

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

Interim Final

Date of Interim Audit Report: June 3, 2021 N/A

If no Interim Audit Report, select N/A

Date of Final Audit Report: October 27, 2021

Auditor Information

Name: Amanda van Arcken	Email: amanda.vanarcken@doc.state.or.us
Company Name: Oregon Department of Corrections	
Mailing Address: 2575 Center Street NE	City, State, Zip: Salem, Oregon 97301
Telephone: (503) 569-8578	Date of Facility Visit: April 18-20, 2021

Agency Information

Name of Agency: State of Hawaii Department of Public Safety (PSD)			
Governing Authority or Parent Agency (If Applicable): Click or tap here to enter text.			
Physical Address: 1177 Alakea Street		City, State, Zip: Honolulu, Hawaii 96813	
Mailing Address: 1177 Alakea Street		City, State, Zip: Honolulu, Hawaii 96813	
The Agency Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
Agency Website with PREA Information: https://dps.hawaii.gov/policies-and-procedures/pp-prea/			

Agency Chief Executive Officer

Name: Max N. Otani, Director	
Email: max.n.otani@hawaii.gov	Telephone: (808) 587-1350

Agency-Wide PREA Coordinator

Name: Cheyenne Evans	
Email: cheyenne.l.evans@hawaii.gov	Telephone: (808) 587-1415
PREA Coordinator Reports to: Max N. Otani, Director	Number of Compliance Managers who report to the PREA Coordinator: 8

Facility Information

Name of Facility: Maui Community Correctional Center

Physical Address: 600 Waiale Road

City, State, Zip: Wailuku, Hawaii 96793

Mailing Address (if different from above):

Click or tap here to enter text.

City, State, Zip: Click or tap here to enter text.

The Facility Is:

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

Facility Type:

Prison

Jail

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

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:
N/A

Warden/Jail Administrator/Sheriff/Director

Name: Deborah Taylor, Warden

Email: deborah.m.taylor@hawaii.gov

Telephone: (808) 243-5030

Facility PREA Compliance Manager

Name: Gail Mirkovich, Lieutenant

Email: gail.l.mirkovich@hawaii.gov

Telephone: (808) 243-8684

Facility Health Service Administrator N/A

Name: Jennifer Lopez

Email: jennifer.d.lopez@hawaii.gov

Telephone: (808) 243-5101

Facility Characteristics

Designated Facility Capacity:

301

Current Population of Facility:

297

Average daily population for the past 12 months:	398	
Has the facility been over capacity at any point in the past 12 months?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Which population(s) does the facility hold?	<input type="checkbox"/> Females <input type="checkbox"/> Males <input checked="" type="checkbox"/> Both Females and Males	
Age range of population:	20-88 years	
Average length of stay or time under supervision:	11 months	
Facility security levels/inmate custody levels:	Community/Minimum/Medium	
Number of inmates admitted to facility during the past 12 months:	2043	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:	781	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:	807	
Does the facility hold youthful inmates?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Number of youthful inmates held in the facility during the past 12 months: (N/A if the facility never holds youthful inmates)	Click or tap here to enter text. <input checked="" type="checkbox"/> N/A	
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)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Select all other agencies for which the audited facility holds inmates: Select all that apply (N/A if the audited facility does not hold inmates for any other agency or agencies):	<input type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> U.S. Marshals Service <input type="checkbox"/> U.S. Immigration and Customs Enforcement <input type="checkbox"/> Bureau of Indian Affairs <input type="checkbox"/> U.S. Military branch <input type="checkbox"/> State or Territorial correctional agency <input type="checkbox"/> County correctional or detention agency <input type="checkbox"/> Judicial district correctional or detention facility <input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail) <input type="checkbox"/> Private corrections or detention provider <input type="checkbox"/> Other - please name or describe: Click or tap here to enter text. <input checked="" type="checkbox"/> N/A	
Number of staff currently employed by the facility who may have contact with inmates:	191	
Number of staff hired by the facility during the past 12 months who may have contact with inmates:	21	
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	1	
Number of individual contractors who have contact with inmates, currently authorized to enter the facility:	1	
Number of volunteers who have contact with inmates, currently authorized to enter the facility:	175	

Physical Plant

<p>Number of buildings:</p> <p>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.</p>	7
<p>Number of inmate housing units:</p> <p>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.</p>	14
<p>Number of single cell housing units:</p>	1
<p>Number of multiple occupancy cell housing units:</p>	6
<p>Number of open bay/dorm housing units:</p>	7
<p>Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):</p>	12
<p>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)</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<p>Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<h3>Medical and Mental Health Services and Forensic Medical Exams</h3>	
<p>Are medical services provided on-site?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>Are mental health services provided on-site?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

<p>Where are sexual assault forensic medical exams provided? Select all that apply.</p>	<input type="checkbox"/> On-site <input checked="" type="checkbox"/> Local hospital/clinic <input type="checkbox"/> Rape Crisis Center <input type="checkbox"/> Other (please name or describe: Click or tap here to enter text.)
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Investigations

Criminal Investigations

<p>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:</p>	<p>2 Agency/2 Facility</p>
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<p>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.</p>	<input type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input checked="" type="checkbox"/> An external investigative entity
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<p>Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)</p>	<input checked="" type="checkbox"/> Local police department <input checked="" 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: Click or tap here to enter text.) <input type="checkbox"/> N/A
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Administrative Investigations

<p>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?</p>	<p>2 Agency/2 Facility</p>
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<p>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</p>	<input checked="" type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
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<p>Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)</p>	<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: Click or tap here to enter text.) <input checked="" type="checkbox"/> N/A
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Audit Findings

Audit Narrative (including Audit Methodology)

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.

Amanda van Arcken, a U.S. Department of Justice (USDOJ) Certified PREA Auditor for Adult Facilities, conducted the Prison Rape Elimination Act (PREA) on-site audit of Maui Community Correctional Center (MCCC) in Wailuku, Hawaii from April 18-20, 2021. This audit was conducted under a contract between the State of Hawaii Department of Public Safety (PSD) and the Oregon Department of Corrections (ODOC) in conjunction with the Western States PREA Circular Auditing Agreement. The PSD, ODOC and nine other agencies (California, Colorado, Los Angeles County, Nevada, New Mexico, North Dakota, Montana, Washington and Wisconsin) are members of the Western States PREA Circular Auditing Agreement. The audit was conducted with the assistance of one support staff – Ericka Sage. Sage is a USDOJ Certified PREA Auditor for Adult Facilities. The audit team conducted the site review together. Amanda van Arcken conducted the documentation review for staff and inmates; informal interviews with random staff and inmates; formal interviews with specialized staff and targeted inmates; and, authored this report. Sage conducted informal and formal interviews of random staff, specialized staff, random inmates, and targeted inmates.

The audit of MCCC was originally scheduled to take place in November 2020 before being delayed to March 21-27, 2021 with an auditor in the Western States PREA Circular Auditing Agreement from Nevada. Nevada was unable to gain travel clearance, and Oregon agreed to conduct the audits needed by PSD.

The agency PREA Coordinator developed a Notification of Audit in English that was posted in the facility on March 15, 2021. A notice was not posted in any other language, as the facility did not have any inmates with limited-English proficiencies. The auditor verified the posting with 21 dated and time-stamped photographs. The notification contained information about the upcoming audit and stated that any inmate or staff member with pertinent information should send a letter containing this information to the auditor. The auditor instructed the facility to post this notification in all housing units and throughout the facility for the six weeks prior to the onsite review, on a brightly colored piece of paper that would stand out among other postings in these areas. The notice contained a reminder about the confidential nature of communication with the auditor, and possible exceptions to confidentiality. During the facility tour, the auditor observed the posting in all housing areas and throughout the facility in inmate-accessible areas. The notice was observed to be posted in areas only accessible to staff and areas accessible to visitors, providing them with the opportunity to contact the auditor. Prior to the onsite review, this auditor did not receive any letters from inmates at MCCC.

The Pre-Audit Questionnaire (PAQ) was initiated by the facility and was received by this auditor from the original Nevada auditor on February 25, 2021. The PAQ was formatted on a password-protected thumb drive and included all relevant documentation pertaining to the audit, including, but not limited to policies, procedures, memorandum of understanding and training documents. The auditor reviewed the questionnaire and all documentation. The audit documentation period on the thumb drive was for September 2019 through September 2020, to coincide with the original audit for November 2020. Updates to the PAQ and documentation were provided to this auditor by the facility on March 25, 2021. This auditor reviewed the Annual PREA Reports for 2011-2018, which were posted on the agency website. The 2019 Annual PREA Report was provided to this auditor by the agency PREA Coordinator. This was the third PREA audit conducted at MCCC. The most recent final audit report for MCCC was provided to the agency on June 1, 2018.

News articles referencing MCCC were reviewed online. Nothing related to the sexual safety of the facility within the last three years was located.

