to employees.

Completion of training requirements was confirmed in interviews with volunteers and contractors while the Team was on-site. These individuals also confirmed inclusion of and a thorough knowledge of the agency’s zero tolerance policy and reporting responsibilities associated with their position.

Based on the above, WCF 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.”

At the time of the initial documentation review, WCF employed the services of 41 contractors and 174 volunteers. The Auditor requested training completion documentation for eight (8) volunteers and four (4) contractors, identified by selecting every twentieth name on the list of volunteers provided and every

tenth name on the list of contractors provided. The Auditor received the most recent training acknowledgement form for the identified individuals. The form reads, "I understand 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." Based on previous recent audits conducted, the acknowledgement form was revised to include the statement, "By signing, I acknowledge receipt of PREA training and understand the materials presented." The Auditor was provided with completed examples of this revised acknowledgement form, dating back to 04/2019. It was also learned that all volunteers and contractors are required to review and sign PSD 8103: *Acknowledgement between Volunteer or Contract Employee and PSD* form which states, "I have received and understand the Volunteer and/or Contract Staff Handbook. I have also read and understand the rules and regulations regarding PREA."

Based on the above, WCF 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)*
- Acknowledgement of training received (blank and completed forms)
- 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
- Documentation of training completion and training acknowledgement forms for selected contractors and volunteers

Interviews conducted:

- Volunteers and Contractors who have Contact with Offender

## Standard 115.33: Inmate education

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

#### 115.33 (a)

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

#### 115.33 (b)

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

#### 115.33 (c)

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

#### 115.33 (d)

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

- Does the agency provide inmate education in formats accessible to all inmates including those who have limited reading skills?  Yes  No

### 115.33 (e)

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

### 115.33 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### 115.33 (a)

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

The pre-audit questionnaire notes that a total of 536 offenders were received during the past 12 months. However, the PREA Admission Log (05/01/2018 – 05/31/2019) documents the assessments completed for 515 offenders, therefore, 515 is the offender number used by the Auditor throughout this report.

Per information received from the Program Specialist, upon transfer to WCF, offenders receive PREA orientation by reviewing the education video and are also provided with the agency PREA brochure. The Auditor was able to confirm this occurred on the date of admission via a review of a sampling of Inmate Orientation Forms. Additionally, a majority of the random offenders interviewed (21 of 23) confirmed the receipt of PREA-related information on arrival at the facility.

A member of the Team was able to review the entire intake process, to include provision of PREA-related information and facility rules on arrival, orientation, and the initial risk assessment. The Team member was impressed with the thoroughness of the process and the completeness of the information provided to offenders, which include a memo from the Warden, the facility rules, a contraband notice, an emergency contact form, and the PREA brochure. The Team member was especially impressed with the knowledge of the staff member who oversees the entire process. The Team member was also provided with the Inmate Orientation Form, which is provided to offenders on arrival. The form has a checkbox for PREA and includes the following:

*The basic orientation has been discussed with me and the rules and directives governing contraband items, assaults, threats, and other intolerable behavior, and the manner of disposition for violating these rules. I fully understand the information provided to me and if needed, I will read posted rules and guidelines for clarification or ask a staff member for more information. I further understand that respect is expected for all staff members and other inmates. I was offered the opportunity to ask any questions during my orientation.*

Based on the thoroughness of the intake process, the information provided to offenders, and the knowledge of the intake staff member, WCF is assessed as exceeding 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."

The pre-audit questionnaire notes that a total of 536 offenders were received during the past 12 months. However, the PREA Admission Log (05/01/2018 – 05/31/2019) documents the assessments completed for 515 offenders, therefore, 515 is the offender number used by the Auditor throughout this report. The Auditor selected every twentieth offender on the PREA Admissions log and requested documentation of orientation completion (total of 25 offenders or 5% of admissions). Requested documentation was received, confirming completion of full orientation education on the day of admission.

While on site, the Team was not able to observe the actual intake process as no offenders were received during this time period. However, the Intake staff member walked a member of the Team through the entire process, noting that all offenders watch the PREA video, are given a UA, and then are met with individually to ask them a subset of questions from the risk assessment. Orientation materials include a memo from the Superintendent, the facility rules, a contraband notice, emergency contact list and the agency PREA pamphlet. The offender then signs the Orientation Checklist, confirming receipt of noted materials and information. Nineteen (19) of the twenty-three (23) offenders interviewed confirmed receipt of PREA information and orientation per the process outlined.

Based on the above, WCF 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.”

The Auditor was informed that policies and procedures would not vary between facilities. Regardless, 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, due to the nature and mission of the facility, the average length of time an offender is housed at WCF is between six (6) and twelve (12) months. As a result, there are no offenders currently housed at WCF who were continuously housed there since the effective date of the PREA standards. All offenders would have received formal orientation upon transfer to the facility.

Based on the above, WCF is assessed as compliant with the requirements of 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.”

The Auditor received PREA posters and brochures in Samoan and Tagalog. It was also noted that these materials are in the process of being translated by staff into Ilocano, Chuukese, and Marshallese.

Per information received via email from the PREA Coordinator, “An inmate needs to be medically cleared to transfer to WCF. Based on the physical plant inmates with disabilities would normally not meet this clearance. These individuals would bypass WCF and transfer to furlough at the [Oahu Community Correctional Center] if their classification warrants it. Limited hearing would be met with written documentation if can’t verbally.” It was also noted that this type of assistance has not been provided during the audit documentation period. Additionally, the language line has also not been used. Documentation of any use of this method of interpreter provision would be done via a PREA Mandatory Report Form submitted to the PREA Coordinator. As a result, no secondary documentation is available for review.

Based on the above, WCF 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 pre-audit questionnaire notes that a total of 536 offenders were received during the past 12 months. However, the PREA Admission Log (05/01/2018 – 05/31/2019) documents the assessments completed for 515 offenders, therefore, 515 is the offender number used by the Auditor throughout this report. The Auditor selected every twentieth offender on the PREA Admissions log and requested documentation of

orientation completion (total of 25 offenders or 5% of admissions). Requested documentation was received for all selected offenders.

Based on the above, WCF 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."

During the on-site review, the Auditor observed posters in offender-accessible areas of the facility. Additionally, the Auditor had been provided with photographic documentation of the audit notice posting. In each of these photographs, the Auditor also observed the agency PREA poster. These areas include, but are not limited to:

- Farm
- Operations building
- Administration building
- Tool control room
- Building 4
- Building 5
- Building 6
- CI Building 1
- Building 9A
- Building 9B
- Building 10A
- Building 10B
- Lockdown cells control center
- Building 3, third floor
- Staff dining
- Food service back office
- Chapel
- Intake
- UA Lab
- Store
- Medical unit
- Sergeant's office
- KASHBOX main office
- KASHBOX visit container
- KASHBOX Hale Ola E Hoo Maka Hou building

The Auditor confirmed with the Program Specialist that there is no offender handbook for WCF, so offenders do not receive PREA-related information via that mechanism.

During the on-site review, Audit Team members observed posters throughout the facility, to include living, working and programming areas. Posters were also available in staff and public accessible areas of the facility. PREA brochures were also readily available in multiple areas throughout the facility, such as medical / mental health, religious services, and counselor offices.

Based on the above, WCF 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)
- 08/19/2019 email from Program Specialist regarding orientation processes
- Examples of selected offender orientation forms
- Waiawa Correctional Facility Inmate Guidelines
- Agency PREA poster
- State of Hawaii, Department of Public Safety: An informational Guide For Offenders – Offender Sexual Abuse and Sexual Harassment by Offenders, Staff, Volunteers, and Contractors (04/17/2019)

Interviews conducted:

- Intake Staff
- Random Sample of Offenders



## Standard 115.34: Specialized training: Investigations

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

### 115.34 (a)

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

### 115.34 (b)

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

### 115.34 (c)

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

### 115.34 (d)

- Auditor is not required to audit this provision.

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

### 115.34 (a)

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

WCF has trained all Lieutenants and Sergeants to be PREA investigators along with the Chief of Security and Warden. The Auditor received documentation of the completion of fourteen (14) facility staff. WCF can also access trained investigators from the Internal Affairs division as needed.

Investigative staff interviewed also confirmed completion of required training.

Based on the above, WCF 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 National Institute of Corrections 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 required 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, WCF 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.

Based on the above, WCF 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.

Based on the above, WCF 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)
- 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
- Documentation of investigator training completion

Interviews conducted:

- Investigative Staff

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

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

### 115.35 (a)

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

### 115.35 (b)

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

### 115.35 (c)

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

### 115.35 (d)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

115.35 (a)

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

The Auditor was provided with certificates of completion for the National Institute of Corrections *PREA: Medical Health Care for Sexual Assault Victims in a Confinement Setting* for four (4) of the five staff members providing medical services. The Auditor then requested and received documentation verifying completion of required training for the fifth medical staff member. The final medical staff member completed the required training in 2013, participating in training provided by the Sexual Abuse Treatment Center and Honolulu Police Department. The Auditor was also provided with the materials from this training, confirming the inclusion of standard-required elements.

Per the Program Specialist, there are no mental health staff specifically assigned to WCF. Mental health services are provided by two HCF mental health providers, one of whom provides services through Tele-med and one of whom provides on-site services once a week. The Auditor was provided with documentation of specialized training for both of these individuals.

Completion of noted specialized training was confirmed in interviews with Medical and Mental Health providers. The VolinCor Manager also confirmed the requirement for any agency contracted providers to complete the health services training that other Medical staff are required to complete.

Based on the above, WCF 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, WCF 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 [Training and Staff Development]. 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, certificates of completion are maintained in the staff member’s training record file.

The Auditor was provided with certificates of completion for the National Institute of Corrections *PREA: Medical Health Care for Sexual Assault Victims in a Confinement Setting* or rosters for participation in the training provided by the Sexual Abuse Treatment Center and Honolulu Police Department for five (5) medical and two (2) mental health providers.

Based on the above, WCF 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*. Each staff is required to complete formal training every two years. 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 Auditor was informed that there is no documentation maintained of staff verification that they have received the distributed information. The Auditor did however receive documentation of health services staff completion of required formal PREA training.

The Auditor was provided with certificates of completion for the National Institute of Corrections *PREA: Medical Health Care for Sexual Assault Victims in a Confinement Setting* for four (4) of the five staff members providing medical services. The Auditor then requested and received documentation verifying completion of required training for the fifth medical staff member. The final medical staff member completed the required training in 2013, participating in training provided by the Sexual Abuse Treatment Center and Honolulu Police Department. The Auditor was also provided with the materials from this training, confirming the inclusion of standard-required elements.

Per the Program Specialist, there are no mental health staff specifically assigned to WCF. Mental health services are provided by two HCF mental health providers, one of whom provides services through Tele-

med and one of whom provides on-site services once a week. The Auditor was provided with documentation of the completion of specialized and general PREA training for both of these individuals.

Based on the above, WCF 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
- 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
- Documentation of training completion by health services (medical and mental health) staff
- Master training tracking spreadsheet
- Materials from 2013 training provided by training provided by the Sexual Abuse Treatment Center and Honolulu Police Department

Interviews conducted:

- Medical and Mental Health Staff

# SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

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

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

### 115.41 (a)

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

### 115.41 (b)

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

### 115.41 (c)

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

### 115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) whether the inmate has a mental, physical, or developmental disability?  
 Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) the age of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) the physical build of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) whether the inmate has previously been incarcerated?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) whether the inmate's criminal history is exclusively nonviolent?  
 Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) whether the inmate has prior convictions for sex offenses against an adult or child?  Yes  No



- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) whether the inmate has previously experienced sexual victimization?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) the inmate's own perception of vulnerability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) whether the inmate is detained solely for civil immigration purposes?  Yes  No

#### 115.41 (e)

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

#### 115.41 (f)

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

#### 115.41 (g)

- Does the facility reassess an inmate's risk level when warranted due to a: Referral?  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to a: Request?  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to a: Incident of sexual abuse?  Yes  No

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

#### 115.41 (h)

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

#### 115.41 (i)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### 115.41 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 24.0.1 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."

The pre-audit questionnaire notes that a total of 536 offenders were received during the past 12 months. However, the PREA Admission Log (05/01/2018 – 05/31/2019) documents the assessments completed for 515 offenders. The Program Specialist indicated that this was the correct information; therefore, 515 is the offender number used by the Auditor throughout this report.

During interviews conducted while on-site, seventeen (17) of twenty-three (23) offenders interviewed reporting going through the initial risk assessment process within close proximity of arrival. Four (4) of

the remaining six (6) offenders indicated that they had not been asked the assessment questions with an additional two (2) reporting that they did not remember. Additionally, all three risk assessors confirmed completion of risk assessments on transfer from another agency facility, which is the only method in which an offender arrives at WCF.

Based on the above, WCF is 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."

The pre-audit questionnaire notes that a total of 536 offenders were received during the past 12 months. However, the PREA Admission Log (05/01/2018 – 05/31/2019) documents the assessments completed for 515 offenders. The Program Specialist indicated that this was the correct information; therefore, 515 is the offender number used by the Auditor throughout this report.

During interviews conducted while on-site, seventeen (17) of twenty-three (23) offenders interviewed reporting going through the initial risk assessment process within close proximity of arrival. Four (4) of the remaining six (6) offenders indicated that they had not been asked the assessment questions with an additional two (2) reporting that they did not remember. Additionally, all three risk assessors confirmed completion of risk assessments on transfer from another agency facility, which is the only method in which an offender arrives at WCF.

The PREA Admissions Log (05/01/2018 – 05/31/2019) details the admissions date and initial risk assessment completed for all offenders received during this time. The report automatically inserts the date when the risk assessment is completed in the electronic system and does not allow manual entry of completion dates. Of the 515 offenders detailed in the report, 6 offenders were transferred or released prior to 72-hours. As a result, compliance calculations were based on the remaining 509 offenders. Of these, a total of 168 offenders (33%) had initial assessments completed beyond the 72-hour timeframe established in the standard with an additional 12 offenders (2%) not having an assessment documented at all. The spreadsheet documents that a total of 329 offenders had initial assessments completed within 72 hours of intake, leaving the facility with an overall completion compliance rate of 65%. While on-site, it was learned that the staff member responsible for intake completes the initial, in-person portion of the assessment with the offender on the day of arrival. This was confirmed by a majority of the offenders interviewed. The partial assessment is saved in the system awaiting completion by the Corrections Supervisor. This individual conducts a records review to complete the remaining portions of the assessment, such as history of violence and violent misconduct. From all available information and observation, it appears that the reason for the low compliance rate is due to delays in the completion of this second portion of the assessment.

Based on the on-time compliance rate associated with initial (72-hour) assessments, WCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include the establishment of a definitive process to ensure the second half of the dual assessment process is completed according to established timeframes, supported by monthly submission to the Auditor of the PREA Admissions Log and random assessments paired with applicable Administrative Program Action forms for offenders selected by the Auditor for a minimum of four (4) months, beginning 12/01/2019 to confirm compliance moving forward.

UPDATE – The Warden provided an explanatory memo dated 10/29/2019 that notes, “...we have been able to safely and appropriately house inmates based on classification, program requirements, separatees, and PREA screenings. My process begins with our Intake staff identifying any potential concerns including PREA, then it is forwarded to the Chief of Security and the Offender Services Staff (Case Management). ISS incorporates the information into the transfer assessment committee meeting with the inmate, which is normally held within 14 days of transfer to WCF. The findings of this committee are reviewed by my office and appropriate action is initiated. As an example, WCF received an inmate identified as a ‘know victim’ on PREA screening. Based on this staff housed the inmate for visibility and regular monitoring by both security supervisor and case management staff. We still did receive two reports of possible retaliation and as a result we prioritized the inmate’s transfer to the work furlough program to provide the inmate more out of facility time and ensuring his transition into the community. The PREA Screenings as dictated by ADM.08.08. The PREA Coordinator provided a detailed report as to untimely ‘within 30-day’ reviews to ensure that there was no additional and relevant information to be considered from the transfer screening. The information clearly substantiated WCF’s compliance within the transfer screening timeline of 3 days, but it seems that there was a data entry delay for the within 30 days reviews. This has since been resolved and a process to complete the transfer and the documentation will be cross referenced by the ‘Administrative Action’ form, if there is a delay in data entry into Offendertrak. In short, there will be a hard copy document.”

The Auditor was also provided with reports of admissions and risk assessments completed throughout the corrective action period. The following is an analysis of those reports:

Date	# of offenders received	# of offenders who left before 72-hours	# of offenders whose review was not yet due	# of applicable offenders	# of offenders completed beyond timeframes	Compliance percentage
09/22/2019 – 10/22/2019	43	2	1	40	1	98%
09/01/2019 – 10/31/2020	157	8	0	149	4	97%
09/01/2019 – 02/28/2020	179	8	0	171	8	95%
03/01/2020 – 03/31/2020	70	0	0	70	1**	99%
Entire corrective action period	249	8	0	241	9	96%

\*\* The initial report indicated that three (3) offenders had assessments completed beyond the 72-hour timeframe. However, additional documentation was received demonstrating that two (2) of these offenders actually had reviews completed within timeframes as documented with hard copy reviews received, but these were entered into OffenderTrak late; therefore the number of reviews completed beyond timeframes is adjusted to one (1).

Based on the process established and the assessment documentation received throughout the corrective action period, WCF 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 system was reviewed while the Auditor was on site during a recent audit conducted in another agency facility. 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 system-generated reports.

Knowledge of the use of this system was confirmed in interviews conducted while on-site with individuals who conduct risk assessments.

Based on the above, WCF 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 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 captures 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 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.

Individuals who complete assessments who were interviewed as part of the on-site review were able to articulate a majority of the elements included in the risk assessments. Those individuals involved in each

half of the initial assessment were uncertain of the elements included in the remaining half, but could articulate those elements included in their area of responsibility.

Based on the above, WCF 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 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 captures 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 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.

Individuals who complete assessments who were interviewed as part of the on-site review were able to articulate a majority of the elements included in the risk assessments. Those individuals involved in each half of the initial assessment were uncertain of the elements included in the remaining half, but could articulate those elements included in their area of responsibility.

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

#### 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 PAQ notes that a total of 536 offenders were received during the past 12 months. However, the PREA Admission Log (05/01/2018 – 05/31/2019) documents the assessments completed for 515 offenders. This includes two (2) for-cause assessments. The Program Specialist indicated that this was the correct information; therefore, 515 is the offender number used by the Auditor throughout this report.

The PREA Admissions Log (05/01/2018 – 05/31/2019) details the admissions date and initial risk assessment completed for all offenders received during this time. The report automatically inserts the date when the risk assessment is completed in the electronic system and does not allow manual entry of completion dates. Of the 515 offenders detailed in the report, 39 offenders transferred or were released

prior to the 30-day timeframe. As a result, compliance calculations were based on the remaining 476 offenders. Of these, a total of 455 offenders (96%) had follow up assessments completed beyond the 30-day timeframe established in the standard with an additional 12 offenders (2%) not having an assessment documented at all. The spreadsheet documents that a total of 9 offenders had follow-up assessments completed within 30-days of intake, leaving the facility with an overall completion compliance rate of 2%.

During interviews conducted with offenders while on-site, it was reported by thirteen (13) of nineteen (19) applicable offenders that a follow up risk assessment had not been completed, that they had never been asked the assessment questions a second time. (Note, one of the offenders interviewed had been at the facility more than 12 months and three had not been at WCF a full 30 days yet and were therefore not included in the sampling.) Interviews conducted with those who complete follow up risk assessments indicated that these are completed based on anecdotal information that happens to be shared with the supervisor by Case Managers. It was reported that if no issues related to sexual abuse or harassment are reported in this manner, the 30-day review is checked off in the system. It was noted that since the facility is very small and staff work well with each other, any related interactions are not documented and due to staff shortages, applicable staff (e.g., work line, education, program, case management, etc.) are not actively sought out or talked with about any specific offender before the review is completed. However, the Auditor was unable to assess this system as compliant as reviews could not be completed accurately if no active meetings were held and passive encounters with staff were not recorded.

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.

A second FAQ issued by the PREA Resource Center 08/02/2019, includes the following requirements regarding follow-up (30-day) assessments: “...the 30-day affirmative reassessment requires, at a minimum, that screening staff consult available sources (including the inmate) to determine whether any previously unknown triggering event or information has become available and to document such review.

In short, as opposed to the “passive” requirements under standards 115.41(g), standard 115.41(f) requires screening staff to affirmatively ‘look and inquire.’ Some risk factors are subject to change within the first 30-days after intake and may only be determined by making affirmative inquiry of the inmate. For example, the ‘inmate’s own perception of vulnerability’ can only be known by the inmate.” The Program Specialist provided the Auditor with twenty-six (26) Notice of Programming forms, noting that these document the transfer assessment committee hearings for the offender. She added that, “During committee, facility program and placement is assessed to include gathering of additional pertinent information if any that may require a new information screening.” It appears that this committee meeting fulfills the requirements associated with the noted FAQ regarding the gathering of additional information relative to the offender’s risk of victimization and/or abusiveness. However, the Auditor reviewed the timeframes between the offender’s admission and the review committee meeting. One offender had a committee date prior to his admission date. The remaining twenty-five offenders had committee review dates ranging between 1- and 13-days following admission, with an average of 6.12 days. This does not allow staff of the facility sufficient time to observe and assess the offender and therefore does not meet the intent of the review assessment requirement. Additionally, if the review committee is used to determine the need to modify / update the offender’s initial assessment, the information from the committee is not usable information if it is not entered into the assessment system until significantly later, as documented with the 30-day assessment compliance rate noted above. This process was revised to include a review by classification and programming staff, documented on an “Administrative Program Action” form which includes documentation of PREA-related information. The form notes:

*PREA*

*A within 30 day review of your initial PREA screening was completed.*

*(A) You reported a PREA safety concern, which will be forwarded to the Warden.*

*(B) You did not report any PREA safety concerns. Therefore, there were no additional or relevant information to impact your PREA screening completed at the time you were admitted to WCF.*

The form is then signed by the Chair Person of the Committee and by the offender, documenting receipt of results. It was recommended that the form be revised to include the names and positions of those individuals participating on the action committee.

The Program Specialist initially informed the Auditor that WCF conducts manual screenings on paper, entering the information into OffenderTrak at a later date. This may be the reason for the non-compliant assessment completion rate noted earlier. However, the Auditor is concerned that this practice does not allow those who need the information to make bed, housing, programming and job assignments access to the information to protect the safety of the offender. Of particular concern is the lag between assessment and entry, varying from four (4) days to a high of twenty-three (23) days. Compounding the issue is the number of offenders for whom no initial risk assessment information has been entered (139 of 513 or 27%). The Auditor was later informed that the process for assessments had been revised as follows:

- *Biweekly, the PCM generates a report from OffenderTrak entitled “PREA Reviews Required”; the Auditor was provided with a sample of this report.*
- *She reviewed who is in need of a follow-up (30-day) review and conducts an in person interview.*
- *The PCM then checks the “completed” box on the PREA Reviews Required report and saves as a final report. The report date that is generated on the PREA Admissions Log is the date the 30-day review was completed.*

The Program Specialist informed the Auditor that assessment dates for multiple offenders were reviewed and it was learned that the PCM was not completing reviews in conjunction with the offender’s admission date. As a result, assessments were completed outside of required timeframes. When the deficiency was discovered, a new process was implemented that included generating the noted report weekly and



completing assessments in conjunction with admission dates. The Auditor was not provided with compliance rate documentation since the new process was implemented.

Based on the above, WCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include the establishment of a definitive process to ensure the all follow up reviews are conducted in a manner that complies with standard and policy requirements, with documentation maintained and/or included in the actual assessment. The follow-up (30-day) review will include the completion of the Admissions Program Action form along with entry of the final assessment information into OffenderTrak. This should be supported by monthly submission to the Auditor of the PREA Admissions Log and random assessments paired with applicable Administrative Program Action forms for offenders selected by the Auditor for a minimum of four (4) months to confirm compliance moving forward.

UPDATE – The Warden provided an explanatory memo dated 10/29/2019 that notes, “...we have been able to safely and appropriately house inmates based on classification, program requirements, separatees, and PREA screenings. My process begins with our Intake staff identifying any potential concerns including PREA, then it is forwarded to the Chief of Security and the Offender Services Staff (Case Management). ISS incorporates the information into the transfer assessment committee meeting with the inmate, which is normally held within 14 days of transfer to WCF. The findings of this committee are reviewed by my office and appropriate action is initiated. As an example, WCF received an inmate identified as a ‘know victim’ on PREA screening. Based on this staff housed the inmate for visibility and regular monitoring by both security supervisor and case management staff. We still did receive two reports of possible retaliation and as a result we prioritized the inmate’s transfer to the work furlough program to provide the inmate more out of facility time and ensuring his transition into the community. The PREA Screenings as dictated by ADM.08.08. The PREA Coordinator provided a detailed report as to untimely ‘within 30-day’ reviews to ensure that there was no additional and relevant information to be considered from the transfer screening. The information clearly substantiated WCF’s compliance within the transfer screening timeline of 3 days, but it seems that there was a data entry delay for the within 30 days reviews. This has since been resolved and a process to complete the transfer and the documentation will be cross referenced by the ‘Administrative Action’ form, if there is a delay in data entry into Offendertrak. In short, there will be a hard copy document.”

The Auditor was also provided with reports of admissions and risk assessments completed throughout the corrective action period. The following is an analysis of those reports:

Date	# of offenders received	# of offenders who left before 30 days	# of offenders whose review was not yet due	# of applicable offenders	# of offenders completed beyond timeframes	Compliance percentage
09/22/2019 – 10/22/2019	43	2	40	0	0	100%
09/01/2019 – 10/31/2020	157	26	12	119	5	96%
09/01/2019 – 02/28/2020	179	29	11	139	3	98%

Date	# of offenders received	# of offenders who left before 30 days	# of offenders whose review was not yet due	# of applicable offenders	# of offenders completed beyond timeframes	Compliance percentage
03/01/2020 – 03/31/2020	70	4	5	61	1	98%

Based on the process established and the assessment documentation received throughout the corrective action period, WCF is now assessed as compliant with the requirements of this subsection.

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).”

During the audit documentation period, there was only one (1) investigation of abuse that resulted in a substantiated finding and therefore would have indicated the need to complete a for-cause risk assessment. However, the offender victim was released prior to the completion of the investigation and as such, the indicated assessment was not completed. The lack of any “for cause” assessments was confirmed via email from the Program Specialist; as a result, there was no secondary documentation available for review.

The Program Specialist reported that the PCM “...is the receiver of information and is responsible for completing assessments. [She] would know when to conduct a ‘New Information’ assessment based on documents of criminal and administrative adjudicated charges or rule violations that [involve] sexual abuse/assault, new information from inmate or staff concerning identification (LGBTI), expression of concern about sexual abusiveness or vulnerability and new documentation concerning gang affiliation and or prior sex offenders, etc.” However, when the PCM as interviewed, she expressed uncertainty regarding any established process related to for-cause risk assessments. She reported that she believed that she would be responsible for such an assessment, however, was uncertain of any formal process and whether or not harassment would also indicate a new assessment. It is noted that WCF would not house an offender who violated applicable violence-related rules or offenders who were substantiated perpetrators of sexual abuse and as such, for-cause assessments associated with this type of behavior would not occur. However, the facility may and has housed substantiated victims for whom a new risk assessment would be indicated.

Based on the lack of a defined process, the lack of knowledge by the staff member responsible for these assessments, and the inability to document any applicable for-cause assessments that may have been completed, WCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include the establishment of a definitive process to ensure the all indicated for-cause assessments are completed along with submission of any applicable documentation during the corrective action period.

UPDATE – During the corrective action period, no new allegations were received; therefore, there were no investigations that indicated a need for a “for cause” assessment. Additionally, no new information was received regarding facility offenders that would indicate the need for a new assessment. However, the reassignment of PCM responsibilities to the Warden coupled with the PREA Coordinator working

closely with the Warden to ensure any applicable future for cause assessments are completed in a timely manner bring WCF into compliance 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."

During on-site interviews with individuals responsible for the completion of risk assessments, two of three reported that offenders would not be disciplined for refusing to provide information during the assessment process. One indicated that he would forward information related to potential conflicts of information (e.g., records indicate that an offender had previously been a victim, but the offender reported he had not to the PCM), but the PCM indicated that offenders would not be disciplined that she knows of. However, at the conclusion of the on-site review, the Warden reassigned all PCM-related duties from the current PCM to himself and worked with the PREA Coordinator to establish sustainable practices. This, in concert with the remaining information obtained from individuals interviewed, ensures a solid knowledge base and assures that offenders will not be disciplined in accordance with standard requirements.

Based on the above, WCF 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 process is not accessible.

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 system 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, according to the Program Specialist, there were no examples of requests for access outside standard position access assignments during the 12 months preceding the on-site review.

During interviews with risk assessors, a knowledge of system restrictions was confirmed with expressed restrictions consistent across interviews.

Based on the above, WCF 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)*
- 08/16/2019 email from Program Specialist regarding database access requests
- PREA Admissions logs 05/01/2018 – 05/31/2019
- Examples of risk assessments completed

- Examples of Notice of Programming Forms and Committee Review documentation
- 09/06/2019 email from the Program Specialist regarding for cause assessments
- Explanatory memorandum from the Warden addressed to the Auditor dated 10/29/2019
- Reports of admissions and risk assessments completed for the following timeframes:
  - 09/22/2019 – 10/22/2019
  - 09/01/2019 – 10/31/2019
  - 09/01/2019 – 02/28/2020
  - 09/22/2019 – 03/31/2020
- Emails dated 01/21/2020 and 04/09/2020 indicating that no new allegations had been received since the on-site review

Interviews conducted:

- PREA Compliance Manager
- PREA Coordinator
- Random Sample of Offenders
- Staff Responsible for Risk Screening

## Standard 115.42: Use of screening information

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

#### 115.42 (a)

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

#### 115.42 (b)

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

#### 115.42 (c)

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

#### 115.42 (d)

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

#### 115.42 (e)

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

#### 115.42 (f)

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

#### 115.42 (g)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

### 115.42 (a)

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

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."