On March 8, 2021, this auditor sent an email to MCCC's PREA Compliance Manager (PCM) requesting the following documents prior to the audit team's arrival at the facility:

- A complete inmate roster, sorted by housing unit
- A list of inmates with mobility disabilities
- A list of inmates who are hard of hearing or deaf
- A list of inmates who have vision impairment or are blind
- A list of inmates who have reported sexual abuse

The following documents were requested to be available on the first day of the onsite review:

- A complete listing of all staff, contractors, and volunteers
- Custody staff assignment rosters for all shifts of the onsite review
- Copies of any PREA-related grievances filed in the last 12 months
- A list of all inmates who have been at MCCC prior to August 2012
- A list of all inmates who identify as lesbian, gay, bisexual, transgender or intersex
- A list of all inmates who disclosed prior sexual victimization during risk screening (in community and/or in confinement)

This auditor conducted outreach to Just Detention International (JDI), and the Maui Sexual Assault Treatment Center (MSATC) to learn about issues of sexual safety at the facility.

- JDI is a health and human rights organization that seeks to end sexual abuse in all forms of detention by advocating for laws and policies that make prisons and jails safe and providing incarcerated survivors with support and resource referrals. JDI advised this auditor that they have not received any correspondence from incarcerated survivors at MCCC within the last 12 months.
- MSATC has provided a continuum of sexual assault services to individuals and families impacted by sexual violence for nearly thirteen years, serving the residents of Maui County. They provide support to victims and their families through critical, acute moments of crisis and their entire process of healing. The MSATC provides a 24-hour crisis helpline, crisis stabilization and outreach services, as well as supportive, short-term therapy and psycho education and long-term clinical treatment. MSATC advised this auditor they provide services to incarcerated survivors over the phone, in writing and in person, at forensic medical exams. MSATC believed they had contact with incarcerated survivors at MCCC over the last year and did not have any specific concerns related to the sexual safety of the facility or the agency. Prior to the COVID-19 pandemic, a few incarcerated survivors met with an advocate weekly. During and since the pandemic, services were restricted to phone contact.

On the morning of April 18, 2021, the audit team met with the agency PREA Coordinator and the facility PCM for the site review. No other members of facility leadership were present, and a formal entrance meeting was not requested.

The audit team began conducting the physical plant review of MCCC on the first day. The audit team was provided access to all areas of the facility, including outlying buildings where inmates may be assigned for work. This auditor observed the facility configuration, locations of cameras and security mirrors, the level of staff supervision, the housing unit layout (including shower/toilet areas), placement of posters and other PREA informational resources, security monitoring, and search procedures. Toilet and shower areas of the facility allowed for inmate privacy while undressing and using facilities, except for one communal bathroom with a shower curtain across its entrance. Once identified, the curtain was removed and replaced with one appropriate in size to prevent cross-gender viewing. Cross-gender announcements were consistently observed when the audit team entered housing units. The audit notice was visible in all inmate areas. Inmate phones were tested to ensure the ability to contact the PREA Hotline. Locked boxes were in each housing unit or common areas for inmates to deposit grievance and discrimination forms. Unit logbooks were checked to ensure the completion of unannounced supervisory rounds.

During the physical plant review, the audit team looked for potential blind spots in areas accessible to inmates, and areas where cross-gender viewing may occur. The audit team did not identify any areas of concern. Each housing unit varied in design and layout. Some units had bathrooms with separate toilet and shower stalls with privacy curtains. Some units had common showers with either doors or curtains that allowed inmates to shower without being viewed by staff of the opposite gender. Unit rules require that inmates close shower curtains and toilet doors when in use, and inmates are required to be clothed upon exit.

During the physical plant review the audit team made the following recommendations –

- In Education, an inmate restroom had a locking mechanism that could permit an inmate to lock themselves in the bathroom with another inmate or staff member. The facility PCM had the locking mechanism removed, as verified by pictures and email to this auditor on May 21, 2021.
- In Education, the restroom for female staff members was propped open. The audit team recommended it remain secured when not in use.
- One classroom window in Education was completely obscured with postings, which did not allow visibility from the corridor. This auditor recommends that there always be at least one way to see into an area for safety and security reasons.
- The door window and window to the Administrative Captain's office was completely obscured with postings, which did not allow visibility from the corridor. This auditor recommends that there always be at least one way to see into an area for safety and security reasons.
- Two female inmates assigned to work in the laundry are secured in the room for the duration of their work period by staff. This auditor recommends the facility have an odd number of inmate workers assigned to isolated or limited view areas.
- In Module D, postings on office windows and doors obscured visibility into staff offices. This auditor recommends that there always be at least one way to see into an area for safety and security reasons.

Cameras were not noted in areas where inmates may be using restrooms or showers. The existing camera system consists of approximately 93 cameras that monitor the institution. Records are retained for about 30 days, depending on the amount of movement in the area under surveillance.

After the completion of the physical plant review on the first day and for the duration of the second day onsite, the audit team conducted staff and inmate interviews. Staff were interviewed using the DOJ protocols that question their PREA training and overall knowledge of the agency's zero tolerance policy, reporting mechanisms available to staff and inmates, response protocols when allegations of sexual abuse and/or sexual harassment are made, first responder duties, data collection processes and other pertinent PREA requirements. All interviews were conducted one at a time, in a private and confidential manner.

MCCC employs 191 staff who may have contact with inmates. Security staff are assigned daily to eight-hour shifts. Shift hours run from 0700-1500 hours; 1500-2300 hours; 2300-0700 hours. There are approximately 35 security staff assigned to second watch; 28 assigned to third watch; and, 25 assigned to first watch.

The March 2021 edition of the PREA Auditor Handbook requires at least 12 random security staff be interviewed. A total of 13 random interviews were conducted. Because MCCC is a small facility, many of the staff had collateral duties. For instance, duties related to processing grievances and mail were assigned to security staff.

A total of 24 specialized staff interviews were conducted, Interviews with the following specialized staff:

- Agency head designee
- Warden
- Agency PREA Coordinator
- Facility PREA Compliance Manager
- Agency contract administrator
- Two intermediate or higher-level facility staff
- Medical Services staff
- Mental Health Services staff
- Human Resource manager

- Investigative staff
- SANE
- Confidential, community-based advocate
- Staff on the sexual abuse incident review team
- Designated staff member charged with monitoring retaliation
- Mailroom staff
- Grievance Coordinator
- Contractors/volunteers

The PAQ indicated the average daily population for audit period was 398 inmates. The inmate population on the first day of the onsite review was 297. The March 2021 edition of the PREA Auditor Handbook requires at least 13 random inmate interviews and at least 13 targeted inmate interviews for an adult prison population of 251-500 inmates. The audit team planned to interview at least one random inmate from each housing unit (13 in total), in addition to any targeted inmates. After selecting targeted inmates for interview, this auditor used an inmate roster sorted by housing unit to select the fourth inmate of each unit. The identified inmate names were selected for both file reviews and random interviews. A total of 15 random inmates were interviewed. No inmates declined to be interviewed. Files were reviewed to evaluate screening and intake procedures, documentation of inmate education and medical or mental health referrals when required.

The Maui Community Correctional Center did not have any inmates who were youthful, had limited-English proficiencies, were placed in segregated housing for high risk of sexual victimization, or who identified as transgender or intersex. A total of 14 targeted inmate interviews were conducted. Interviews were conducted with the following targeted inmates:

- One inmate with a physical disability
- One inmate who was blind, deaf, or hard of hearing
- One inmate with a cognitive disability
- Seven inmates who identified as lesbian, gay, or bisexual
- One inmate who reported sexual abuse (outside of the audit documentation period)
- Three inmates who reported sexual victimization during risk screening

There were no inmates at MCCC who were admitted to the facility prior to August 20, 2012.

A review of investigative files indicated there were no allegations of sexual abuse or sexual harassment reported to date in 2021. There was one allegation of inmate/inmate sexual abuse, three allegations of inmate/inmate sexual harassment and one allegation of staff/inmate sexual harassment reported in 2020.

A formal exit meeting was not requested by the facility. The auditor provided a summary of the audit through the on-site phase and provided information on what to expect during the Corrective Action Period (CAP) directly to the agency PREA Coordinator and facility PCM.

MCCC has medical staff onsite during business hours. After hours, inmates can be transported to Maui Memorial Medical Center. The facility has one mental health staff that is available in-person and by video from 0800-1630, depending on her schedule at other facilities.

The auditor spoke with a local Sexual Assault Nurse Examiner (SANE) at Maui Memorial Medical Center, to discuss and confirm the agreement in place with PSD to provide SANE/SAFE services. She verified that all SANEs receive training that meets the national training standards.