The Auditor was provided with the PREA Positive Screenings Report and PREA Health Care Report, each generated for the period from 05/01/2018 through 05/31/2019. This report indicated that there were no offenders designated as known or potential predators. This is based on the prohibition of housing offenders with sex abuse histories at WCF. The report indicated that there were three (3) offenders designated as known victims. The Auditor requested and received documentation of the completion of the Housing Status portion of the review by the Chief of Security or Watch Commander as noted above for two of the three identified offenders. Per the Program Specialist, the third offender had been scored incorrectly on an assessment at another facility and did not have circumstances that would identify him as a known victim. The Auditor was provided with a corrected assessment for this offender.

The Auditor was also provided with a memorandum dated 10/29/2019 from the WCF Warden, outlining procedures regarding the use of risk assessment information in applicable decisions regarding offenders. The memo states:

*WCF recently changed our Facility PREA Compliance Manager to my position as the Warden to streamline and directly manage various task assigned to my staff. The PREA Transfer/within 30-day review screenings have been utilized to determine appropriate housing, workline, and program requirements for inmates transferring as a part of the sequential phasing process to a minimum-security prison environment. WCF manages the Kashbox program which is a therapeutic substance abuse residential treatment program. Inmates who transfer to WCF are either identified for Minimum General Population or Kashbox. The PREA screening completed is utilized to assess an inmate's housing, work, and programs, while balancing the specific*

*purpose of their transfer objectives (GP or Kashbox). It is important to note that WCF has an agreement with the community not to have inmates convicted of sex offenses or murder. In my 26+ years as the Warden, Chief of Security, and Lieutenant at WCF, we have been able to safely and appropriately house inmates based on classification, program requirements, separatees, and PREA screenings. My process begins with our Intake staff identifying any potential concerns including PREA, then it is forwarded to the Chief of Security and the Offender Services Staff [OSS] (Case Management). OSS incorporates the information into the transfer assessment committee meeting with the inmate, which is normally held within 14 days of transfer to WCF. The findings of this committee are reviewed by my office and appropriate action is initiated. As an example, WCF received an inmate identified as a 'known victim' on PREA screening. Based on this, staff housed the inmate for visibility and regular monitoring by both security supervisors and case management staff. We still did receive two reports of possible retaliation and as a result we prioritized the inmate's transfer to the work furlough program to provide the inmate more out of facility time and ensuring his transition into the community.*

Individuals who complete risk assessments indicated that any individuals who were assessed as potential or known victims would have needs and risk identified in classification actions. During an interview, the PCM reported discussing any housing and programming issues with the Chief of Security and would inform the offender's Case Manager of any noted problems. However, the individual could provide no documentation of the related processes / discussions.

Based on the above PCM reassignment and knowledge of applicable staff along with available documentation, WCF 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."

The Auditor was provided with the PREA Positive Screenings Report and PREA Health Care Report, each generated for the period from 05/01/2018 through 05/31/2019. This report indicated that there were no offenders designated as known or potential predators. This is based on the prohibition of housing offenders with sex abuse histories at WCF. The report indicated that there were three (3) offenders designated as known victims. The report indicated that there were three (3) offenders designated as known victims. The Auditor requested and received documentation of the completion of the Housing Status portion of the review by the Chief of Security or Watch Commander as noted above for two of the three noted offenders. Per the Program Specialist, the third offender had been scored incorrectly on an assessment at another facility and did not have circumstances that would identify him as a known victim. The Auditor was provided with a corrected assessment for this offender.

The Auditor was also provided with an explanatory memo dated 10/29/2019 from the WCF Warden, which indicated, "My process begins with our Intake staff identifying any potential concerns including PREA, then it is forwarded to the Chief of Security and the Offender Services Staff [OSS] (Case Management). OSS incorporates the information into the transfer assessment committee meeting with the inmate, which is normally held within 14 days of transfer to WCF. The findings of this committee are reviewed by my office and appropriate action is initiated."

Individuals who complete risk assessments indicated that any individuals who were assessed as potential or know victims would have needs and risk identified in classification actions. During an interview, the PCM reported discussing any housing and programming issues with the Chief of Security and would



inform the offender's Case Manager of any noted problems. However, the individual could provide no documentation of the related processes / discussions.

Based on the above PCM reassignment and knowledge of applicable staff along with available documentation, WCF 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."

During an interview with a transgender offender, she reported that she had never been asked about her safety. She did confirm that she has never been housed in an area specifically dedicated to LGBTI offenders and did not believe she has ever been strip searched for the sole purpose of determining genital status. She also indicated that she did feel safe at WCF and did not experience issues while at the facility. During an interview, the PCM was not very familiar with the required evaluation of transgender / intersex offenders. However, as noted with standard 115.11, this responsibility has shifted to the Warden, who has extensive policy and standard knowledge and who is working closely with the PREA Coordinator to ensure sustainable and compliant procedures are developed.

The Auditor was provided with the Prison Reclassification Instrument for the transgender offender housed at WCF during the facility's documentation period. The review noted no concerns with misconduct, violence, work / program participation / recommendation, conflicts, mental health concerns, PREA-related concerns, medical / physical problems and management problems. The review was completed prior to the offender's transfer to WCF but noted the need for transfer for participation in the KASHBOX substance abuse program. WCF staff reported that there were no concerns with housing the offender in the open dorm setting which is currently in place for this program. The Auditor was also provided with the initial and follow-up PREA risk assessments noting no concerns for placement at WCF. It is recommended that the agency explore the possibility of establishing a separate review process specifically for transgender and intersex offenders that is completed on the offender's transfer to ensure a documented review of all applicable factors, specific to that facility, and to include documentation of meeting with the offender to determine if there are any potential issues regarding personal safety, shower availability, housing, etc.

Based on the above, WCF 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.”

During the facility’s audit documentation period, only one transgender / intersex offender was housed at WCF. The offender arrived and was released prior to six months. As a result, a 6-month transgender / intersex review was not triggered and there is no secondary documentation available for review.

Per an interview with the PCM, a transgender or intersex offender arrives at WCF, staff determine what programs the offender should participate in. It was noted that if any issues are identified, they are addressed. There appeared to be no formal process in place for these follow-up reviews. However, all PCM responsibilities have been shifted to the Warden who has worked with and continues to collaborate with the PREA Coordinator to ensure all applicable reviews are conducted per standard and policy.

Based on the above, WCF 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.”

A review of all available information by the PREA Coordinator confirmed that WCF housed only one transgender offender during the facility’s documentation period.

The Auditor was provided with the Reclassification Instrument completed for this offender noting a review of safety related factors with the offender (e.g., misconduct, violence, conflicts, mental health concerns, PREA-related concerns, management problems, etc.) This is sufficient to demonstrate compliance with subsection requirements. However, based on the information received from the offender, it is recommended that the facility and/or agency developed a system to document specifically a review of safety concerns with each transgender and intersex offender prior to placement or immediately on transfer. It is also recommended that this be included in formal documentation associated with the bi-annual review of these offenders. It is noted that in an on-site interview, this offender indicated that she did feel safe at WCF and did not experience issues while at the facility.

Based on the above, WCF 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.”

The Auditor was informed that all transgender and intersex offenders have the ability to shower separately. All housing units have individual showers. Units 9 and 10 have shower areas that include three shower stalls separated by partial walls. However, there are curtains in place to afford privacy. This was confirmed during the on-site review. Additionally, in an interview, it was confirmed that transgender offenders are able to shower privately in individual shower cubicles. Per the PREA Coordinator, if any concern was expressed relative to Units 9 or 10, the transgender or intersex offender would be provided the opportunity to shower when no other offenders were using the shower. This was also confirmed in an interview with the transgender offender.

Based on the above, WCF 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."

During the on-site review, it was learned that WCF did not currently house any offenders who were identified as gay or bisexual. The facility was housing one transgender offender who confirmed in an interview that LGBTI offenders would not be housed in a designated area. Additional interviews with PREA Coordinator confirmed that housing decisions are made based on classification actions and are not related to LGBTI Status.

Based on the above, WCF 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)
- PREA Positive Screenings Report 05/01/01/2018 through 05/31/2019 (run 07/03/2019)
- PREA Health Care Report 05/01/2018 through 05/31/2019 (run 07/03/2019)
- Select risk assessments showing housing review by designated staff along with 09/06/2019 explanatory email from Program Specialist
- Risk assessment and reclassification instruments for identified offenders
- 10/29/2019 memo from WCF Warden regarding use of risk assessment information

Interviews conducted:

- PREA Compliance Manager
- PREA Coordinator
- Staff Responsible for Risk Screening
- Transgender / Intersex Offenders

## Standard 115.43: Protective Custody

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

#### 115.43 (a)

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

#### 115.43 (b)

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

#### 115.43 (c)

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

#### 115.43 (d)

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

#### 115.43 (e)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

#### 115.43 (a)

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

WCF does not maintain a segregation unit and therefore, during the 12-month documentation period, there were no offenders who were housing in segregated housing due to risk of victimization. As a result, there is no secondary documentation available for review. During an interview, the Warden confirmed

that the facility does not maintain segregated housing, but two short-term temporary holding cells in which an offender may be placed pending transfer to another area facility based on behavior. He noted that this transfer would generally occur before the end of the day in which the offender was placed in holding.

Based on the above, WCF 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.”

WCF does not maintain a segregation unit and therefore, during the 12-month documentation period, there were no offenders who were housing in segregated housing due to risk of victimization. As a result, there is no secondary documentation available for review or applicable offenders available for interview. During an interview, the Warden confirmed that the facility does not maintain segregated housing, but two short-term temporary holding cells in which an offender may be placed pending transfer to another area facility based on behavior. He noted that this transfer would generally occur before the end of the day in which the offender was placed in holding.

Based on the above, WCF 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.”

WCF does not maintain a segregation unit and therefore, during the 12-month documentation period, there were no offenders who were housing in segregated housing due to risk of victimization. As a result, there is no secondary documentation available for review or applicable offenders available for interview. During an interview, the Warden confirmed that the facility does not maintain segregated housing, but two short-term temporary holding cells in which an offender may be placed pending transfer to another area facility based on behavior. He noted that this transfer would generally occur before the end of the day in which the offender was placed in holding.

Based on the above, WCF 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.”

WCF does not maintain a segregation unit and therefore, during the 12-month documentation period, there were no offenders who were housing in segregated housing due to risk of victimization. As a result, there is no secondary documentation available for review or applicable offenders available for interview. During an interview, the Warden confirmed that the facility does not maintain segregated housing, but two short-term temporary holding cells in which an offender may be placed pending transfer to another area facility based on behavior. He noted that this transfer would generally occur before the end of the day in which the offender was placed in holding.

Based on the above, WCF 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).*

WCF does not maintain a segregation unit and therefore, during the 12-month documentation period, there were no offenders who were housing in segregated housing due to risk of victimization. As a result, there is no secondary documentation available for review or applicable offenders available for interview. During an interview, the Warden confirmed that the facility does not maintain segregated housing, but two short-term temporary holding cells in which an offender may be placed pending transfer to another area facility based on behavior. He noted that this transfer would generally occur before the end of the day in which the offender was placed in holding.

Based on the above, WCF 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



## REPORTING

### Standard 115.51: Inmate reporting

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

##### 115.51 (a)

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

##### 115.51 (b)

- Does the agency also provide at least one way for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency?  Yes  No
- Is that private entity or office able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials?  Yes  No
- Does that private entity or office allow the inmate to remain anonymous upon request?  
 Yes  No
- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security?  
 Yes  No

##### 115.51 (c)

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

##### 115.51 (d)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

115.51 (a)

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:

- Using available means of communication, including but not limited to verbal or written reports to any PSD employee, contract employee or volunteer
- Calling or writing the Ombudsman or the Department of the Attorney General (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,
- Writing to a legislative or political representative or Internal Affairs
- Contacting the facility warden or investigator at the relevant facility;
- Notifying a family member
- Filing an emergency grievance and/or
- Contacting the relevant county law enforcement agency

Offenders are provided with a brochure titled, "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 does not have to input their pin number. However, the GLT HI DPS Speed Dial Directions posted by offender telephones 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. Additionally, the speed dial directions also indicate that all calls may be monitored and recorded, which is not the case for calls to the advocate or ombudsman. Finally, the speed dial list also notes that dialing 55 connects the caller to Children and Family Services – Domestic Violence TRO (Hilo) when the call actually connects to the Sex Assault Treatment Center (SATC). It is strongly recommended that corrected speed dial directions be produced and posted in the proximity of offender telephones with offenders notified of the correction.

Staff and offenders interviewed all confirmed a comprehensive knowledge of the reporting venues available for reporting of PREA allegations / information.

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 as needed and response.

While on site during the recent audit of another agency facility, members of the Audit Team attempted tests of the ability of offenders to place calls to the Ombudsman, victim advocate and PREA Coordinator hotline. Calls to the victim advocate and ombudsman were able to be placed without an offender identification number. The call to the hotline was not successful, but it was later learned that the test caller was pressing the wrong button for the call to go through. The PREA Coordinator researched the issue and later confirmed operation of the hotline as designed.

Additionally, while on site, a member of the Audit Team dropped a kite in a box available for offenders. A member of the Team received confirmation from the Chief of Security and Lieutenant that the kite had been received and processed in accordance with policy and local procedures.

A member of the Audit Team also submitted a test grievance while on-site. Documentation was received from the Program Specialist that the grievance was processed in accordance with agency policy.

The Auditor received copies of all twelve of the investigations associated with the facility's audit documentation period, confirming that offenders were using multiple methods to report allegations and all allegations reported were formally investigated.

While on site, the Auditor also interviewed the staff member who supervises mailroom operations and an individual who works in the mailroom. The Auditor was informed that the facility employs standard legal mail procedures in which outgoing legal mail is brought to the Intake area in an unsealed envelope where contents are inspected in front of the offender. The offender then seals the envelope, the staff log the mail in the legal mail log which is also initialed by the offender, and the staff then tapes the back of the envelope, adding initials and a date stamp. Incoming mail is opened in front of the offender by an ACO who examines the letter only for contraband. It was also learned from the PREA Coordinator that any outgoing mail addressed to her and marked as "legal mail" would be handled in the manner noted for legal mail. However, it was up to the offender to include the "legal mail" designation on the item or it would be handled as regular mail.

Based on the above, WCF 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:

- 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.
- 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.
- These calls are free of charge. It does not require inputting your pin number and at your option are CONFIDENTIAL & EXTERNAL options.
- You may also file a criminal complaint within the appropriate County Police Department as an EXTERNAL reporting option.
- State Ombudsman’s Office – 06

Also provided to the Auditor was the HI DPS 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 your 4-digit PIN number. This is contrary to the information provided in the brochure.)

The information provided from the website for the Hawaii Ombudsman 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 this office. Per the 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.” While on site during a recent audit conducted in another agency facility, members of the Audit Team were able to place calls to the Ombudsman’s Office using an offender telephone. However, when the Audit Team member placing the call was connected to a live person, he was informed that the individual he needed to speak with was not available at that time and was asked if the individual could call him back. The Audit Team member provided information regarding the ability of offenders to receive call back telephone calls, so he was then advised to call back at a later time.

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.”