After the onsite audit, the auditor utilized the Auditor Compliance Tool for Adult Prisons and Jails as a guide in determining compliance with each standard. To determine compliance, the auditor used the information and documentation provided during the pre-audit, information obtained through staff and inmate interviews, and observations during the onsite review. There were no barriers to completing the audit of MCCC.

This auditor provided the agency with an interim report on June 3, 2021, triggering the corrective action period. This auditor communicated with the agency PREA Coordinator and/or facility PCM several times

each month to ensure the facility was continuing to work towards compliance. The agency PREA Coordinator and/or facility PCM provided this auditor with the required documentation in a timely manner. After examining all evidence, this auditor found Maui Community Correctional Center in full compliance of the PREA standards on October 19, 2021. A final audit report was provided to the agency on October 27, 2021.

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 State of Hawaii Department of Public Safety (PSD) operates four jails and four prisons in the state of Hawaii, incarcerating approximately 3500 adult offenders. Hawaii jails provide for the secure incarceration of pretrial and short-term sentence misdemeanor populations and are situated on each major island. The jails also provide for the transitional sentence felon population, those who have almost completed their felony sentences and those returning to the community. Three prisons are located on the island of Oahu, and one is located on the Big Island of Hawaii. The Saguaro Correctional Center houses Hawaii inmates on the mainland, through a contract with CoreCivic. The mission statement of PSD is *to uphold justice and public safety by providing correctional and law enforcement services to Hawaii's communities with professionalism, integrity, and fairness.*

Maui Community Correctional Center is a state-operated jail. MCCC houses minimum- and medium-custody male and female inmates that have been sentenced or in pre-trial status. MCCC's population is approximately 85% male and 15% female. Proper housing and program assignments are determined through the intake process, available records, bail study, PREA risk screenings and classification.

On March 11, 2019, inmates at MCCC engaged in a riot that caused millions of dollars in damages. Eighteen inmates were found guilty via an administrative process for the riot and fires. Inmates cited nonworking telephones, overcrowding, changes to commissary and complaints about food as the catalysts to the riot. The most significant damage had been repaired at the time of the onsite review.

The racial/ethnic composition of the inmate population is as follows –

Polynesian	37.3%
Asian	11.2%
White	29.9%
Hispanic	3.3%
African American	1.2%
Other	16.2%

MCCC is comprised of seven buildings. There are seven dormitory-style housing units, six multiple occupancy celled housing units and one single cell housing unit.

- Intake has six beds and houses inmates with medical needs, those who may be detoxing from substances and those under safety or suicide watches.
- Module A has pretrial and sentenced, medium-security male inmates with a capacity of 96. This module is separated into four quadrants and was on COVID-19 quarantine status at the time of the onsite review. Additional personal protective equipment or precautions were necessary to tour this area.
- Module B has pretrial, medium-security male inmates with a capacity of 96. This module is separated into four quadrants and was on COVID-19 quarantine status at the time of the onsite review. Additional personal protective equipment or precautions were necessary to tour this area.
- Module C has 12 beds for male inmates assigned to Administrative Segregation. The inmates assigned to this unit are considered general population status.
- Module D has 12 beds for male inmates assigned to Disciplinary Segregation. The inmates assigned to this module are restricted in their ability to move freely about the facility due to their risk of violence to others.
- Multi-purpose (MP)/Module III has pretrial and sentenced medium-security female inmates with a capacity of 32. MP/Module III is separated into four separate housing areas within the one unit. This housing unit is a gender-specific post.

- Dorms 1 and 2, with a capacity of 64, are closed. The audit team toured the vacant dorms. The facility PCM indicated she would review the area prior to any deactivation to ensure there are no concerns with opposite gender viewing and all postings are up to date.
- Dorm 3 is normally used for pretrial and sentenced, medium-custody male inmates participating in Drug Court. Drug Court has been postponed during COVID-19. At the time of the onsite review, the space was being used for female inmates on quarantine status.
- Dorms 4 and 5 are normally used for pretrial and sentenced, medium-custody female inmates participating in Drug Court. Drug Court has been postponed during COVID-19. At the time of the onsite review, both dorms were secured and unoccupied. The audit team toured the vacant dorms. The facility PCM indicated she would review the area prior to any deactivation to ensure there are no concerns with opposite gender viewing and all postings are up to date. This housing unit is a gender-specific post.
- Dorms 6 and 7 has sentenced, minimum-security male inmates who are assigned to work lines and on furloughs, and pretrial male inmates that are assigned to work in the facility's kitchen. The two dorms have the capacity for 120 beds.

Using Capital Improvement Projects (CIP) funding, MCCC has been installing video surveillance throughout the facility to provide coverage for identified blind spots and additional security coverage after the riot. Cameras originally installed in the hallways have been upgraded. Cameras have been installed on the facility perimeter, in the main sallyport, Intake and the Gatehouse. The installation locations of some housing unit cameras unintentionally created blind spots, but the facility PCM has installed security mirrors to mitigate the lack of direct visibility. The camera project is expected to continue into 2021.

Inmate work lines, education and behavioral health programs are operated by facility staff or volunteers, Monday through Friday between 0800 and 2100 hours. Weekend activities include visitation, recreation and volunteer-led programs, to include Alcoholics Anonymous and Narcotics Anonymous.

Among the programs offered at MCCC are adult basic education, GED, parenting, cognitive skills, substance abuse treatment, vocational training, and work furlough. Extended furlough is offered in conjunction with the Maui Intake Service Center. A drug court program enables select pre-trial inmates, sentenced felons, and parole violators to participate in in-facility treatment services, which is followed by another nine months of treatment in the community. A review is conducted quarterly to ensure staffing is adequate for these services and programs.

Summary of Audit Findings

The summary should include the number and list of standards exceeded, number of standards met, and number and list of standards not met.

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: N/A

Standards Met

Number of Standards Met: 45

Standards Not Met

Number of Standards Not Met: 0
List of Standards Not Met: N/A

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- PSD Organizational chart
- Interview with the PREA Coordinator
- Interview with the PREA Compliance Manager
- Interviews with specialized and random staff

(a) The purpose of PSD Policy ADM.08.08 is to outline the Department of Public Safety's (PSD) approach to ensure compliance with the Prison Rape Elimination Act ("PREA") of 2003, through the application of a zero-tolerance policy toward all forms of sexual abuse, sexual harassment, and retaliation for reporting incidents in prisons, jails, lockups, and community correctional centers. The policy has an effective date of September 22, 2017. PSD Policy ADM.08.08 states on page 11, "PSD has a zero-tolerance policy concerning all forms of sexual abuse, sexual harassment, and retaliation for reporting such incidents;)1) an offender by another offender, or (2) a staff member on an offender, in a PSD prison, jail, lockup, community correctional center, and privately contracted prison operating under the direct control of PSD or under contract with PSD." This policy outlines the agency's comprehensive approach to preventing, detecting, and responding to sexual abuse and sexual harassment, including definitions of prohibited behaviors and consequences for those found to have participated in prohibited behaviors.

While this subsection of the standard speaks to agency level requirements, facility information reinforces the agency policy by pointing back to the agency policy. Page 14 of the MCCC Facility Handbook states, "The Department of Public Safety (PSD) is committed to ensuring a secure, safe, and humane environment. The Prison Rape Elimination Act (PREA), a Federal law, was passed to address sexual abuse and sexual harassment in correctional facilities. In support of PREA, PSD has a 'Zero-Tolerance' policy against any form of sexual abuse and sexual harassment towards an offender by another offender or by a staff member at a PSD Prison, Jail, Contracted Facility, Lock Up or Community Center. All references to staff member also include volunteers and contractors.

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."

Facility training also points back to agency policy. This auditor reviewed the MCCC lesson plan and training curriculum for *Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training*. Slide 53 states, "A 'zero-tolerance' policy means that sexual abuse and sexual harassment is strictly prohibited and all allegations of such conduct will be investigated...PSD has a zero-tolerance policy concerning all forms of sexual abuse, sexual harassment, and retaliation for reporting incidents." Slides 30, 42, 54, 55, 96, and 97 contain reminders about the zero-tolerance policy.

During interviews with specialized and random staff, all interviewees indicated they were aware of and trained on the agency's zero-tolerance policy.

(b) PSD employs an upper-level, agency-wide PREA Coordinator. PSD Policy ADM.08.08 states on page 12, *“PSD has designated the Litigation Coordination Office, a branch of the Director's Office, to manage PREA. One of the Litigation Coordination Officer's functions is to fulfill the role of the upper-level staff member designated to serve as the Department 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.”* This position is reflected in agency organizational charts. When interviewed, the PREA Coordinator indicated that she has the time, resources and authority required to manage her responsibilities.

(c) PSD Policy ADM.08.08 states on page 12, *“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 other 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.”* MCCC has designated a lieutenant as the facility PREA Compliance Manager (PCM), who reports directly to the warden.

When interviewed, the facility PCM indicated that she does not have the time to manage all her PREA-related responsibilities. As the Administrative Lieutenant, the PCM acts as the Court Liaison and has a significant number of duties that prevent her from effectively coordinating the facility's PREA compliance efforts. Because the PCM is female, she is subject to working mandatory overtime in officer posts when there are not enough female staff. The facility PCM shoulders most of the PREA-related duties at MCCC and is scheduled to retire next year.

For corrective action, this auditor indicated the agency/facility would need to develop a sustainable plan to ensure the facility PCM has enough time to complete her PREA-related duties at MCCC during her regular workweek and provide for continuity after her retirement. On August 24, 2021, a sergeant was promoted to lieutenant and began training to assist the facility PCM. On September 15, 2021, the facility warden issued a written memorandum directing that two of the facility PCM's collateral duties had been moved to other staff, allowing her more time to oversee the facility's compliance efforts.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the agency and facility are in full compliance with the standard of zero-tolerance of sexual abuse and sexual harassment, and employment of the PREA Coordinator, as it relates to PREA.

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.) Yes No NA

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- PSD Contract No. PSD 16-ID/MB-32
- 2014, 2017 PREA Audit reports for Saguaro Correctional Center

(a-b) PSD Policy ADM.08.08 states on page 12, "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 as required by 115.401 to 115.404.”

PSD contracts with CoreCivic (formerly known as Corrections Corporation of America) for the confinement of inmates. PSD Contract No. PSD 16-ID/MB-32 states on page 11, *“The PROVIDER shall be in full compliance with the Prison Rape Elimination Act (PREA). Failure to maintain full compliance with PREA as demonstrated through facility specific PREA compliance audit shall constitute an event of default on the part of the PROVIDER. The STATE shall provide written notice to PROVIDER of the default and shall specify a reasonable period of time in which the PROVIDER must cure the default. The STATE shall not specify a cure period of less than the corrective action period specified in the PREA standards, which is currently one hundred eighty (180) days.”*

PSD inmates that are medium-custody or above with more than 48 months to serve are assigned to a CoreCivic facility in Arizona. Approximately 1074 inmates are currently housed in Arizona under this contract. The facility underwent the onsite portion of their federal PREA Audit in March 2021. Their last final report was provided to them in December 2017. This auditor reviewed the final reports for 2014 and 2017.

PSD Contract No. PSD 16-ID/MB-32 states on page 25, *“The STATE shall have the right to inspect, at all reasonable times, all records of, or associated with, Inmates or any charges, billings, demands, and payments under this financial, educational, recreational, or transportation expense, timekeeping, or other operational records.”* An interview with the agency contract administrator indicated he visits the Arizona facility every three to four months to conduct audits of their policy and procedures, with the most recent visit occurring in March 2021.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the agency is in full compliance with the standard of contracting with other entities for the confinement of inmates, as it relates to PREA.

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 facility have a documented staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Generally accepted detention and correctional practices? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any judicial findings of inadequacy? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from Federal investigative agencies? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from internal or external oversight bodies? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated)? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The composition of the inmate population? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The number and placement of supervisory staff? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The institution programs occurring on a particular shift? Yes No NA
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any applicable State or local laws, regulations, or standards? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The prevalence of substantiated and unsubstantiated incidents of sexual abuse? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any other relevant factors? 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.

The auditor gathered, analyzed and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- 2020 Staffing Plan for MCCC
- Interview with the warden
- Interview with the PREA Coordinator
- Interview with the PREA Compliance Manager
- Interview with intermediate or higher-level facility staff
- Housing Unit logbooks
- Staff duty rosters
- Observation of facility operations while onsite

(a, c) PSD Policy ADM.08.08 states on pages 12-13, *“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 (115.13 a):*

- 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.”*

At least once per year the facility warden or designee, in collaboration with the agency PREA Coordinator, will review the staffing plan, the deployment of monitoring technology and the allocation of PSD resources to commit to the staffing plan to ensure compliance. Any adjustments are documented. The documentation is compiled by the facility warden, Chief of Security and PCM and then given to the agency PREA Coordinator, prior to the scheduling of a formal meeting. This auditor reviewed documentation from the most recent annual staffing plan meeting, held on July 20, 2020. As a supplement to the annual staffing plan meeting, the Chief of Security and facility warden review the existing staffing plan quarterly and assess the number of staffing vacancies and the amount of overtime accrued by the facility, to determine if the plan remains adequate. Interviews with the agency PREA Coordinator, facility warden and PCM verified their participation in this process.

MCCC has not had any judicial findings of inadequacy, or findings of inadequacy from Federal investigative agencies, internal or external oversight bodies.

(b) PSD Policy ADM.08.08 states on page 13, *“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 facility PCM provided 417 pages of PREA Mandated Reporting Forms from the audit period for review, documenting 134 times the staffing plan required deviation. Each deviation notes why a deviation

occurred and how it was addressed. The most common reason for deviation was when there were not enough female correctional officers to staff gender-specific posts. Each deviation is documented with the required *PSD 8371* form, a *Major Incident Checklist (PSD 0155)*, a copy of the facility roster and a memo to the Chief of Security.

While onsite, the audit team observed enough custody and support staff in all areas of the facility.

(d) PSD Policy ADM.08.08 states on page 14, *“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/Logbook and/or in the Supervisor’s watch summary.”*

PSD staff is prohibited from alerting other staff members of the above-unannounced walk-throughs by superiors, unless such an announcement is related to the legitimate operational functions of the facility.”

This auditor reviewed logbooks while onsite to confirm unannounced rounds were taking place and documented as required. Unannounced rounds occurred on day, swing, and night shifts. It was not always clear how the rounds were documented in unit logbooks. This auditor recommended the facility PCM provide clarification to supervisory staff, including a reminder to use a red pen as required by the facility. Interviews with intermediate or higher-level staff indicated they conduct unannounced rounds on all shifts to detect and deter any staff misconduct, including staff sexual abuse and sexual harassment.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is in full compliance with the standard of supervision and monitoring, as it relates to PREA.

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- Hawaii Revised Statutes 706-667
- MCCC population reports
- Interview with the PREA Compliance Manager
- Interviews with random staff and random inmates

(a-c) Hawaii Revised Statutes define a young adult defendant as a person convicted of a crime who, at the time of the offense, is less than twenty-two years of age and who has not been previously convicted of a felony as an adult or adjudicated as a juvenile for an offense that would have constituted a felony had the young adult defendant been an adult. Young adult defendants sentenced to a term of imprisonment exceeding 30 days may be committed by the court to the custody of PSD.

PSD Policy ADM.08.08 notes the difference between statute definition and the PREA standards definition. The policy states on page 14, "If PSD does receive a youthful offender as defined by PREA, described in paragraph (2) of this section, 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 staff 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.

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 staff supervision, when youthful offenders and adult offenders have sight, sound, and physical contact. (115.14 b) The facility staff 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.

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 are 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."

This auditor reviewed MCCC population reports and did not find any inmates under the age of 18 listed. No interviews of staff or inmates indicated a youthful inmate may have been housed at MCCC.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is in full compliance with the standard of youthful inmates, as it relates to PREA.

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, except in exigent circumstances? (N/A if the facility does not have female inmates.)
 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 if the facility does not have female inmates.) 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? (N/A if the facility does not have female inmates.) Yes No NA

115.15 (d)

- Does the facility have policies 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 have procedures 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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- Lesson Plan for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training
- Interviews with random staff and random inmates
- Observation of facility operations while onsite

(a) Frequent, unannounced searches of inmates, their living quarters and other areas of the facility are necessary to maintain the safety, security, and orderly operations of prisons. PSD Policy ADM.08.08 states on page 15, “PSD staff shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening), except in exigent circumstances, or when performed by medical practitioners.” No random or targeted inmates indicated they had been subjected to a cross-gender strip search or cross-gender visual body cavity search. In interviews, random staff confirmed they do not conduct cross-gender searches of this nature.

This auditor reviewed the MCCC lesson plan and training curriculum for *Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training*. Slide 38 defines exigent circumstances as any set of

temporary and unforeseen circumstances that require immediate action to combat a threat to the security or institutional order of a facility. The training provides an appropriate use of exigent circumstance and an inappropriate use – *“Example: dangerous contraband (weapons/drugs) where there is no time to call for back-up. Not an example: Being short-staffed with no female ACOs [Adult Correctional Officers] to perform a routine pat search is not an unforeseen circumstance. Once the ‘exigency’ is gone, cannot use ‘exigent circumstance’ to justify deviation from policy.”*

(b) PSD Policy ADM.08.08 states on Page 15, *“PSD staff shall not conduct cross-gender pat-down searches of female offenders, absent exigent circumstances...Facilities shall not restrict female offenders’ access to regularly available programming or other out-of-cell opportunities in order to comply with this provision.”* Staff who conduct any searches of this nature must document it utilizing the *PREA Mandated Reporting Form (PSD 8317)*.