During on-site interviews, only two (2) of twenty-three (23) offenders interviewed reported that they were able to report outside the facility / agency to the ombudsman. Three (3) additional offenders reported they were able to report to someone outside the facility / agency by using the telephone but didn’t know who these calls would go to; they only indicated that there would be information posted by the telephones. When interviewed, the PCM was not able to articulate processes for contacting the external reporting entity. It was reported that offenders could contact family members who would then contact resources in the community, write to their attorneys, or contact their congressman. Added was a comment that offenders know people to contact, but the facility doesn’t know who those individuals are until that group contacts the facility.

Based on a lack of understanding of external report entities by both offenders and the PCM, WCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include provision of refresher information to all current offenders and applicable staff along with enhanced information provided to newly arriving offenders during the intake process.

UPDATE: To address the lack of understanding by the offender population, the Case Managers were utilized to ensure the understanding of the external reporting process during meetings with their assigned offender caseload. Additionally, the pamphlet with applicable information was redistributed to the housing units. Finally, the PCM responsibilities were reassigned to the Warden as noted with standard 115.11. Based on these actions, WCF is now compliant with the requirements of this subsection.

#### 115.51 (c)

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

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 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.

Staff interviewed confirmed a knowledge of and compliance with the requirement to immediately report all allegations regardless of the source of the information received. Overall, offenders interviewed reported an understanding of the ability to make reports of sexual abuse or sexual harassment either in person or in writing as well as the use of a third party.

A review of the reports related to allegations received during the documentation period indicated that staff responded to allegations received as required by policy. Investigations were conducted when the allegation was received verbally, in writing, via the hotline, or through a third party.

Based on the above, WCF 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.

Per the training provided to all staff, staff can report incidents of sexual abuse, sexual harassment, and retaliation by, "Using the authorized phone system; Mailing a letter 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 indicate above; or Filing an Emergency Offender Grievance Complaint.”

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, contacting the Warden, or using any of the reporting venues available for offenders.

Based on the above, WCF 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 DPS 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
- Documentation of the processing of the test grievance submitted
- Documentation of receipt and processing of the kite submitted

Interviews conducted:

- PREA Compliance Manager
- Random Sample of Offenders
- Random Sample of Staff
- Representative from Community-Based Advocacy Organization
- Staff Member who Oversees Mailroom Operations

## Standard 115.52: Exhaustion of administrative remedies

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

#### 115.52 (a)

- Is the agency exempt from this standard? NOTE: The agency is exempt ONLY if it does not have administrative procedures to address inmate grievances regarding sexual abuse. This does not mean the agency is exempt simply because an inmate does not have to or is not ordinarily expected to submit a grievance to report sexual abuse. This means that as a matter of explicit policy, the agency does not have an administrative remedies process to address sexual abuse.  
 Yes  No  NA

#### 115.52 (b)

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

#### 115.52 (c)

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

#### 115.52 (d)

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

inmate consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.)  Yes  No  NA

#### 115.52 (e)

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

#### 115.52 (f)

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



## 115.52 (g)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### 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, WCF 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 PREA Coordinator as policy appears to indicate that time 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 confirmed with the Program Specialist that there is no offender handbook for WCF, so offenders do not receive PREA-related information via that mechanism.

During the audit documentation period, no allegations were reported using the grievance process. As a result, there is no secondary documentation available for review. Since there were no PREA-related grievances reported, the Auditor requested information regarding the number of general, non-PREA grievances submitted during the facility's audit documentation period. The Auditor was provided with the Department of Public Safety Grievance Statistics report dated 09/05/2019 covering the audit documentation period, which documented that a total of 88 grievances were submitted by offenders. This demonstrates that offenders actively use the grievance system, even though there were no PREA allegations reported using this method.

A member of the Audit Team also submitted a test grievance while on-site. Documentation was received from the Program Specialist that the grievance was processed in accordance with agency policy.

Based on the above, WCF 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 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.

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

Based on the above, WCF 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, no allegations were reported using the grievance process. As a result, there is no secondary documentation available for review. Additionally, at the time of the on-site

review, no offenders who had previously reported allegations remained housed at the facility. This is expected due to the nature of the facility and the short length of stay experienced by most WCF offenders.

Based on the above, WCF 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, no allegations were reported using the grievance process. As a result, there is no secondary documentation available for review.

Based on the above, WCF 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) indicates that 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 of imminent sexual abuse. As a result, clarification was requested from the 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.

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

Based on the above, WCF 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, no allegations were reported using the grievance process. As such, there were no offenders who were disciplined due to the submission of a grievance in bad faith. As a result, there is no secondary documentation available for review.

Knowledge of policy and standard requirements was confirmed in an interview with the Offender Disciplinary Hearing Officer.

Based on the above, WCF 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)
- Department of Public Safety Grievance Statistics report dated 09/05/2019 documenting WCF grievances submitted between 05/01/2018 and 05/31/2019
- Documentation of the processing of the test grievance submitted

Interviews conducted:

- None

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

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

### 115.53 (a)

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

### 115.53 (b)

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

### 115.53 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not*

*meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

115.53 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 30.0.1 (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 detailed solely for civil immigration purposes. (c) Enabling reasonable communication between offenders and these organizations in as confidential a manner as possible, while balancing the good government and orderly running of the facility.”

The agency has an agreement with the Kapiolani Medical Center for Women and Children (KMCWC) (contract number 18-HAS-01) that went into effect 11/16/2017, extending services until 06/30/2019. It is noted that a previous agreement was in place that went into effect in 2015, expiring 06/30/2017. 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. It is also noted that as of the writing of this report, a contract extension is in work. Per the PREA Coordinator and AG Grants staff, the contract will be retroactive starting on 07/01/2019 and there will be no break between contracts. UPDATE: During the corrective action period, the Auditor was provided with an amendment to the noted contract, extending it through June 30, 2021.

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

- *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.*
- *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.*
- *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.*
- *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 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.*

During the on-site review, the Auditor was provided with the opportunity to visit with advocates from the Kapiolani Medical Center for Women and Children. The Auditor was informed that the center maintains a 24/7 hotline offenders can call at any time. The hotline generally provides counseling, de-escalation, and support. The Center has received a significant number of PREA-related phone calls (96 since January 2019 to date). If the caller reports an allegation, the advocate sends an email to the agency PREA Coordinator after obtaining verbal consent from the offender. If an offender declines to give consent, the allegation information would not be forwarded, but the advocate indicated that this has not happened to date. It was noted that if a hotline call was received after center business hours, it would be forwarded to a physician's exchange and then forwarded to the advocate responding to calls; the offender would always be able to speak with a live person.

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 conducted successful tests of the ability of offenders to place calls as indicated.

Most offenders interviewed were uncertain about the availability of advocacy support services. Of those who did believe such services were available, most were not able to articulate what type of services would be provided. Access procedures were explained to offenders during interviews.

While offenders are provided advocate access information in orientation and via posters and brochures, it appears that they are not retaining the information. It is therefore recommended that advocacy access procedures along with information about services available be provided to offenders in a refresher format.

Based on the existence of support services, the use of these services by offenders, and the provision of information regarding services to offenders, WCF 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. The brochure 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.*

Information regarding the limitations of confidentiality is included in brochure materials and in the conversations between offenders and advocates when services are requested. This was confirmed in interviews with community advocacy staff.

Based on the above, WCF is 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. It is noted that as of the writing of this report, a contract extension is in work. Per the PREA Coordinator and AG Grants staff, the contract will be retroactive starting on 07/01/2019 and there will be no break between contracts.

Based on the above, WCF 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, Sex Abuse Treatment Center (KNCWC-SATC) (18-HAS-01) which extends the previous contract until 06/30/2019
- Amendment to the above contract extending it through 06/30/2021.

Interviews conducted:

- Random Sample of Offenders
- Representative from Community-Based Advocacy Organization



## Standard 115.54: Third-party reporting

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

### 115.54 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

115.54

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](http://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, a poster containing PREA-related information was observed in the visiting room, on the window of the officer's station. It is recommended that additional posters be added to areas within the

facility where they might be viewed by the public (e.g., public access and additional posters in the visiting room).

A reporting option on the poster for family/friends is the Sex Abuse Treatment Center (SATC). Per discussions with the 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 as part of another agency facility audit conducted by this Auditor, 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 as needed and response.

Members of the Audit Team tested the ability for member of the public to call designated numbers to report PREA-related issues with the following results:

- The PREA Coordinator – The telephone rang 15 times and the caller 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. A voice message was left requesting confirmation of receipt of the message via return email. The Auditor was informed by the PREA Coordinator that these messages would be forwarded to her to address.
- Internal Affairs – The Auditor received confirmation from the PREA Coordinator of the receipt of the letter submitted to the Internal Affairs Office. When the telephone number on agency's public website was called, the individual answering the call could not explain the process that would be implemented if the caller was reporting PREA-related information, indicating that the Chief would be the individual who would address such calls. Following the placement of an additional call to obtain clarification, the caller was informed that all PREA related incidents are taken seriously, all information collected is documented in a report format and the Warden is notified immediately to ensure the safety of the victim and collect any evidence at a crime scene if required.
- Sex Abuse Treatment Center – A voicemail was left when the number on the public website was called. The call was returned and the caller was informed that any PREA allegations received by the organization would be reported to the PREA Coordinator to address. A letter was also submitted per the public website, but as of the writing of this report, no response has been received.
- Ombudsman – Two attempts to reach the office by telephone were attempted using phones in the community. Once the phone was answered by a receptionist who forwarded the call to a specialist, and a voice message was left. A second call was placed and another message left, but neither message was responded to. The letter submitted to the address on the public website was responded to by the PREA Coordinator who reported, "The Ombudsman are easily accessible by phone, so inmates normally do not write to them. Ombudsman is a speed dial number and free. 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 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.
- Department of the Attorney General – Two attempts were made to contact the Attorney General's office via the telephone number posted on the agency's public website. The number posted (808-586-1500) is the number for the Hawaii Government Information Line. There is nothing in the

introduction regarding PREA. The recording gives you options to connect with various government offices, but the Attorney General's Office is not one of the choices. The caller selected "6" for other government agencies and then was instructed to press "2" for the Attorney General's Office. The system said, "Please wait while I connect you" and then it said, "The call cannot be completed" and then loops back into the introductory information. The caller again selected option "2" with the same results. The called then hung up and attempted the call again following the same sequence with the same results.

The Auditor was provided with a spreadsheet detailing all investigations resulting from allegations received during the facility's documentation period. One entry resulted from an allegation received from an offender's family member. As of the writing of this report, this investigation was open and ongoing.

Based on the standard requirement that venues are available to receive reports and there is no requirement to provide a response to these reports, WCF 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 report information is developed. Additionally, it is recommended that information regarding response procedures are shared with these entities and the issue with the ability to contact the Attorney General's office be resolved to ensure a response is received in some manner from each call or letter received.

Documentation provided for this standard:

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

Interviews conducted:

- None are required by DOJ template or compliance tool

# SDOFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

## Standard 115.61: Staff and agency reporting duties

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

### 115.61 (a)

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

### 115.61 (b)

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

### 115.61 (c)

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

### 115.61 (d)

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

### 115.61 (e)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

### 115.61 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) 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 WCF staff. Staff were also very familiar with procedures regarding to whom PREA-related information was to be reported.

The Auditor was provided with a spreadsheet detailing all allegations received during the facility's documentation period along with resulting allegation packets and/or investigation reports, confirming the prompt response to and investigation of allegations received.

Based on the above, WCF 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, WCF 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."

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. Additionally, the Auditor was provided with a template of the chart review and offender assessment conducted by medical staff for all incoming offenders. The template includes confirmation that staff, "explained that institutional abuse is required to be reported, explained that community abuse requires patient consent...NOT required <18 yrs..."

The Auditor was also provided with photographic documentation of the notification to offenders that is posted in health services areas. This notice reads:

*Have you been a victim of sexual assault? Staff are here to help you. Treatment and counseling services are available by the PSD Health Care staff. Medical and mental health staff are required to report incidents of Sexual Abuse and Sexual Harassment. There are limits to confidentiality. Medical and mental health staff will explain informed consent and the confidentiality limitations.*

These notices were also observed during the on-site review.

Knowledge of the requirement to report sexual abuse and harassment allegation information if it occurred in an incarcerated setting was confirmed in interviews with medical and mental health staff. Staff noted that this information is provided to offenders during health services intake and prior to the provision of services.

Based on the above, WCF is 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."

Based on the mission of WCF, offenders who have been classified as vulnerable adults would not be housed at this facility. Additionally, the facility does not house any youthful offenders. Finally, no information was received by current offenders alleging sexual abuse or harassment while housed in a

juvenile facility. As a result, there is no secondary documentation available for review. Interviews with the Warden and PREA Coordinator confirmed the lack of applicable offenders housed at WCF, adding that information about sexual abuse and/or harassment allegations that may have occurred while an adult offender was incarcerated as a juvenile would be reported to Child Protective Services for possible investigation. Support services as needed would also be provided to the offender on-site.

Based on the above, WCF 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. The Wardens delegate the assignment of investigations to the Chief of Security and the PREA Compliance Manager tracks completion. 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."

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 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.

The Auditor was also provided with the facility's investigation tracking spreadsheet and associated allegation / response packets or investigation reports, confirming the reporting and subsequent investigation of allegations, regarding of the method in which the allegation was received.

The requirement to report all allegations to designated staff was confirmed in an interview with the Warden.

Based on the above, WCF 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)*
- 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)
- Intake prison female health assessment form
- Intake prison female health history form
- Intake prison male health assessment form
- Intake prison male health history form
- Informed Consent for Mental Health Services form
- Photographic documentation of the posting of offender notice regarding limits to health services staff confidentiality
- Investigation / allegation tracking spreadsheet
- Copies of allegation packets and investigation reports

Interviews conducted:

- Medical and Mental Health Staff
- PREA Coordinator
- Random Sample of Staff
- Warden



## Standard 115.62: Agency protection duties

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

### 115.62 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### 115.62

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 33.0.1 and .2 (page 34) required that, "When a Facility or PSD staff learns that an offender is subject to a substantial risk of imminent sexual abuse, the part 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."

During the audit documentation period, there were no instances in which an offender was subject to substantial risk of imminent sexual abuse. As a result, there is no secondary documentation available for review. The Auditor was able to confirm this through a review of allegations / investigations reported during the facility's audit documentation period.

All staff interviewed were very knowledgeable regarding actions to be taken if allegation information was reported, to include protecting the alleged victim, separating involved parties, securing any crime scene, providing needed support to the alleged victim, and making notification to applicable staff.

Based on the above, WCF 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)
- Allegation / investigation tracking spreadsheet and copies of response / investigation packets

Interviews conducted:

- Agency Head
- Random Sample of Staff
- Warden

## Standard 115.63: Reporting to other confinement facilities

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

#### 115.63 (a)

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

#### 115.63 (b)

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

#### 115.63 (c)

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

#### 115.63 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### 115.63 (a)

Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017) section 34.0.1 and .2 (page 35) 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.*

During the audit documentation period, there were no allegations received by WCF about other facilities or jurisdictions. As a result, there is no secondary documentation available for review. However, the Warden is very knowledgeable regarding the requirement to forward all allegation information to the applicable facility head within required timeframes.

Based on the above, WCF 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) section 34.0.3 (page 35), 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.”

During the audit documentation period, there were no allegations received by WCF about other facilities or jurisdictions. As a result, there is no secondary documentation available for review. However, the Warden is very knowledgeable regarding the requirement to forward all allegation information to the applicable facility head within 72 hours of receipt.

Based on the above, WCF 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) section 34.0.4 (page 35), requires, “The Facility Head or Warden shall document that he/she has provided such notifications within seventy-two (72) hours of receiving the allegation.”

During the audit documentation period, there were no allegations received by WCF about other facilities or jurisdictions. As a result, there is no secondary documentation available for review. However, the Warden is very knowledgeable regarding the requirement to forward all allegation information to the applicable facility head, producing and maintaining documentation of notification provided.

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

#### 115.63 (d)

Agency policy AMD.08.08, *Prison Rape Elimination Act* (09/22/2017), section 34.0.5 (page 35) 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).

During the audit documentation period, five (5) allegations regarding incidents at WCF were reported at other facilities. These resulted in the initiation of formal investigations. Three of these investigations were closed as either unsubstantiated or unfounded. The remaining two (2) investigations were open and ongoing at the time of the on-site review. The Auditor received documentation of the closure of these investigations during the writing of this report. All investigation reports reviewed confirmed the prompt investigation of all allegations received from other facilities and/or jurisdictions.

In an interview, the Director's designee reported that if the allegation is internal to the agency, the Wardens would contact each other and the PCM's would respond to the allegations. If it is with a contracted facility, they would contact the agency director and PREA Coordinator and request that a copy of the final report be sent to the Hawaii PREA Coordinator. The Warden also confirmed that any allegation received would be investigated, regardless of the location that received the allegation information. He noted that allegations may be received when an offender transfers to another facility and that WCF would keep that facility apprised of the investigation in order to ensure appropriate medical and mental health support were provided to the offender.

Based on the above, WCF 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)
- Investigation / allegation tracking spreadsheet and related investigation reports
- Additional requested investigation reports

Interviews conducted:

- Agency Head
- Warden

## Standard 115.64: Staff first responder duties

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

#### 115.64 (a)

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

#### 115.64 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not*

meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

115.64 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 35.0.1 (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 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 comment 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.*

*Alter Internal Affairs and Law Enforcement.*

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

This direction for first responders is also included in the PREA Response Incident Checklist (PSD 8313) for Watch Commanders, which reads,

- *First Responders are to separate the inmate from the alleged perpetrator. If perpetrator is a staff member, eliminate contact between the inmate and the staff member. Notify the chain of command of the incident.*
- *Frist Responders to provide initial medical assessment and treatment. Notify the Health Care Unit to provide the victim with treatment and support services from both the Medical and Mental Health Team.*

During the audit documentation period, there were no allegations of abuse received within timeframes that allowed for the collection of evidence related to this subsection. As a result, there is no secondary documentation available for review or applicable offenders available for interview. Custody staff interviewed were very familiar with the requirements of first responders. It is recommended that requesting alleged victims not take any actions that might destroy evidence, as opposed to ensure they don't, be reviewed with staff as some struggled this the distinction until prompted.

Based on the above, WCF is assessed as compliant with the requirements of 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 informed all participants, “Upon learning of an allegation that an offender was sexually abused, the first staff member to respond to the report is required 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).”

During the audit documentation period, there were no allegations of sexual abuse that were reported to security or non-security staff. All abuse allegations were reported outside WCF to other facility staff. As a result, there is no secondary documentation available for review. Non-custody staff interviewed were very familiar with response requirements, to include protection of the alleged victim, separation of involved individuals, and notification to the Watch Commander. It is recommended that requesting alleged victims not take any actions that might destroy evidence, as opposed to ensure they don't, be reviewed with staff as some struggled with this distinction until prompted.

Based on the above, WCF 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
- Investigation / allegation tracking spreadsheet and associated response / investigation reports

Interviews conducted:

- Random Sample of Staff
- Security and Non-Security Staff First Responders
- Volunteer / Contractor Coordinator



## Standard 115.65: Coordinated response

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

### 115.65 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

115.65

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 WCF, 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 WCF response plan is maintained by the PCM and available to all staff as it is not confidential. The plan provided by WCF does not appear to be facility specific but does meet the standard requirement for the development of a coordinated response plan.

During interviews conducted while on site, the Warden confirmed the existing of the facility's coordinated response plan and staff were knowledgeable about the plan and their duties as first responders.

Based on the above, WCF 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)
- Waiawa Correctional Facility PREA Coordinated Response Plan Checklist (no revision date)

Interviews conducted:

- Warden

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

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

### 115.66 (a)

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

### 115.66 (b)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### 115.66 (a)

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. The HGEA agreement expired 06/30/2017 and is in negotiations. The expired agreement remains in place until such time as a new agreement is ratified and enacted. Per the Program Specialist, the agreement has been in place, unchanged for over 20 years and is currently in arbitration due to cost items only.

The Hawaii Government Employees Association (HGEA) 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 Section 11 states in part:

*When an investigation of charges against an Employee is pending and the Employee's presence at the workplace is deemed detrimental to the conduct of the investigation or the operations of the workplace, the Employer may place the Employee on a leave of absence without pay pending investigation as follows:*

*The Employee, who is placed on a leave of absence without pay pending investigation, and the Union, shall be given written notice within forty-eight (48) hours after the action is taken.*

*The written notice shall include the specific reason(s) for placing the Employee on leave of absence without pay pending investigation, available facts supporting the reason(s), and the effective date of the leave of absence without pay pending investigation.*

*The leave of absence without pay pending investigation shall be for the length of time necessary to conclude the investigation, but not exceeding thirty (30) days. In the event the investigation exceeds thirty (30) days, the Employer may exercise its options as provided in Section 11.A.02.*

*OPTIONS:*

*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 an interview with the Director's designee who reported the ability to place staff on administrative leave or on leave without pay, assign them to another area of the facility or to another facility, etc. These are all actions available to remove the accused staff member from the proximity of the alleged victim.

Based on the above, WCF 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 WCF and confirmed compliance with this subsection.

Based on the above, WCF 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)
- 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
- AFSCME Local 646 AFL-CIO UPW United Public Workers Unit 10 collective bargaining agreement 07/01/2017 – 06/30/2021

Interviews conducted:

- Agency Head

## Standard 115.67: Agency protection against retaliation

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

#### 115.67 (a)

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

#### 115.67 (b)

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

#### 115.67 (c)

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

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

#### 115.67 (d)

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

#### 115.67 (e)

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

#### 115.67 (f)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### 115.67 (a)

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.”

According to the pre-audit questionnaire, the PCM is designated as the staff member charged with retaliation monitoring. This was confirmed in on-site interviews with the PCM and Warden.

Based on the above, WCF 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.”

Interviews with the Director’s designee and Warden confirmed a thorough knowledge of retaliation monitoring requirements and procedures. The individual responsible for actual retaliation monitoring reported confirmed assignment of the responsibility, reporting that she works with security to ensure applicable staff are aware of any possible / reported retaliation, with follow up with the offender and security staff. She added that she can make recommendations to intake staff if she believed the offender needed to be moved to another housing location. The individual also reported that she meets with applicable offenders every week in the beginning of the investigation and then every two (2) weeks to determine his status and adaptation, having the offender report to her office so it is not obvious and the reason for the meeting kept confidential. She added that after the investigation, she would continue to meet with the offender monthly until he is released or transferred from the facility. However, the individual was uncertain about monitoring of any staff reporter, adding that she has never been required to do this previously but imagining that she would try to meet with these individuals as well. She reported that she attempts to document retaliation monitoring via the mandated reporting form.

The pre-audit questionnaire indicated that there were three (3) incidents or reports of retaliation during the facility’s audit documentation period. Documentation was provided that two (2) of these resulted in formal investigations, for which the Auditor was provided the investigation reports. It was learned that the third noted incident was actually associated with the 2014 investigation that should have been coded as a re-report of retaliation and not a retaliation incident. Therefore the Auditor was able to confirm that appropriate actions were taken in response to all incidents / allegations of retaliation during the facility’s audit documentation period.

It is noted that there were no offenders remaining at the facility who had reported abuse and there is no segregated housing available at WCF. As a result, no related interviews were conducted.

Based on the above, WCF 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.”

During an interview, the Warden reported that elements reviewed related to retaliation monitoring would include following established protocols, communicating with the offender, reviewing any security issues, reviewing housing assignments, monitoring phone and mail, following up with applicable staff to assess what they may know and provide mental health support.

The individual responsible for retaliation monitoring reported that she monitors by listening to what other staff and the offender tells her, following up with security to conduct any indicated investigation. The individual was not able to articulate the elements required by the standard and agency policy (e.g., disciplinary, housing, programs, performance reviews, etc.). The individual was uncertain about monitoring of any staff reporter, adding that she has never been required to do this previously but imagining that she would try to meet with these individuals as well. Although there were no instances during the audit documentation period that required the monitoring of staff reporters, it appears that there is no clear process in place should this be required in the future.

According to the investigation spreadsheet provided, three (3) allegations indicated the need for formal retaliation monitoring. It was learned that one of these was actually a re-report of an investigation from 2014 and should not have been included on the spreadsheet. Regarding the second investigation, it was learned that the allegation was received from a third party not affiliated with PSD and that the offender had not been in PSD custody since 2005; as a result, retaliation monitoring was not possible. Regarding the third allegation, documentation was provided that confirmed the offender was met with by his Case Manager on at least two (2) occasions following report of the allegation. The documentation was in the form of Reclassification Instruments which document a review of misconduct reports, program and work participation, conflicts, concerns, and specifically any issues related to PREA. Although this is not in the format specified in the agency policy, it does meet with requirements of the standard. It is noted that following the on-site review, the Warden assumed the PCM responsibilities, to include formal retaliation monitoring. A process was established that monitoring will be done by Case Management staff, who will complete the Mandatory Reporting form and submit it to the Warden for his review and signature. It is recommended that WCF establish procedures needed to address formal monitoring of staff reporters should such an incident occur.

Based on the above, WCF 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.”

The individual responsible for monitoring reported that she meets with applicable offenders every week in the beginning of the investigation and then every two (2) weeks to determine his status and adaptation, having the offender report to her office so it is not obvious and the reason for the meeting kept

confidential. She added that after the investigation, she would continue to meet with the offender monthly until he is released or transferred from the facility. She reported that she attempts to document retaliation monitoring via the mandated reporting form.

According to the investigation spreadsheet provided, three (3) allegations indicated the need for formal retaliation monitoring. It was learned that one of these was actually a re-report of an investigation from 2014 and should not have been included on the spreadsheet. Regarding the second investigation, it was learned that the allegation was received from a third party not affiliated with PSD and that the offender had not been in PSD custody since 2005; as a result, retaliation monitoring was not possible. Regarding the third allegation, documentation was provided that confirmed the offender was met with by his Case Manager on at least two (2) occasions following report of the allegation. The documentation was in the form of Reclassification Instruments which document a review of misconduct reports, program and work participation, conflicts, concerns, and specifically any issues related to PREA. Although this is not in the format specified in the agency policy, it does meet with requirements of the standard. It is noted that following the on-site review, the Warden assumed the PCM responsibilities, to include formal retaliation monitoring. A process was established that monitoring will be done by Case Management staff, who will complete the Mandatory Reporting form and submit to the Warden for his review and signature.

Based on the above, WCF 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 interviews with the Director's designee and Warden, it was confirmed that actions taken in response to reports of retaliation by any individual involved in an investigation would include an investigation, separation of involved parties, and following up to ensure identified issues were addressed with applicable individuals held accountable for related actions.

The pre-audit questionnaire indicated that there were three (3) incidents or reports of retaliation during the facility's audit documentation period. Documentation was provided that two (2) of these resulted in formal investigations, for which the Auditor was provided the investigation reports. It was learned that the third noted incident was actually associated with the 2014 investigation that should have been coded as a re-report of retaliation and not a retaliation incident. Therefore the Auditor was able to confirm that appropriate actions were taken in response to all incidents / allegations of retaliation during the facility's audit documentation period.

Based on the above, WCF 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, WCF 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)
- Investigation tracking spreadsheet and reports

- Reclassification instruments for identified offenders

Interviews conducted:

- Agency Head
- Designated Staff Member Charged with Monitoring Retaliation
- Warden

## Standard 115.68: Post-allegation protective custody

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

### 115.68 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

115.68

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 27.0.1 through .8 (page 28 – 29) 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. 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.*

It is noted that the facility does not have a segregation unit and as such, no offenders who were alleged victims were placed in segregated housing. As a result, there is no secondary documentation available for review or applicable offenders available for interview.

Based on the above, WCF 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

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

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

#### 115.71 (a)

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

#### 115.71 (b)

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

#### 115.71 (c)

- Do investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data?  Yes  No
- Do investigators interview alleged victims, suspected perpetrators, and witnesses?  
 Yes  No
- Do investigators review prior reports and complaints of sexual abuse involving the suspected perpetrator?  Yes  No

#### 115.71 (d)

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

#### 115.71 (e)

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

**115.71 (f)**

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

**115.71 (g)**

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

**115.71 (h)**

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

**115.71 (i)**

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

**115.71 (j)**

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

**115.71 (k)**

- Auditor is not required to audit this provision.

**115.71 (l)**

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

115.71 (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 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.

The Auditor was provided with an investigation tracking spreadsheet and related investigation reports. Of the twelve (12) allegations reported, four (4) remain open as of the on-site review. These allegations were reported 06/29/2018, 03/14/2019, 04/18/2019 and 07/19/2019. These investigations were all later closed as unfounded or unsubstantiated during the writing of this report. It is noted that investigators experienced difficulties with these investigations due to the release of many of the involved offenders.

The Auditor reviewed completed investigation reports and confirmed that investigations have been conducted thoroughly and objectively.

During interviews, investigative staff reported that investigations would be initiated immediately upon receipt of an allegation. It was also reported that established processes would not differ for allegations received through third parties or anonymous reports.

Based on the above, WCF 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 (page 39) 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 an 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 both abuse and harassment investigations.

WCF has trained all Lieutenants and Sergeants to be PREA investigators along with the Chief of Security and Warden. The Auditor received documentation of the completion of the National Institute of Corrections training in PREA investigations for fourteen (14) facility staff. 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, certificates of completion are maintained in the staff member's training record file. WCF can also access trained investigators from the Internal Affairs division as needed.

The Auditor was provided with an investigation tracking spreadsheet and copies of completed investigation reports. Eight (8) of the twelve (12) allegations received have completed investigations. Seven (7) of these are noted as having been completed by trained investigators. The final complete investigation noted on the log was completed in 2014 and added to the 2019 log when the offender re-reported when he was readmitted. The Auditor was also provided with certification of completion of PREA investigator training for this investigator.

Interviews with investigative staff confirmed completion of specialized investigator training as required.

Based on the above, WCF 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."

The investigation report templates for both offender and staff investigations were recently updated to include applicable standard-required information. Revisions now require 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.*

The Auditor was provided with the investigation tracking spreadsheet and copies of completed investigation reports. These were completed prior to the implementation of the revised report template. However, investigative staff interviewed confirmed a thorough knowledge of the requirements to review prior allegations related to the accused.