This auditor reviewed the MCCC lesson plan and training curriculum for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training. Slide 65 states, *“PSD staff shall not conduct cross-gender pat-down searches of female offenders, absent exigent circumstances. PSD’s policy prohibits any cross-gender pat-down searches. Facilities shall not restrict female offenders’ access to regularly available programming or other out-of-cell opportunities in order to comply with this provision.”*

No random or targeted female inmates indicated they have been searched by a male officer or have had their access to programming or recreation restricted due to a lack of female staff. In interviews, random male staff confirmed they do not conduct searches of female inmates. MCCC has two gender-specific posts (MP/Module III and Dorm 4/5) and if there are not enough female staff on shift, female staff can be mandated to work overtime. If there are no female staff, two male officers will be assigned to the post.

(c) PSD Policy ADM.08.08 states on page 15, *“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 same requirements apply to cross-gender pat-down searches of female offenders. The facility PCM reported that no searches of this nature were conducted during the audit period.

This auditor reviewed the MCCC lesson plan and training curriculum for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training. Slide 66 states, *“PSD Facilities shall document all cross-gender strip searches and all cross-gender visual body cavity searches. PSD Facilities shall document all cross-gender pat-down searches of female offenders.”*

Interviews with staff and inmates did not indicate that cross-gender strip searches have occurred, nor did the audit team observe any cross-gender strip searches while onsite at MCCC.

(d) PSD Policy ADM.08.08 states on page 15, *“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 staff shall document any exigent circumstances by utilizing the PREA Mandated Reporting Form (PSD 8317) any exigent incident. This form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days.”*

During the physical plant review, the audit team looked for areas where cross-gender viewing may occur. The audit team identified one bathroom area in Dorms 6 & 7 where a shower curtain was not wide enough to prevent cross-gender viewing. The facility PCM had the shower curtain replaced with one of an appropriate size while the audit team was onsite. MCCC’s housing units are not uniform in nature. All units have either individual shower/toilet doors or doors to the common area that prevent cross-gender

viewing. Unit rules require that inmates close shower curtains and toilet doors when in use, and inmates are required to be clothed upon exit.

PSD Policy ADM.08.08 states on page 16, *“Staff 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 Logbook. 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.’”*

This auditor reviewed the MCCC lesson plan and training curriculum for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training. Slide 69 reinforces PSD policy by stating, *“Staff 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.”*

Permanent signs are affixed to housing unit entrances, reminding staff of the requirement to make announcements. Cross-gender announcements were consistently observed when the audit team entered housing units, Interviews with random staff and inmates indicated the announcements are made consistently and as required.

(e) PSD Policy ADM.08.08 states on page 16, *“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.”*

This auditor reviewed the MCCC lesson plan and training curriculum for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training. Slide 74 states, *“PDS 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 during conversations with the offender, by reviewing medical records, or, if necessary, by learning that information as part of a medical examination conducted by a medical practitioner.”*

Interviews with random staff indicated they are aware that searches to determine genital status are prohibited by standard and agency policy. MCCC did not have any transgender inmates in custody at the time of the onsite review. All staff interviewed were aware they are not permitted to conduct searched of this nature.

(f) PSD Policy ADM.08.08 states on page 16, *“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 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 utilizing the back of your hand instead of the front of your hand.”*

This auditor reviewed the MCCC lesson plan and training curriculum for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training. Slide 70 states, *“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 operational needs for the good government and orderly running of the facility.”* The training curriculum indicates “dual” searches, where the staff of one gender searches the top half of an inmate and the staff of another gender searches the bottom half of the inmate, are prohibited. The remainder of the training curriculum directs how to conduct a cross-gender pat-down search using commonly accepted correctional practices.

MCCC did not have any transgender inmates in custody at the time of the onsite review. Interviews with random staff indicated they were knowledgeable of proper pat-down search techniques.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is in full compliance with the standard of limits to cross-gender viewing and searches, as it relates to PREA.

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- *MCCC Facility Handbook*
- PSD Contract with Pacific Interpreters
- Lesson Plan for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training
- Interview with the PREA Coordinator
- Interview with the PREA Compliance Manager
- Interviews with random staff and random inmates
- Interviews with inmates with disabilities

(a-b) PSD Policy ADM.08.08 states on page 16, *“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 policy lists the interpreter services for the deaf, blind, or hard of hearing inmates, and those with limited-English proficiency. (This auditor has omitted the information from this report as it contains the contact information and account number for the agency.) The agency/facility contracts with Pacific Interpreters for translation services and has used them since at least 2013. Pacific Interpreters has more than 11,000 trained and qualified interpreters in more than 240 languages and can be utilized by voice, video, or in-person. All staff have access to the instructions for utilizing this service.

Written materials about PREA, to include posters in housing units, are available in English, Tagalog, Ilocano, and Samoan. Pacific Interpreters would be used to make any other language translations available.

This auditor reviewed the MCCC lesson plan and training curriculum for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training. Slide 75 states, *“Disabled offenders and offenders with limited English proficiency shall be provided with equal opportunity to participate in or benefit from all aspects of PSD’s efforts to prevent, detect and respond to sexual abuse and sexual harassment.”*

Interviews with random staff and random/targeted inmates indicated that inmates with disabilities are afforded additional accommodation to ensure their access to all aspects of the agency’s PREA program.

Interviews were conducted with the following targeted populations:

- Two inmates with vision/hearing impairments or physical disabilities
- One inmate with cognitive impairments

The facility did not have any inmates with limited-English proficiencies. All interviews with targeted populations indicated they were able to receive information in a format they were able to understand. No interviews indicated another inmate had been used to assist in their comprehension. Interviews with random staff indicated they would not use another inmate as an interpreter.

(c) PSD Policy ADM.08.08 states on page 16, *“The use of offender interpreters, or other types of offender assistance is prohibited, except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise an offenders’ safety. In the limited circumstances where offender interpreters, or other types of offender assistance are utilized, it 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.”*

This auditor reviewed the MCCC lesson plan and training curriculum for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training. Slide 76 states, *“The use of OFFENDER interpreters, or other types of OFFENDER assistance is prohibited, except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise [an] offender’s safety.”*

No interviews indicated another inmate had been used to assist in their comprehension. Interviews with random staff indicated they would not use another inmate as an interpreter.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is in full compliance with the standard of inmates with disabilities and inmates who are limited-English proficient, as it relates to PREA.

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 who may have contact with inmates? Yes No
- Does the agency consider any incidents of sexual harassment in determining whether 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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- Department of Public Safety *Applicant's Personal History Questionnaire*
- Employee file reviews
- Interview with the warden
- Interview with Human Resource staff
- Interview with agency PREA Coordinator

(a) PSD Policy ADM.08.08 states on page 17, *"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 offenders, if that person:*

- a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution owned, operated, or managed by the state as defined by 42 U.S.C. 1997, for example the Hawaii State Hospital or other state skilled nursing, intermediate, long-term care, custodial, or residential care institution.*
- b. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse.*
- c. Has been civilly or administratively adjudicated to have engaged in the activity described in the paragraphs above.*
- d. There are less stringent requirements for volunteers, who are utilized as peer mentors, but this requires a case-by-case assessment and review with the Department PREA Coordinator."*

(b) PSD Policy ADM.08.08 states on page 17, *"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."*

Interviews with the warden and Human Resource staff indicated the policy is implemented in practice. The warden indicated she would likely not enlist the services of a contractor who had allegations of sexually harassing inmates.

(c-d) PSD Policy ADM.08.08 states on page 17, *"Before new employees, contractors, or volunteers, who may have contact with offenders, are hired, PSD shall:*

- a. Perform a criminal background record 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."*

Potential applicants must list all prior institutional employers in the work experience section of their application. A signed release form and employer questionnaire is sent to all prior employers, to include institutional employers.

This auditor requested and reviewed 21 employee files for the required documentation. Eight of the employees were hired prior to 2012; five of the employees were new hires; and, three of the employees were promotional. File reviews indicated criminal record checks are completed for all new employees, contractors, and volunteers.

(e) PSD Policy ADM.08.08 states on page 17, *“PSD shall conduct criminal background record 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 current employees.

b. It is noted that PSD does conduct annual Lautenberg type of background checks on those employment positions that are required to carry a firearm.”

This auditor requested and reviewed 21 employee files for the required documentation. Eight of the employees were hired prior to 2012; five of the employees were new hires; and, three of the employees were promotional. File reviews indicated criminal record checks are completed for all current employees, contractors, and volunteers within the required timelines.

Interviews with Human Resource staff and the agency PREA Coordinator indicated these checks take place as required.