The investigations tracking spreadsheet provided to the Auditor indicated there was one substantiated investigation of staff sexual misconduct that included evidence collection and control. The Auditor was informed by the Program Specialist that the noted investigation was actually completed in 2014 by Internal Affairs with a finding of substantiated unauthorized communication through mail along with deposits of money, but no sexual relationship. The investigation was added to the current log when the offender re-reported the allegation during readmission intake screening in 2019, but a no new information was obtained, and no new investigation was initiated. As a result, the total number of investigations conducted is reduced from twelve (12) to eleven (11) with no current investigation substantiating staff sexual misconduct. It is noted that the Auditor was provided with the 2014 investigation report for review and confirmed evidence collection and control in compliance with established agency procedures.

Investigative staff interviewed clearly articulated evidence collection and control procedures and thoroughly understood and followed established investigation procedures.

Based on the above, WCF is 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 following clarifying information was received from the 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 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.*

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, documentation provided indicated that facility investigators, rather than investigators from Internal Affairs were assigned all administrative investigations, including those in which the allegation was referred to law enforcement, which is contrary to the information provided. 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. The following clarifying information was received from the 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 [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.*

The investigations tracking spreadsheet provided to the Auditor indicated there was one substantiated investigation of staff sexual misconduct that was referred for criminal investigation. The Auditor was informed that the noted investigation was actually completed in 2014 by Internal Affairs with a finding of substantiated unauthorized communication through mail along with deposits of money, but no sexual relationship. The investigation was added to the current log when the offender re-reported the allegation during readmission intake screening in 2019, but a no new information was obtained, and no new investigation was initiated. As a result, the total number of investigations conducted is reduced from twelve (12) to eleven (11) with no current investigation substantiating staff sexual misconduct. It is noted that the Auditor was provided with the 2014 investigation report for review. Per the Program Specialist, the allegation did not warrant a criminal referral as there were no acts of sexual abuse. As a result, there is no secondary documentation available for review.

Interviews with investigative staff confirmed an understanding that compelled interviews would not be conducted by other than law enforcement officials. Staff understood that any allegation that appeared to be criminal would first be referred to law enforcement for a criminal investigation, which would take precedence over an administrative investigation. Two (2) individuals reported that if potentially criminal allegations were disclosed during an interview, the interview would continue for administrative purposes and to obtain as much information as possible, but the investigation would then stop with deference to the potential criminal investigation following an immediate notification to law enforcement officials.

Based on the above, WCF is 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 another agency audit, 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, "CVSA was not required, or the inmates were not forced to take one, inmates were asked and they freely volunteers to take a CVSA. This is an option in order to attain clarity in the investigation and come to the best conclusion where to assure a just investigation and take corrective / disciplinary action if needed." 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. During the on-site review at WCF, it was learned that an offender witness, victim or accused may be offered the opportunity to participate in a computer voice stress analysis, but such an examination is not mandatory. As a part of that process, the individual is offered and signs the required notification forms.

During interviews conducted with investigative staff, it was confirmed that investigators assess the credibility of all investigation participants (alleged victims, suspects, and witnesses) based on the totality of information obtained, including but not limited to corroborating witness testimony with available evidence, video, testimony of other witnesses, the history of the witness, the logic of the information provided, and timeframes and sequences of events. It was also confirmed that polygraph or other truth telling devices would not be required of an offender participating in an investigation. Interviews with offenders who reported also confirmed that such examinations were not required of them.

At the time of the on-site review, no offenders who reported allegations were still housed at WCF; therefore no related interviews were conducted.

Based on the above, WCF 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."

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 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 a recently revised investigation report template, which included the following language:

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

All investigative staff interviewed confirmed a review of all available information to determine if staff actions or failure to act contributed to the alleged incident. They noted that they would review to determine if staff did their due diligence and followed established protocols, such as conducting rounds; if a gap was identified, a secondary investigation would be conducted. All interviewees also confirmed a thorough understanding of all the elements that are required for inclusion in a written investigative report.

Based on the above, WCF is 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.”

The pre-audit questionnaire notes that law enforcement agencies do not provide the agency with completed investigations. The agency is only provided with the information needed to inform the alleged victim of the outcome of the investigation. Investigators from Internal Affairs confirmed that a written criminal investigation report could be obtained from law enforcement officials. These reports include basic investigatory information, to include documentation of evidence and witness testimony, as well as conclusions drawn based on the investigation.

The investigations tracking spreadsheet provided to the Auditor indicated there was one substantiated investigation of staff sexual misconduct that was referred for criminal investigation. The Auditor was informed that the noted investigation was actually completed in 2014 by Internal Affairs with a finding of substantiated unauthorized communication through mail along with deposits of money, but no sexual relationship. The investigation was added to the current log when the offender re-reported the allegation during readmission intake screening in 2019, but a no new information was obtained, and no new investigation was initiated. As a result, the total number of investigations conducted is reduced from twelve (12) to eleven (11) with no current investigation substantiating staff sexual misconduct. It is noted that the Auditor was provided with the 2014 investigation report for review. Per the Program Specialist, the allegation did not warrant a criminal referral as there were no alleged acts of sexual abuse. As a result, there is no secondary documentation available for review.

Based on the above, WCF 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."

Since the last Department of Justice PREA audit, there were no substantiated allegations of conduct that appears to be criminal that were referred for prosecution. As a result, there is no secondary documentation available for review. However, all investigative staff interviewed articulated the requirement to refer all allegations that are potentially criminal to appropriate law enforcement officials at whatever point in the process the potentially criminal allegation is identified.

Based on the above, WCF 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 reports requested for review were readily available upon request. Additionally, the PREA Coordinator was very knowledgeable regarding the requirements of this standard.

Based on the above, WCF 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."

The requirement to continue and complete the investigation even if the staff member was no longer employed or the offender no longer incarcerated was confirmed in interviews with investigative staff.

Based on the above, WCF 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."

Based on the above, WCF 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."

Investigators from Internal Affairs were identified as those who would remain abreast of any criminal investigation in process. These investigators would work side by side with criminal investigators. Facility investigators indicated their role would involve answering questions; interview logistics coordination; provision of evidence, reports, procedures, etc.

Based on the above, WCF 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
- Director Memorandum Incident Reporting and Notification (07/01/2015)
- Template for staff investigations dated 10/13/2014 (date is as included on the template)
- Template for offender investigations dated 05/01/2018
- Documentation of investigator training completion
- Investigation tracking spreadsheet and copies of completed investigation reports
- Copy of 2014 staff investigation and 09/06/2019 explanatory email from the Program Specialist
- Additional requested investigation reports

Interviews conducted:

- Investigative Staff
- PREA Compliance Manager
- PREA Coordinator
- Warden

## Standard 115.72: Evidentiary standard for administrative investigations

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

### 115.72 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

115.72

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

Interviews with investigative staff confirmed a clear understanding of the level of proof required and the definition of preponderance.

The Auditor was provided with an investigation tracking spreadsheet along with all associated investigation reports. The Auditor was able to confirm compliance with the required standard of preponderance of the evidence in substantiated investigations. However, two of the investigations closed as unfounded noted that sexual harassment charges were dismissed due to insufficient evidence followed by the closing of the investigation as unfounded. The definitions included with 115.5, General definitions, defines unfounded as, "an allegation that was investigated and determined not to have occurred." It appears, based on the investigation information provided and the definition of unfounded, these investigations should have been closed as unsubstantiated.

The Auditor was provided with a copy of an email dated 10/29/2019 from the PREA Coordinator to all facility investigators reminding them of the definitions of available findings (substantiated, unsubstantiated, and unfounded) that reads:



*I would like to clarify that when assigned a PREA Investigation your conclusion and the evidence should meet one of three results. According to ADM.08.08 (page 40), the investigator shall complete the investigation by formulizing a conclusion that the allegation is substantiated, unsubstantiated, or unfounded. The definitions are found on page 11:*

*y. Substantiated Allegation*

*An allegation that was investigated and determined to have occurred.*

*z. Unfounded Allegation*

*An allegation that was investigated and determined not to have occurred.*

*aa. Unsubstantiated Allegation*

*An allegation that was investigated and the investigation produce insufficient evidence to make a final determination as to whether or not the event occurred.*

*If you have any questions, please contact me.*

Based on unfounded findings inconsistent with published / established PREA definitions, WCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include provision to the Auditor of reports from all investigations closed during the corrective action period to review findings in compliance with Department of Justice and agency policy definitions related to findings.

UPDATE - It is noted that no new allegations have been received since the on-site review and, as such, there is no secondary documentation available for review. However, based on the PREA Coordinator's oversight of the process and continued work with the Warden regarding investigation review to ensure investigation reports document sufficient evidence to support findings that are compliant with established standard and policy definitions, WCF is now assessed as compliant with this subsection.

Documentation provided for this standard:

- Agency policy ADM.08.08 *Prison Rape Elimination Act* (09/22/2017)
- Investigation tracking spreadsheet and associated investigation reports
- 10/29/2019 email from the PREA Coordinator to all facility investigators
- Emails dated 01/21/2020 and 04/09/2020 confirming that no new allegations have been received

Interviews conducted:

- Investigative Staff

## Standard 115.73: Reporting to inmates

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

#### 115.73 (a)

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

#### 115.73 (b)

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

#### 115.73 (c)

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

#### 115.73 (d)

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

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

#### 115.73 (e)

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

#### 115.73 (f)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### 115.73 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 43.0.1 (page 40) 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.”

Interviews with investigative staff confirmed knowledge of the requirement to inform the alleged abuse victim of the outcome of the investigation. Investigators from Internal Affairs reported that this would be the responsibility of the facility. Facility investigators reported that this would be the responsibility of the PCM and would be documented on the Mandated Reporting form. It is noted that at the time of the on-site review, no offender who were alleged victims remained at the facility; as such not related interviews were conducted.

During the facility’s audit documentation period, there were two (2) allegations of abuse reported. The investigation related to one of these allegations is open and ongoing as of the writing of this report. The Auditor was provided with documentation of the seven (7) investigation outcome notifications, in the form of Mandated Reporting forms, noted in the Pre-Audit Questionnaire. The following is a review of that documentation:

- Notification was not provided in the second applicable investigation, noting that the offender released in October 2018; however, the investigation was noted as complete 08/10/2018 so notification should have been provided well in advance of the offender's release.
- Four (4) Mandated Reporting forms detailed the investigation but did not document the provision of case closure notification; however, the investigation was one of sexual harassment and notification is not required by the standard.
- Two (2) Mandated Reporting forms documented the provision of notification to the alleged victim in sexual harassment investigations, but the notification was not provided in a timely manner, which is contrary to the intent of the standard (one investigation closed 05/23/2018 but notification not provided until 07/03/2018; a second investigation had a finding overturned based on a 3<sup>rd</sup> level grievance 10/31/2018, but notification was not provided until 05/21/2019).

Based on the above, WCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include the establishment of a formal procedure to include notification time frames associated with the completion of the investigation. Additionally, all applicable investigations completed during the corrective action period will be forwarded to the Auditor along with documentation of notification to ensure compliance with the established procedure.

UPDATE: The Warden provided an explanatory memo dated 10/29/2019 that notes, "The delay in notification of the results of any PREA investigations was more about prioritizing work assignments. I have instructed my staff that upon completion of the investigation the inmate shall be notified as required by ADM.08.08 within 5 days and if he has transferred to another PSD facility the document will be forwarded to that facility's PREA Compliance Manager for signature." It is noted that no new allegations have been received since the on-site review and, as such, there is no secondary documentation available for review. However, based on the process established by the Warden and the PREA Coordinator's oversight of the process, WCF is now assessed as compliant with 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."

During the audit documentation period, there were no allegations investigated by an external investigative agency. As a result, there is no secondary documentation available for review. However, in discussions with the Program Specialist, it was confirmed that the facility would request and receive the information needed to provide notification to applicable offenders. It is noted that the pre-audit questionnaire indicated that law enforcement agencies do not provide the agency with completed investigations. The agency is only provided with the information needed to inform the alleged victim of the outcome of the investigation unless a copy of the criminal investigation report is requested by Internal Affairs.

Based on the above, WCF 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 (page 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."

During the audit documentation period, there were no instances applicable to this subsection. As a result, there is no secondary documentation available for review. Additionally, there were no offenders who reported allegations who were still housed at WCF at the time of the on-site review. However, procedures that are compliant with standard requirements were confirmed in discussions with the Program Specialist.

Based on the above, WCF 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."

During the audit documentation period, there were no instances applicable to this subsection. As a result, there is no secondary documentation available for review. Additionally, there were no offenders who reported allegations who were still housed at WCF at the time of the on-site review. However, procedures that are compliant with standard requirements were confirmed in discussions with the Program Specialist.

Based on the above, WCF 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."

During the audit documentation period, there were no instances applicable to this subsection. As a result, there is no secondary documentation available for review. However, procedures that are compliant with standard requirements were confirmed in discussions with the Program Specialist. Notifications would be provided verbally to the offender and documented with a Mandated Reporting form.

Based on the above, WCF 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, WCF 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)
- Mandated Reporting forms associated with all closed investigations
- 10/29/2019 explanatory memo from the Warden to the Auditor
- Emails dated 01/21/2020 and 04/09/2020 confirming that no new allegations have been received

Interviews conducted:

- Investigative Staff
- Warden

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

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

#### 115.76 (a)

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

#### 115.76 (b)

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

#### 115.76 (c)

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

#### 115.76 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's

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

115.76 (a)

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 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 facility's documentation period, there was one substantiated allegation of staff sexual misconduct. The Auditor was informed that the noted investigation was completed in 2014 by Internal Affairs with a finding of substantiated unauthorized communication through mail along with deposits of money, but no sexual relationship. The investigation was added to the current log when the offender re-reported the allegation during readmission intake screening in 2019, but no new information was obtained, and no new investigation was initiated. As a result, the total number of investigations conducted is reduced from twelve (12) to eleven (11) with no current investigation substantiating staff sexual misconduct. It is noted that the Auditor was provided with the 2014 investigation report for review.

Based on the above, WCF 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."

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 informed all participants, "Termination will be the presumptive disciplinary action."

During the facility's documentation period, there was one substantiated allegation of staff sexual misconduct. The Auditor was informed that the noted investigation was completed in 2014 by Internal Affairs with a finding of substantiated unauthorized communication through mail along with deposits of money, but no sexual relationship. The investigation was added to the current log when the offender re-reported the allegation during readmission intake screening in 2019, but a no new information was obtained, and no new investigation was initiated. As a result, the total number of investigations conducted is reduced from twelve (12) to eleven (11) with no current investigation substantiating staff sexual misconduct. It is noted that the Auditor was provided with the 2014 investigation report for review.

Based on the above, WCF 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 facility's audit documentation period, there were no substantiated allegations of staff sexual harassment. The pre-audit questionnaire noted one substantiated allegation of staff sexual misconduct, but this was actually a 2014 investigation as noted above. As a result, there is no secondary documentation available for review.

Based on the above, WCF 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 facility's documentation period, there was one substantiated allegation of staff sexual misconduct. The Auditor was informed that the noted investigation was actually completed in 2014 by Internal Affairs with a finding of substantiated unauthorized communication through mail along with deposits of money, but no sexual relationship. The investigation was added to the current log when the offender re-reported the allegation during readmission intake screening in 2019, but a no new information was obtained, and no new investigation was initiated. As a result, the total number of investigations conducted is reduced from twelve (12) to eleven (11) with no current investigation substantiating staff sexual misconduct. It is noted that the Auditor was provided with the 2014 investigation report for review. Per the Program Specialist, the allegation did not warrant a criminal referral as there were no alleged or confirmed acts of sexual abuse. As a result, there is no secondary documentation available for review.