(f) PSD Policy ADM.08.08 states on page 18, *“PSD shall ask all applicants and employees, who may have direct contact with offenders, about previous misconduct(s) described in paragraph (1) of this section either on (a) a written application, (b) during an interview for hire, (c) a promotional interview, or (d) if applicable, during any interview or written self-evaluation conducted as part of reviews of current employees. This requirement is documented by utilizing the PREA Applicant Questionnaire (PSD 8318), during the application process for prospective employees, employee promotions, or employee transfers.*

All PSD staff has an affirmative duty to immediately disclose any such misconduct covered by sections .1 and .2 by immediately reporting the incident through their chain of command.”

Prospective agency/facility applicants are required to submit a completed *Department of Public Safety Applicant's Personal History Questionnaire*. Section 7 of this questionnaire states, *“This position may have or involves contact with inmates in a correctional facility (prison and jail) or lockup. As required by the Prison Rape Elimination Act of 2003 (PREA), all applicants who may have contact with an inmate in a correctional facility (prison and jail) or lockup as described in the law must answer the four questions below to determine their eligibility for this position.”* The four questions correspond with the requirements of (a).

PSD does not conduct self-evaluations as part of the employee review process.

(g) PSD Policy ADM.08.08 states on page 18, *“Any PSD staff, who materially omits reporting such misconduct or provides materially false information shall be subject to discipline based on the just and proper cause standard, up to and including discharge. See Department of Human Resources Policy 702.003.”* The HR policy referenced outlines the process for separating employment with PSD.

This auditor reviewed the MCCC lesson plan and training curriculum for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training. Slide 80 states, *“All PSD Staff have an affirmative duty to immediately disclose any such misconduct by immediately reporting through their chain of command. Any PSD staff who materially omits reporting such misconduct OR provides materially false information shall be subject to discipline based on the just and proper cause standard, up to and including discharge.”*

By signature on their Department of Public Safety *Applicant's Personal History Questionnaire*, prospective agency/facility applicants attest that *"the information and my responses to the questions provided in this Personal History Questionnaire are true and correct to the best of my knowledge. I agree, understand and acknowledge that any misstatements or omissions of material facts herein may cause disqualification from the employment process and forfeiture of all rights to any employment in the service of the State of Hawaii &/or Dept of Public Safety."*

An interview with Human Resource staff indicated disciplinary action, including termination, is taken when material omissions are discovered.

(h) PSD Policy ADM.08.08 states on page 12, *"Unless prohibited by law, the PSD shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer with whom the employee has applied to work."* This auditor reviewed examples of information provided to institutional employers regarding substantiated allegations of sexual abuse or sexual harassment involving former employees.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is in full compliance with the standard of hiring and promotion decisions, as it relates to PREA.

Standard 115.18: Upgrades to facilities and technologies

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

115.18 (a)

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

115.18 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- Interview with agency head/designee
- Interview with agency PREA Coordinator
- Interview with the warden
- Interview with the PREA Compliance Manager
- Observation of facility operations while onsite

(b) PSD Policy ADM.08.08 states on page 18, *“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.”*

Interviews with the agency head/designee, agency PREA Coordinator, warden, and facility PREA Compliance Manager confirmed the agency has not designed or acquired any new facilities, nor planned a substantial expansion or modification of MCCC. During the site review, the audit team did not observe any areas that appeared to be under construction for a substantial expansion or modification.

(b) PSD Policy ADM.08.08 states on page 18, *“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.”* Camera mapping was created by an architect who installed the cameras during the most recent technological upgrade. The facility was not permitted to change the placement of the cameras when they were installed. The facility PCM has redirected views or installed security mirrors to ensure all areas are adequately captured.

Interviews with the warden and facility PREA Compliance Manager confirmed that the prevention of sexual abuse and sexual harassment was a factor in determining camera placement. Because cameras cannot be easily moved once they are installed by the contractor, the facility PCM has used security mirrors in conjunction with camera views to see in isolated areas, such as the area behind where a camera is located.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is in full compliance with the standard of upgrades to facilities and technologies, as it relates to PREA.

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? (N/A if the agency *always* makes a victim advocate from a rape crisis center available to victims.) Yes No NA
- 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 agency 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 *always* makes a victim advocate from a rape crisis center available to victims.) Yes No NA

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- State of Hawaii Contract No. 16-HSA-01
- Interview with the PREA Compliance Manager
- Interview with SAFE/SANE
- Interview with Agency Internal Affairs Investigator
- Interviews with medical staff
- Interviews with random staff and random inmates

(a) PSD Policy ADM.08.08 states on pages 18-19, *"PSD is responsible for conducting all administrative sexual abuse investigations. All criminal sexual abuse investigations shall be referred to the county LE agency (Honolulu Police Department, Hawaii Police Department, Maui Police Department, and Kauai Police Department). If county LE declines to investigate the initial report related to a criminal case, then a referral shall be made to the State of Hawaii, Department of the Attorney General (AG) to investigate the criminal case... 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 prosecution."*

(b) The National Protocol for Sexual Assault Forensic Examinations 2nd edition information from April 2013 was used when developing the program for the department as reflected in the SATC contract scope of duties.

While the protocol is developmentally appropriate for youth, MCCC does not house youthful inmates. Interviews with a facility investigator indicated they are knowledgeable on obtaining usable physical evidence.

(c) PSD Policy ADM.08.08 states on page 19, *"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 the SATC...If a SAFE or SANE is not available, the examination may be performed by other qualified medical practitioners. The SATC and its contracted representative on the outer islands have indicated that victim advocates are available during an examination."*

All forensic medical exams are provided offsite by Sexual Assault Nurse Examiners, as verified through interview. The PAQ indicated there were no forensic medical exams provided during the audit period. Interviews with medical staff verified inmates are not financially responsible for forensic medical exams.

(d-e) PSD Policy ADM.08.08 states on page 19, *"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 state of Hawaii has contracted with Kapiolani Medical Center for Women and Children (KMCWC)-Sex Abuse Treatment Center (SATC) to provide statewide, comprehensive victim sexual assault treatment services. As outlined on pages two and three of the contract, *“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 specially 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 decides to take criminal action.”*

Interviews with a victim advocate and SANE confirmed the availability of victim advocates. Only one of the inmates interviewed indicated they had used the advocacy services available to them.

(f) PSD Policy ADM.08.08 states on page 20, *“PSD shall ensure that internal investigations comply with the above requirements and external investigative entities (County LE) have procedures in place to comply with the above requirement.”*

Interviews with the Agency Internal Affairs Investigator, a victim advocate and a SANE confirmed that law enforcement agencies comply with the requirements of this provision.

(g) Auditor is not required to audit this provision.

(h) This provision of the standard is not applicable to MCCC, as they make a victim advocate from a rape crisis center available to victims, per 115.21(d).

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is in full compliance with the standard of evidence protocols and forensic medical examinations, as it relates to PREA.

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 the policy 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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- PSD Webpage
- Interview with agency head/designee
- Interviews with investigative staff

(a-c) PSD Policy ADM.08.08 states on pages 19-20, *"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. All external referrals for a criminal investigation shall be processed through a county LE [law enforcement] 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 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 completed by IA or at the facility level pursuant to an order of the Director or his/her designee."*

The PSD PREA policy is available on the PSD website at ADM.08.08.pdf (hawaii.gov). It reiterates the agency's zero-tolerance policy and outlines the process for investigations and referrals. More general information about PREA is available to the public on the PSD website at Department of Public Safety | PREA (hawaii.gov).

Interviews with investigative staff indicated they are knowledgeable of the process for case referral. The interview of the agency head/designee indicated the agency is committed to creating a sexually safe environment for all inmates and has an established relationship with agency investigators to ensure allegations are investigated and referred properly.

(d) Auditor is not required to audit this provision.

(e) Auditor is not required to audit this provision.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is in full compliance with the standard of policies to ensure referrals of allegations for investigations, as it relates to PREA.

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- Lesson Plan for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training
- Staff training reports
- Interviews with random staff

(a) PSD Policy ADM.08.08 states on pages 20-21, "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."

This auditor reviewed the MCCC lesson plan and training curriculum for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training to ensure a comprehensive training program that provides detailed information on all ten required elements.

This auditor reviewed training documentation for 141 employees:

- 82 employees completed training as required
- 24 employees were away from the facility on Worker's Compensation
- 28 employees resigned or retired prior to completing training
- 1 employee was out on extended leave
- 1 employee was on military deployment
- 5 employees did not complete PREA training as required

Four of the five employees who did not complete PREA training as required during the audit review period also did not complete it in the year prior.

For corrective action, this auditor required the facility PREA Compliance Manager to ensure the five noted employees take the required training. Any employees on military deployment, worker's compensation or other long-term leave would be required to complete training upon their return to work. Documentation of training for the remaining employees was provided to this auditor for review and confirmation on October 19, 2021.