Based on the above, WCF 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
- Investigation tracking spreadsheet and related investigation reports
- 2014 substantiated staff sexual misconduct investigation along with 09/04/2019 explanatory email from the Program Specialist

Interviews conducted:

- None are required by DOJ template or compliance tool

## Standard 115.77: Corrective action for contractors and volunteers

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

#### 115.77 (a)

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

#### 115.77 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### 115.77 (a)

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

During the facility's audit documentation period, there were no allegations received that involved contractors or volunteers. As a result, there is no secondary documentation available for review.

Based on the above, WCF 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."

During the facility's audit documentation period, there were no allegation received that involved contractors or volunteers. As a result, there is no secondary documentation available for review.

In an interview, the Warden confirmed that he has the authority and would in fact terminate the contract or volunteer services of any applicable individual who was found to have violated agency PREA policies. He added that he would immediately restrict access to the facility of the identified individual to ensure the safety of the offender. He also would review the investigation to determine what actions the facility could take to minimize the likelihood of a similar allegation reoccurring.

Based on the above, WCF 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)*
- Investigation tracking spreadsheet and related investigation reports

Interviews conducted:

- Warden

## Standard 115.78: Disciplinary sanctions for inmates

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

### 115.78 (a)

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

### 115.78 (b)

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

### 115.78 (c)

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

### 115.78 (d)

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

### 115.78 (e)

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

### 115.78 (f)

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

### 115.78 (g)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

### 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 facility's audit documentation period, there were two substantiated allegations of offender-on-offender sexual harassment, but no substantiated allegations of sexual abuse. Therefore, there is no secondary documentation available for review.

During an interview, the Offender Disciplinary Hearing Officer thoroughly explained the offender disciplinary process, to include infraction, review, notice to the offender, and formal disciplinary hearing with the offender able to grieve the outcome of any hearing. The Hearing Officer has filled this responsibility on an ad hoc basis for quite some time, having received on-the-job training. He is very familiar with related policies and ensures he stays current regarding any policy or process revision.

Based on the above, WCF 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 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."

Agency policy COR.13.03, *Adjustment procedures Governing Serious Misconduct and the Adjustment of Minor Misconduct Violations* (11/13/2017) section 4.0.4. (page 4) requires that, "The adjustment process tailors sanctions for a specific rule violation or misconduct to the seriousness of the violation or misconduct, and the inmate's institutional adjustment and recommended program needs. The goal is to maintain facility order and ensure respect for the rules and the rights of others."

During the facility's audit documentation period, there were two substantiated allegations of offender-on-offender sexual harassment. The Auditor was provided with documentation of the offender disciplinary

sanctions associated with these investigations, confirming the imposition of sanctions in compliance with standard and policy requirements.

The Offender Disciplinary Hearing Officer confirmed that sanctions are determined based on an establishing sanctioning grid, considering the severity of the infraction and the disciplinary history of the offender.

Based on the above, WCF 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 facility's audit documentation period, there were two substantiated allegations of offender-on-offender sexual harassment. The Auditor was provided with documentation of the offender disciplinary hearing associated with one of these investigations. There is no section in the document "Facility Adjustment Hearing Process" in which the Hearings Officer would document consideration of the offender's mental disabilities or mental illness, or how these factors were taken into account when applicable. However, the Auditor was provided with applicable agency policies, COR.13.03, *Adjustment procedures Governing Serious Misconduct and the Adjustment of Minor Misconduct Violations* (11/13/2017) and COR.11.01, *Administrative Segregation and Disciplinary Segregation* (11/28/2014) which detail procedures for Disciplinary Hearing Officers.

Agency policy COR.13.02, *Adjustment procedures Governing Serious Misconduct and the Adjustment of Minor Misconduct Violations* (section 3.0.3, page 2) states, "Counsel substitute is necessary when it is apparent that an inmate/detainee is not capable (i.e., mentally deficient...) of collecting evidence effectively on his or her behalf."

Agency policy COR.11.01, *Administrative Segregation and Disciplinary Segregation* states, *Purpose: To establish a statewide policy and procedure for the segregation of inmates from the general population based on supervision requirements, offender status, medical and mental health considerations and other conditions of confinement at a Department of Public Safety (PSD) Correctional Facility...The designated health care staff shall assess the inmate's placement in administrative segregation prior to admission into the segregation unit...The health care staff shall determine whether physical health or mental health issues exist that contraindicate the inmate's placement in administrative segregation...Mental health staff shall conduct a mental health review within twenty-four (24) hours of an inmate's placement in administrative segregation. This applies to all inmates, and is not limited to those inmates with known or suspected mental health issues or inmates who exhibit behaviors that impact their ability to be safely placed in administrative segregation...Any disciplinary segregation sanction shall consider an inmate's medical and mental health needs, the gravity of the facts, and the severity of the serious misconduct violation." (sections 1.0, 4.0.1.f.3 and 4, and 4.0.2.3, pages 1, 5, and 8).*

During an on-site interview, the Offender Disciplinary Hearing Officer reported that he works with mental health providers to determine if the offender's behavior is the result of a mental health condition or issue. This was also confirmed in an interview with the Warden, who added that applicable offenders would be provided treatment. Both were very knowledgeable regarding policy specifications noted above.

Based on the above, WCF 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."

Per interviews conducted with Mental Health providers and the Offender Disciplinary Hearing Officer while on site, an offender who has engaged in such activity would be transferred from the facility. As such, related programming is not available.

Based on the above, WCF 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)."

During an on-site interview, the Offender Disciplinary Officer confirmed that offenders would only be disciplined for PREA-related investigations if they falsify allegations, using PREA if take advantage of or get even with someone. He also confirmed that offenders would only be disciplined for sexual encounter with staff if the staff member did not consent to such behavior (e.g., sexual abuse or harassment of staff by an offender).

Per the PREA Coordinator, there have been no offenders who have been disciplined for sexual contact with staff in which the staff member did not consent. Any offender suspected of such behavior would be transferred out of the facility pending completion of any related investigation and disciplinary action. There were no such transfers during the audit documentation period.

Based on the above, WCF 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 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."

During an on-site interview, the Disciplinary Hearing Officer confirmed that offenders may be infraacted or disciplined following the reporting of a PREA-related allegation only when it is learned that the offender filed the allegation in retaliation against another individual or to use PREA to attempt to harm another.

Based on the above, WCF 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, WCF 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
- Investigation tracking spreadsheet and related investigation reports
- Documentation of offender discipline
- Agency policy COR.13.03 *Adjustment procedures Governing Serious Misconduct and the Adjustment of Minor Misconduct Violations (11/13/2017)*
- Agency policy COR.11.01 *Administrative Segregation and Disciplinary Segregation (11/28/2014)*

Interviews conducted:

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



## MEDICAL AND MENTAL CARE

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

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

#### 115.81 (a)

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

#### 115.81 (b)

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

#### 115.81 (c)

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

#### 115.81 (d)

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

#### 115.81 (e)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

115.81 (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."

During interviews conducted with offenders who had disclosed prior sexual abuse during an assessment, two (2) denied the prior abuse. One (1) reported that he had been offered a follow up meeting with a mental health provided while at HCF but had declined. He reported that he had never been offered the same meeting while at WCF.

During interviews with individuals responsible for the completion of assessments, it was reported by one (1) individual that information regarding prior abuse would be provided to the PCM, who would ensure the follow up meeting with a Mental Health provider was offered. The second individual reported that the referral / offer of a meeting would be completed right away. The third individual reported that no such referrals would be made as the offender would have been offered services and follow up while at the HCF and subsequent referrals / offerings would not occur at WCF.

The Auditor was provided with a PREA Health Care Report dated 07/03/2019 that included information indicating that a total of five (5) had disclosed prior sexual abuse victimization within the last ten (10) years, either while incarcerated or in the community during the facility's audit documentation period. The Auditor requested documentation that these offenders had been provided the opportunity to meet with a medical or mental health provided within fourteen (14) days of the assessment. WCF was not able to provide documentation sufficient to demonstrate compliance with subsection requirements.

During a conversation with the PREA Coordinator, it was learned that the responsibilities for actions associated with this subsection are no longer the responsibility of the PCM, but of the Health Care Manager. It was also learned that the current Health Care Manager is serving in an acting capacity in the long-term absence of the permanently assigned individual and had not been informed that this was something for which she was responsible. She has since received the applicable instruction and has

implemented a process to ensure all follow-up meetings are offered and provided if not declined by the offender. She will provide proof documentation as applicable throughout the corrective action period. It is noted that all offenders are seen and assessed by medical providers during the intake process. However, this takes place prior to the completion of the initial risk assessment and medical staff meeting with the offender would have no information specific to the assessment during intake meetings. As such, the provider would not be able to address specific concerns or issues with the offender; nor would they have the information needed to develop any indicated treatment plan or generate any needed referrals for mental health services. As a result, this intake meeting with a medical provider is insufficient to meet the requirements of this subsection.

Based on the above, WCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include the formalization of procedure followed by the provision of monthly Health Care Reports and documentation of the offering / provision of a follow up meeting with Health Care providers for all applicable offenders.

UPDATE – The Auditor was provided with Health Care Reports at four points during the corrective action period over a four (4) month period documenting that no offenders responded “yes” to prior victimization or perpetration, indicating the need for a follow up meeting with mental health. The Auditor was also provided with a sample health care review of a transferee to document initial meeting with mental health on arrival at the facility. The reports received were for the following periods:

- 01/01/2019 through 12/23/2019
- 09/01/2019 through 01/31/2020
- 01/01/2020 through 02/29/2020
- 02/01/2020 through 03/31/2020

The Auditor also received an explanatory memo from the facility clinical supervising administrator, explaining that health services conducts an initial health assessment prior to the PREA requirement of 7 or 14 days of admission; that the health assessment is generally conducted on the day of admission or within 24 hours, explanatory information in which was sufficient to meet standard requirements. Finally, the Auditor was provided with additional information regarding the one offender for whom documentation of a follow up mental health meeting been received. The offender did not appear on any Health Care reports from WCF since the offender’s transfer to that facility. It was determined that the offender revised his response to “no” on the assessments completed at WCF, noting that the issue was one of over familiarity rather than sexual misconduct and that the follow up meeting was associated with another facility and prior assessment. As a result, there have been no offenders whose assessment scores were applicable to this standard.

Based on the above, WCF is now 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.”

Information was received from the PREA Coordinator that WCF does not house any offenders with any history of sexual perpetration. This is based on an agreement made between the agency and the community in which the facility is located. As a result, no offenders at WCF score on a risk assessment as having previously perpetrated sexual abuse, either within an institution or in the community, and no

applicable secondary documentation is available for review. This was confirmed in interviews conducted while on-site.

Based on the above, WCF is 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."

The Auditor was provided with an example of an alert for one offender who had been assessed as a known victim. The information is available in OffenderTrak where it is accessible to staff, so they are aware of potential issues and concerns related to this offender. However, the detail information contained in the assessment and mental health care provided is confidential and accessible only to designated staff, namely the Corrections Supervisor and the staff member who oversees intake.

Based on the above, WCF 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 during the facility's audit documentation period. However, interviews with medical and mental health providers confirmed an understanding of standard and policy requirements regarding consent to release information.

Based on the above, WCF 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 Authorization to Release Medical Information form (DOC0404A)
- OffenderTrak screen shot of an offender's confinement record
- Email from the PREA Coordinator dated 07/05/2019 regarding the placement of sexual predators at WCF
- OffenderTrak alert example
- Health Care Report for 01/01/2019 through 12/23/2019
- Health Care Report for 09/01/2019 through 01/31/2020
- Health Care Report for 01/01/2020 through 02/29/2020
- Health Care Report for 02/01/2020 through 03/31/2020
- Explanatory memo from the facility clinical supervising administrator

Interviews conducted:

- Offenders who Disclosed Sexual Victimization at Risk Assessment

- Medical and Mental Health Staff
- Staff Responsible for Risk Screening

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

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

### 115.82 (a)

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

### 115.82 (b)

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

### 115.82 (c)

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

### 115.82 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

115.82 (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."

During the facility's audit documentation period, there were no allegations reported that indicated a need for the provision of emergency medical treatment and crisis intervention services. As a result, no secondary documentation was available for review. However, medical and mental health staff interviewed on-site confirmed that applicable offenders would be provided immediate trauma and crisis intervention care and services. Medical staff reported that services provided would be in accordance with established medical protocols and at the direction of the provider. The mental health provider confirmed that services provided would be determined according to his professional judgement.

It is noted that at the time of the on-site review, no alleged victims of abuse remained housed at WCF. As a result, no related interviews were conducted.

Based on the above, WCF 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 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."

During the facility's audit documentation period, there were no allegations reported that indicated a need for the provision of emergency medical treatment and crisis intervention services. As a result, no secondary documentation was available for review.

The Auditor was provided with the Waiawa Correctional Facility Medical Unit hours of operation, indicating the following:

- *Hours: Weekdays 0600 – 1630*
- *Hours: Weekends and Holidays 0700 – 1530*
- *WCF Mental Health Staff Hours: Once a week from 1300 – 1500*
- *Procedure when staff not present*
  1. *Security to call 911 for medical emergencies*
  2. *Notify on call provider (Central control has monthly provider on call list of phone numbers)*
  3. *Security to call 911 for psychiatric emergencies*

4. *Notify on call psychiatrist (Central control has monthly psychiatrist on call list of phone numbers)*
5. *Transport offender to nearest correctional facility if 24 hour medical/mental health care is ordered.*

First responder actions in accordance with the above was confirmed in interviews with applicable staff while on-site.

Based on the above, WCF 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."

During the facility's audit documentation period, there were no allegations reported that indicated a need for the provision of sexually transmitted infections. As a result, no secondary documentation was available for review. However, the provision of such treatment as needed was confirmed in interviews with medical staff. It is noted that at the time of the on-site review, no alleged victims of abuse remained housed at WCF. As a result, no related interviews were conducted.

Based on the above, WCF 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*).

Confirmation of the provision of services without cost to the offender was achieved in interviews with health services staff. There were no offenders who had reported allegations previously remaining at WCF at the time of the on-site review from whom the Auditor could solicit additional confirmation.

Based on the above, WCF 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*
- Waiawa Correctional Facility Medical Unit hours of operation

Interviews conducted:

- Medical and Mental Health Staff
- Security and Non-Security Staff First Responders



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

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

### 115.83 (a)

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

### 115.83 (b)

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

### 115.83 (c)

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

### 115.83 (d)

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

### 115.83 (e)

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

### 115.83 (f)

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

### 115.83 (g)

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

### 115.83 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### 115.83 (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."

During the facility's audit documentation period, a total of two (2) offenders reported allegations of abuse. One of these offenders reported while at a Bureau of Prisons facility and therefore documentation of medical and/or mental health evaluation / services was not applicable. The Auditor requested and received documentation of the offering of medical and mental health evaluations / services for the remaining offender. Documentation provided confirmed that the offender was seen by medical staff, referred to and seen by mental health staff, and, as a follow up, was provided with a psychiatric evaluation and additional follow up by mental health providers.