(b) PSD Policy ADM.08.08 states on page 22, *"PSD's staff training is tailored to address all genders of offenders in a correctional facility; therefore, additional training is not required when a staff member transfers to a different gender facility."*

This auditor reviewed the MCCC lesson plan and training curriculum for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training and verified the training is tailored for all genders.

(c) PSD Policy ADM.08.08 states on page 21, *"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 (TSO) and the PREA Coordinator of any individual who requires training."*

In the years that PREA refresher training is not provided, the agency/facility provides refresher information on current sexual abuse and sexual harassment policies.

(d) PSD Policy ADM.08.08 states on page 21, *"PSD training sign-in sheets are verification that the staff member received and understood the PREA training. The sign-in sheet shall include the following statement: 'By signing this attendance sheet you acknowledge receipt of PREA Training and that you understood the PREA Training materials.' The sign-in sheet documentation substantiates that the staff member has completed the required training and his/her completion shall be entered on the staff member's training record with TSO. A copy shall also be provided to the PSD PREA Coordinator via email, fax, or mail within three (3) days."*

Interviews with random staff indicated they received and understood training.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of employee training as it relates to PREA.

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- VolinCor (Volunteers in Corrections) *A Handbook for Corrections Program Services Staff*
- *Prison Rape Elimination Act of 2003 Volunteer & Contractor Training* curriculum
- Volunteer and Contractor training records
- Interview with warden
- Interviews with volunteers and contractors

(a-b) PSD Policy ADM.08.08 states on page 22, *“All volunteers and contractors, who have contact with offenders shall be trained on PREA, PSD’s policy, and their responsibilities regarding the prevention, detection, and how to respond to a report of offender sexual abuse and sexual harassment. The level and type of training provided to volunteers and contractors shall be tailored to the level of contact and services provided to offenders. All current volunteers and contractors have been notified of PSD’s zero-tolerance policy regarding offender sexual abuse and sexual harassment, as well as how to report such incidents.”*

This auditor reviewed *Prison Rape Elimination Act of 2003 Volunteer & Contractor Training* curriculum. Slide 21 states, *“PSD has a zero-tolerance policy concerning all forms of sexual abuse, sexual harassment, and retaliation for reporting incidents. This means that all sexual abuse, sexual harassment and retaliation for reporting such incidents is strictly prohibited and all allegations will be investigated.”*

This auditor reviewed VolinCor (Volunteers in Corrections) *A Handbook for Corrections Program Services Staff*. The handbook relays the agency/facility expectations of contractors and volunteers when working with inmates. Page 30 provides comprehensive information about PREA and states, *“The Department has a ZERO tolerance policy regarding the harassment, abuse, threats, etc., of inmates either by staff or other inmates. It is mandatory that you report any PREA incident. Failure to report is a violation of Federal and State Law, as well as Department rules. Failure to report may leave you open to administrative, civil, and/or criminal proceedings taken against you. It may also result in suspension or termination.”*

Interviews with three contractors and volunteers confirmed they had received and understood training related to PREA and were knowledgeable of the agency’s zero-tolerance policy and their obligation to report.

(c) PSD Policy ADM.08.08 states on page 22, *“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.”*

This auditor reviewed documentation for eight volunteers to confirm all had received an appropriate level of training. In an interview with the warden, she indicated he would immediately discontinue the services of any volunteer that she believed violated security procedures, to include engaging in sexual abuse and/or sexual harassment. Interviews with volunteers and contractors indicated they are aware of the agency’s zero-tolerance policy and their reporting responsibilities.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of volunteer and contractor training as it relates to PREA.

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 the comprehensive education referenced in 115.33(b)? 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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- *MCCC Facility Handbook*
- Inmate postings within the facility
- Inmate file reviews
- Interview with intake staff
- Interviews with inmates having limited English proficiency or disabilities
- Interviews with random inmates

(a-b) PSD Policy ADM.08.08 states on page 23, "*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.*

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 *MCCC Facility Handbook* has PREA-related information on page 14. This information includes the agency's zero-tolerance policy, available reporting methods (in person, in writing, anonymously, by phone) and the numbers to contact the State Ombudsman and Sex Abuse Treatment Center.

This auditor reviewed the agency/facility Inmate PREA Training. MCCC uses a video produced by Just Detention International to provide comprehensive information to inmates about their right to be free from sexual abuse and sexual harassment, their right to be free from retaliation for reporting such incidents, and agency policies and procedures for responding to such incidents. Random and targeted inmates recalled receiving comprehensive information once they were prompted about watching a video.

This auditor reviewed the files of each inmate that was interviewed to determine if they received comprehensive education within 30 days of their arrival at MCCC. Out of 19 files reviewed, three inmates did not have documentation to support receiving education and ten inmates received the education more than 30 days after their arrival.

For corrective action, the facility PCM created a report showing when an inmate was admitted and the date they received the comprehensive education. The facility PCM provided this auditor with a copy of the report to review during the corrective action period in June, July, and August.

An interview with a risk screener indicated the PREA information is offered to each inmate, but they do not always opt to take the written material. Interviews with inmates indicated they were aware the zero-tolerance policy and how to make a report.

(c) PSD Policy ADM.08.08 states on page 23, "Effective August 2013, all current offenders should have received information on PREA. PSD requires that offenders who are transferred from one facility to another be reeducated only to the extent that the policies and procedures of the new facility differ from those of the previous facility."

MCCC did not have any inmates at the facility who were admitted prior to August 2012.

(d) PSD Policy ADM.08.08 states on page 23, "It is PSD's policy to make appropriate provisions, as necessary, for offenders with limited English proficiency through the CRCO's identification of authorized interpreters. Accommodations for offenders with disabilities (including offenders who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) and offenders with low literacy levels shall be made at 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."

PREA posters are available throughout the facility in Samoan, Tagalog, Ilocano, Chuukese, and Marshallese, as they are the most used languages other than English.

MCCC uses a video produced by Just Detention International to provide comprehensive information to inmates about their right to be free from sexual abuse and sexual harassment, their right to be free from retaliation for reporting such incidents, and agency policies and procedures for responding to such

incidents. The video has audio, for those that are visually impaired, and subtitles are available for those who are deaf.

There were not any inmates at MCCC during the onsite that had limited-English proficiencies. The audit team interviewed two inmates with physical disabilities and one with cognitive impairments. All confirmed they received PREA-related information in a format they were able to understand.

(e) PSD Policy ADM.08.08 states on page 23, *“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.”*

During the facility intake process, inmates are provided a form to sign indicating they have received comprehensive education, but before they watch the video. One randomly selected inmate indicated he refused to sign it when presented to him because he did not see the video. Moving forward, the facility PCM will have documentation signed at the time the video is shown and maintain verification of inmate attendance in their computer database, Offender Track.

(f) PSD Policy ADM.08.08 states on page 23, *“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.”*

The *MCCC Facility Handbook* is provided to each inmate upon arrival to MCCC. Page 14 contains information about the Prison Rape Elimination Act, reporting options, the zero-tolerance policy, and the right to be free from retaliation for reporting sexual abuse and sexual harassment. Each inmate is offered an additional brochure during the intake process. Key information is also continuously and readily available on posters throughout the facility.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of inmate education as it relates to PREA.

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 receive 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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- PSD Training Curriculum on Sexual Abuse Investigations
- Investigative staff training records
- Interviews with investigative staff

(a-b) PSD Policy ADM.08.08 states on page 23, "IA, or facilities, if authorized by the Director, shall conduct the internal administrative investigation for any allegations of sexual abuse. In addition to the general training provided to all employees under §18.0 of this policy, PSD investigators shall receive training on conducting sexual abuse investigations in confinement settings. 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."

Facility and agency investigators conduct administrative investigations. Investigations involving potentially criminal behavior are referred to the appropriate law enforcement agency, which can be Maui Police Department or the county Sheriff.

This auditor reviewed the curriculum utilized for investigators. The training includes instruction on interviewing sexual abuse victims, the proper use of Miranda and Garrity warnings, evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. Interviews with agency and facility investigative staff indicated they were knowledgeable in each aspect of sexual abuse and sexual harassment investigations. In addition to this training, agency and facility investigators must complete the National Institute of Corrections' *PREA: Investigating Sexual Abuse in a Confinement Setting* course. Investigators had the option to take specialized training in *Non-Confrontational Investigative Interviewing* through Wicklander-Zulawski & Associates.

Interviews with facility and agency investigators confirmed they received the training and are knowledgeable of the required elements.

(c) PSD Policy ADM.08.08 states on pages 23 and 24, *“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 TSO. A copy shall also be provided to the Department PREA Coordinator via email, fax, or mail within three (3) days.”*

MCCC has two facility investigators and PSD has two agency investigators. This auditor reviewed training certificates for all four staff to ensure the required training was received.

(d) This provision is not required to be audited.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of specialized training for investigations as it relates to PREA.