Based on the above, WCF 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."

During the facility's audit documentation period, a total of two (2) offenders reported allegations of abuse. One of these offenders reported while at a Bureau of Prisons facility and therefore documentation of

medical and/or mental health evaluation / services was not applicable. The Auditor requested and received documentation of the offering of medical and mental health evaluations / services for the remaining offender. Documentation provided confirmed that the offender was seen by medical staff, referred to and seen by mental health staff, and, as a follow up, was provided with a psychiatric evaluation and additional follow up by mental health providers.

During interviews with medical providers, it was reported that medical care of an alleged offender victim would include taking a report; documenting physical injuries; getting a baseline of vitals; following orders provided by the physician, nurse practitioner, or the Sexual Abuse Treatment Center; and follow up, to include referral for mental health services. The mental health provider reported that care would include an assessment followed by appropriate follow-up and treatment plans. It is noted that at the time of the on-site review, no alleged victims of abuse remained housed at WCF. As a result, no related offender interviews were conducted.

Based on the above, WCF 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."

During the facility's audit documentation period, a total of two (2) offenders reported allegations of abuse. One of these offenders reported while at a Bureau of Prisons facility and therefore documentation of medical and/or mental health evaluation / services was not applicable. The Auditor requested and received documentation of the offering of medical and mental health evaluations / services for the remaining offender, which appear to be consistent with the community level of care.

Interviews with medical and mental health providers confirmed the provision of care consistent with the community level of care.

Based on the above, WCF 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."

WCF does not house female offenders; therefore, no applicable offenders were available for interview or secondary documentation available for review.

Based on the above, WCF is assessed as 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."

WCF does not house female offenders; therefore, no applicable offenders were available for interview or secondary documentation available for review.

Based on the above, WCF is assessed as 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."

During the audit documentation period, no allegations were received that involved a situation in which the possibility of a sexually transmitted infection was applicable. As a result, no secondary documentation is available for review.

It is noted that at the time of the on-site review, no alleged victims of abuse remained housed at WCF. As a result, no related offender interviews were conducted. However, medical staff interviewed confirmed that care provided to an alleged victim of abuse would include tests for sexually transmitted infections as applicable.

Based on the above, WCF 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*).

Interviews with medical and mental health staff confirmed knowledge of the requirement of the provision of care at no charge to the offenders. It is noted that at the time of the on-site review, no alleged victims of abuse remained housed at WCF. As a result, no related offender interviews were conducted.

Based on the above, WCF 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."

During the facility's audit documentation period, there were no substantiated allegations of offender-on-offender sexual abuse. Additionally, no information regarding substantiated allegations from other facilities or jurisdictions applicable to this subsection were received. As a result, there is no secondary documentation available for review.

Per the PREA Coordinator, no substantiated perpetrators are housed at WCF. They are transferred to the HCF as soon as an applicable allegation is made, pending the completion of the investigation. Staff at HCF are responsible for the adjustment hearing, which would result in a new assessment if the allegations are substantiated.

Based on the above, WCF 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
- Medical and mental health records for selected offender

Interviews conducted:

- Medical and Mental Health Staff

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

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

#### 115.86 (a)

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

#### 115.86 (b)

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

#### 115.86 (c)

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

#### 115.86 (d)

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

## 115.86 (e)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### 115.86 (a)

Agency policy ADM.08.08, *Prison Rape Elimination Act* (09/22/2017) section 49.0.1 (page 45) requires 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."

During the facility's audit documentation period, two (2) investigations were closed that indicated the need for a sexual abuse incident review. The Auditor was provided with documentation of the formal review associated with one (1) of these investigations. Per the Program Specialist, the second investigation actually occurred in 2014 and was added to the 2019 log when the offender re-reported on readmission; therefore, it should not have been included.

Based on the above, WCF 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."

During the facility's audit documentation period, two (2) investigations were closed that indicated the need for a sexual abuse incident review. The Auditor was provided with documentation of the formal review associated with one (1) of these investigations. Regarding this review, the investigation is noted as complete as of 08/10/2018, but the incident review did not occur until 03/25/2019. Per the Program Specialist, the second investigation was actually from 2014 and was added to the 2019 log when the offender re-reported on readmission; therefore, it should not have been included.

No information was received to mitigate the identified timeframe issue and no other applicable investigations were completed during the audit documentation period. Therefore, WCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include the development of a formal process to ensure sexual abuse incident reviews are conducted in accordance with standard and policy specified timelines with Auditor review of all applicable investigations and review committee actions during the corrective action period.

UPDATE - The Warden provided an explanatory memo dated 10/29/2019 that notes, "The Sexual Abuse Review (SAR) form also [will] be thoroughly completed as required by ADM.08.08. This was a misunderstanding on my part and the PREA Coordinator has provided clear direction on how to properly complete the SAR form." It is noted that no new allegations have been received since the on-site review and, as such, there is no secondary documentation available for review. However, based on the clarification provided by the PREA Coordinator to the Warden and the PREA Coordinator's oversight of the process, WCF is now assessed as compliant with 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."

During the facility's audit documentation period, two (2) investigations were closed that indicated the need for a sexual abuse incident review. It was learned that one of these was actually completed in 2014 and was added to the current master investigation tracking sheet in error when the offender re-reported it on readmission. The Auditor was provided with documentation of the formal review associated with the remaining investigation. The review included the Warden, Chief of Security, Clinical Services Administrator, and the PCM. Input from the investigator was obtained in the form of the investigation report and related review prior to finalization.

An interview with the Warden confirmed inclusion and participation of the PCM, Chief of Security, Warden, PREA Officer, the investigator, medical and mental health in formal incident reviews.

Based on the above, WCF 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.*

All Sexual Abuse Incident Reviews are conducted using a standardized form. The form documents the following information:

- Assess compliance with PREA standards (list positives/negatives)
- Does policy or practice need to be changed? Explain.
- Incident motivated by race, ethnicity, LGBTI status (perceived), security threat group affiliation or other inmate group dynamics? Explain.
- Did staffing levels impact PREA incident? Explain.
- Assess whether video technology is needed to augment staffing. Explain.
- Summary of recommendations, comments or concerns.

Additionally, the form provides the Warden the option to implement full recommendations, providing documentation, implement recommendations in part, or disagree with the recommendations. Explanatory information is required for the final two options.

During the facility's audit documentation period, two (2) investigations were closed that indicated the need for a sexual abuse incident review. The Auditor was provided with documentation of the formal review associated with one (1) of these investigations, which included review of the standard-identified elements. Per the Program Specialist, the second investigation was actually from 2014 and was added to the 2019 log when the offender re-reported on readmission; therefore, it should not have been included.

Knowledge and review of the standard-identified elements were confirmed in interviews with the Warden, PCM, and members of the incident review team.

Based on the above, WCF 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."

During the facility's audit documentation period, two (2) investigations were closed that indicated the need for a sexual abuse incident review. It was learned that one of these was actually completed in 2014 and was added to the current master investigation tracking sheet in error when the offender re-reported it on readmission. The Auditor was provided with documentation of the formal review associated with the remaining investigation. The review noted, "A CCTV/Camera system is needed. This would prevent or confirm that the alleged incident occurred." However, the summary of recommendations section of the form was blank as is the section for the warden's response to the sexual abuse incident review team's recommendation. Per the PREA Coordinator, she has since reminded the Warden to ensure all sections of the review form are completed. Regarding this specific investigation, the facility currently does not have a video monitoring system and has made repeated legislative requests for installation, however, this has not been approved due to fiscal limitations. This information should have been included in the final review committee report to completely close the loop regarding this investigation along with information regarding any mitigating actions / procedures implemented.

Based on the above, WCF is assessed as non-compliant with the requirements of this subsection. Corrective action should include a formal reminder to the Warden regarding review committee form requirements along with Auditor review of all applicable investigations and review committee actions during the corrective action period.

UPDATE - The Warden provided an explanatory memo dated 10/29/2019 that notes, "The Sexual Abuse Review (SAR) form also [will] be thoroughly completed as required by ADM.08.08. This was a misunderstanding on my part and the PREA Coordinator has provided clear direction on how to properly complete the SAR form." It is noted that no new allegations have been received since the on-site review and, as such, there is no secondary documentation available for review. However, based on the clarification provided by the PREA Coordinator to the Warden and the PREA Coordinator's oversight of the process, WCF is now assessed as compliant with 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
- 10/29/2019 explanatory memo from the Warden to the Auditor
- Emails dated 01/21/2020 and 04/09/2020 confirming that no new allegations have been received

Interviews conducted:

- Incident Review Team Members
- PREA Compliance Manager
- Warden

## Standard 115.87: Data collection

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

#### 115.87 (a)

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

#### 115.87 (b)

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

#### 115.87 (c)

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

#### 115.87 (d)

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

#### 115.87 (e)

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

#### 115.87 (f)

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

### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

### 115.87 (a) 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, 2016, and 2017. It is noted that the 2018 data request had just been received when this report was written and had not yet been submitted. Discussion with the 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, WCF is assessed as compliant with the requirements of this subsection.

### 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, 2016 and 2017. It is noted that the 2018 data request had just been received when this report was written and had not yet been submitted. This in conjunction with discussions with the PREA Coordinator provided documentation of the required annual data review.

Based on the above, WCF 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 at recent other audits of facilities under the jurisdiction of the Department of Public Safety, 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, WCF 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, WCF 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 30<sup>th</sup> of each year."

The Auditor was provided with Survey of Sexual Violence (SSV) data from 2013, 2016, and 2017. This in conjunction with discussions with the PREA Coordinator provided documentation of the required annual data submission.

Based on the above, WCF 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, 2016 and 2017 State Prisons Systems, Summary Form and Incident Form (Adult)
- PSD public website at [www.hawaii.gov/psd](http://www.hawaii.gov/psd)
- Annual PREA reports 2011 – 2013, 2014, 2015, 2016 and 2017

Interviews conducted:

- None are required by DOJ template or compliance tool

## Standard 115.88: Data review for corrective action

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

#### 115.88 (a)

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

#### 115.88 (b)

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

#### 115.88 (c)

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

#### 115.88 (d)

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

### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

### 115.88 (a)

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

Interviews conducted as a part of this audit confirmed that the agency uses the data collected to formulate responsive actions, on both agency and facility levels. The Director designee noted that data helps identify problem areas so recommendations can be made to the Director regarding policy changes, training, and other responses. This was confirmed in interviews with the PREA Coordinator and Program Specialist. Additionally, the agency is required to report statistics regarding sexual abuse to the state legislature annually. The Auditor was also provided with these reports, which are also posted to the agency's public website. The PCM indicated that she is not involved with data collection and analysis. As noted with standard 115.11, the duties of the PCM have assigned to the Warden with the assistance of his administrative staff.

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 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.

Based on the above, WCF is assessed as compliant with the requirements of 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 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.

With the 2017 annual report, revisions to content were made to enhance the information contained specific to each facility and the comparison of current data to that from previous years.

Based on the above, WCF is assessed as compliant with the requirements of 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."

The Director designee confirmed that the Director approves the annual report that "...includes data from internal logs, federal reports (SSV), and statutory statistics. The agency is required by statute to maintain statistics regarding sexual abuse and assault. All are posted to the external 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 the 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 signature or some other direct evidence of his approval of the reports prior to publication.

Based on the above, WCF 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 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, WCF 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](http://www.hawaii.gov/psd)
- Annual PREA reports 2011 – 2013, 2014, 2015, 2016 and 2017
- HRS §353-C, Sexual assaults in prison (2013)
- Act 194 Sexual Assaults in Correctional Facilities 2010, 2011, 2012, 2013, 2014, 2015, and 2016

Interviews conducted:

- Agency Head
- PREA Compliance Manager
- PREA Coordinator

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

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

#### 115.89 (a)

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

#### 115.89 (b)

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

#### 115.89 (c)

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

#### 115.89 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### 115.89 (a)

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

Per the Program Specialist, access to the system files in which PREA information is maintained 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, WCF 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](http://www.hawaii.gov/psd). The website contains the agency's annual PREA reports from 2011 through 2016. These reports detail aggregate investigation data and also contain data from the Saguaro Correctional Center, a facility in Arizona privately contracted with to house offenders.

Based on the above, WCF 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, WCF 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](http://www.hawaii.gov/psd).

Based on the above, WCF 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](http://www.hawaii.gov/psd)
- Annual PREA reports 2011 – 2013, 2014, 2015, 2016 and 2017
- Blank User Access Request Form
- HRS §92(F), Uniform Information Practices Act

Interviews conducted:

- PREA Coordinator

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

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

##### 115.401 (a)

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

##### 115.401 (b)

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

##### 115.401 (h)

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

##### 115.401 (i)

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

##### 115.401 (m)

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

##### 115.401 (n)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

### 115.401 (a)

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.

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

### 115.401 (b)

The Hawaii Department of Public Safety operates four (4) jails and four (4) prison facilities. They have scheduled audits of their facilities as follows during a three (3) year audit cycle -

- Year one – No jails and three (3) prisons
- Year two – Two (2) jails and no prisons
- Year three – Two (2) jails and one (1) prison

Although the prison facilities are disproportionately represented in year one, this schedule was established in response to the time needed to implement PREA standards in jail facilities. The agency has maintained audits in accordance with this cycle and revision would likely cause an undue burden on the facilities and possibly bring the agency into non-compliance by having to shift a prison facility from year one into year two. Additionally, the three prison facilities audits in year one are in close proximity with each other and logistically should be audited together in order to facilitate the audits and manage expenses. Finally, although a facility may be classified as a jail, they also maintain furlough components that function more in line with prison operations. As a result, the agency is assessed as compliant with this subsection.

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

### 115.401 (h)

Although under supervision as a facility visitor, the Auditor and supporting Team members were allowed free access to every part of the facility.

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

115.401 (i)

The PREA Coordinator was very responsive regarding requests for additional documentation and information. It is recommended that the PCM become more involved in this process during the next internal and DOJ audits.

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

115.401 (m)

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) were provided and escorts were provided by designated Adult Correctional Officers, the PREA Officer, and the agency PREA Coordinator. Staff were contacted via radio or telephone for interviews. Housing unit staff were contacted to send selected offenders to the designated interview areas. All individuals interviewed were informed of confidentiality and provided with the opportunity to decline any interview.

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

115.401 (n)

The Audit Team observed notifications placed throughout the facility. The notification included the following statements:

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

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

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

No letters from offenders, staff or members of the public had been received prior to the on-site review up until the time of this report.

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



## Standard 115.403: Audit contents and findings

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

#### 115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. In the case of single facility agencies, the auditor shall ensure that the facility's last audit report was published. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.)  Yes  No  NA

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

115.403 (f)

PSD posts all PREA audit reports to its public website ([www.hawaii.gov/psd](http://www.hawaii.gov/psd)). This includes the report from the previous audit conducted at WCF.

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

## AUDITOR CERTIFICATION

I certify that:

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

### Auditor Instructions:

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

Beth L. Schubach \_\_\_\_\_

04/13/2020 \_\_\_\_\_

**Auditor Signature**

**Date**

---

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

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