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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) Yes No NA
- 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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) Yes No NA
- 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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) Yes No NA
- 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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) Yes No NA

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 or the agency does not employ medical staff.) 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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) Yes No NA

115.35 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.31? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners employed by the agency.) Yes No NA

- Do medical and mental health care practitioners contracted by or volunteering for the agency also receive training mandated for contractors and volunteers by §115.32? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners contracted by or volunteering for the agency.) Yes No NA

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- PREA Specialized Training for Medical and Mental Health Staff
- Staff training records
- Interviews with medical and mental health staff

(a) PSD Policy ADM.08.08 states on page 24, *"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."*

This auditor reviewed the curriculum to ensure a comprehensive training program that provides detailed information on how to detect and assess signs of sexual abuse and sexual harassment; how to preserve physical evidence of sexual abuse; how to respond effectively and professionally to victims of sexual abuse and sexual harassment; and how and to whom to report allegations or suspicions of sexual abuse and sexual harassment. Interviews with medical and mental health staff indicated they were knowledgeable of the required elements.

(b) PSD Policy ADM.08.08 states on page 24, *"PSD medical and mental health staff are not responsible for conducting forensic examinations."* Interviews with medical staff confirmed they do not conduct forensic medical exams. As the agency does not employ medical staff to conduct forensic medical examinations, this subsection of the standard does not apply.

(c) PSD Policy ADM.08.08 states on page 24, *"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 TSO. A copy shall also be provided to the Department PREA Coordinator via email, fax, or mail within three (3) days."

(d) In addition to the PREA training provided to all employees, medical and mental health staff receive additional training specific to their responsibilities with PREA. This auditor reviewed the training curriculum to ensure it provided detailed information on how to detect and assess signs of sexual abuse and sexual harassment; how to preserve physical evidence of sexual abuse; how to respond effectively and professionally to victims of sexual abuse and sexual harassment; and how and to whom to report allegations or suspicions of sexual abuse and sexual harassment. Interviews of medical and mental health staff indicated they have received the training and are knowledgeable of the required elements.

This auditor reviewed the training certificates for all medical and mental health staff at MCCC to confirm they completed the required specialized training. Interviews with medical and mental health staff indicated they take the standard PREA training as well as the specialized training.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of specialized training, medical and mental health care as it relates to PREA.

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, as 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, as 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, as 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 an incident of sexual abuse? Yes No

- Does the facility reassess an inmate’s risk level when warranted due to 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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- PSD PREA Screening Tool
- Interview with PREA coordinator
- Interview with PREA compliance manager
- Interviews with staff responsible for conducting risk screening
- Interviews with randomly selected inmates
- Inmate file reviews

(a-c) PSD Policy ADM.08.08 states on pages 25 and 26, “*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 intake screening by ISC shall occur within seventy-two (72) hours of intake/arrival. The facility staff shall review the offender’s risk of sexual abuse victimization (vulnerability factors) or sexual abusiveness (predatory factors) toward other offenders, by reviewing the ‘Intake’ PREA Screening Tool.*”

For new facility admits, this screening is conducted at the courthouse in conjunction with other screening and assessments prior to their transport to MCCC. For transfers, this screening is conducted in the Holding area of MCCC. During screening, the inmate sits in the hallway outside of the risk screener's office, separated by an iron gate. This does not provide much privacy, as holding cells are across the hall from the office. This auditor recommends the inmate sit in the office with the screener, or another location is utilized for the screening process.

A review of 19 inmate files indicated all 19 inmates were screened within 72-hours of transport/arrival to MCCC.

This auditor reviewed the screening tool used by the facility. It gathers objective data and has an option for override with approval by the agency PREA Coordinator.

(d) PSD Policy ADM.08.08 states on page 26, *"ISC and facility staff shall utilize the PREA Screening Tool (PSD 8314) to conduct PREA risk assessments. 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 offenses against an adult or child (see predatory factors).*
- g. Whether the offender is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming.*
- h. Whether the offender has previously experienced sexual victimization, in a correctional and/or non-correctional setting, within the last ten (10) years.*
- i. The offender's own perception of vulnerability (oral feedback); and,*
- j. Whether the offender is detained solely for civil immigration purposes, which normally does not occur at PSD facilities.*

While the screening tool considers whether an inmate has experienced sexual victimization, it limits the information to the last ten years. The agency PREA Coordinator indicated that most screeners do not limit information as reported by the inmate to that timeframe; however, this auditor believes the tool should reflect the standards, and not impose a time limit. The agency PREA Coordinator indicated the system is being updated and the time limit will not appear after the updates. In the interim, the Agency PREA Coordinator provided written direction to all risk screeners to disregard the current tool's limit of ten years. With the system update in November 2021, all sexual victimization will be noted, but only victimization within the last ten years will be used for scoring purposes.

(e) PSD Policy ADM.08.08 states on page 27, *"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."*

(f) PSD ADM.08.08 states on page 26, *"The facility shall reassess an offender's risk of 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."*

This auditor reviewed 19 inmate files. Five of the 19 had late 30-day screenings or no documentation showing they received a 30-day screening. However, the 30-day screenings were all conducted without an in-person

assessment. Interviews with targeted and random inmates indicated they did not recall being asked the risk screening questions more than one time.

This auditor reviewed the final PREA Audit report prior to the current audit. The auditor noted only one 30-day assessment had been completed of 16 files reviewed. She also noted, *“The reports provided to the auditor show when a 30-day reassessment is required and includes a check box showing it was completed. However, the report form is not clear regarding which day the reassessment was actually completed, making it difficult to determine if it was within the 30-day requirement. Another contributing factor to why reassessments may be missed is that staff have two separate methods for documenting a completed reassessment. One involves a quick report that brings up a list of offenders and allows the staff member to check a box stating the reassessment was completed. The other method is to open the actual assessment form and mark a box on the form to show reassessment was completed. Utilizing one method may make it easier to determine which reassessments have been completed or missed.”* As part of corrective action, the facility was directed to develop a method for staff to *“actively seek or receive new information”* and develop a plan to ensure 30-day screenings are completed in a manner that clearly documents their completion. The auditor noted that corrective action was successfully completed, and the facility was compliant with the standard.

A FAQ dated August 02, 2019 states that a facility will reassess an inmate’s risk of victimization or abusiveness no later than 30 days of intake. While the facility may generally rely on information previously gathered, it must also capture new or additional information from a variety of sources, to include the inmate. A review of prior information and new or additional information without consulting the inmate is not compliant with the standard.

As part of corrective action, the facility PCM provided this auditor with a list of all MCCC intakes for June, July, and August. After the auditor randomly selected names from that list, the facility PCM provided documentation of the 30-day risk screening for each selection. To ensure the inmate is consulted during the 30-day risk screening, the agency PREA Coordinator has updated the agency policy and screening instructions.

(g) PSD ADM.08.08 states on page 27, *“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).”*

Interviews with the facility PCM confirmed an additional risk screening is conducted after referral, incident of sexual abuse or receipt of additional information which may impact the inmate’s risk level.

(h) PSD ADM.08.08 states on page 27, *“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.”* Interviews with the agency PREA Coordinator, the facility PCM and staff who conduct risk screenings confirmed they do not discipline inmates for refusing to answer risk screening questions, and will instead complete a risk screening based on information known to the agency/facility. No inmate indicated in an interview they had been disciplined for refusing to disclose information.

(i) PSD ADM.08.08 states on page 27, *“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.”*

Interviews with screening staff indicated they are aware that information obtained during the screening process is to remain confidential unless there is a legitimate need to know.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of screening for risk of sexual victimization and abusiveness as it relates to PREA.

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? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.) Yes No NA
- 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? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.) Yes No NA
- 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? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.)
 Yes No NA

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- Interview with PREA coordinator
- Interview with PREA compliance manager
- Interview with staff responsible for risk screening
- Interview with inmates who identify as transgender, intersex, gay, bisexual
- Inmate file reviews
- Observation of facility operations while onsite

(a) PSD Policy ADM.08.08 states on page 27, *"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."*

Information from the screening form is considered in the final determination of the inmate's housing and program assignments. Known or potential victims are not housed with known or potential aggressors. Known and potential victims may participate in programming and work assignments with known and potential aggressors if there is adequate staff supervision.

(b) PSD Policy ADM.08.08 states on page 27, *"PSD shall use the risk screening tool information to make an individualized assessment about how to ensure the safety of each individual offender."*

Overrides can be requested to change an inmate's housing consideration from a lower or a higher level. Overrides are encouraged when an inmate's score does not seem to be an accurate reflection of their actual risk of sexual victimization or abusiveness. When an override is requested, detailed justification shall be provided, and it will then be submitted to the agency PREA Coordinator for consideration.

(c) PSD Policy ADM.08.08 states on pages 27 and 28, *"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), then facility, housing, and programming assignments shall still be made as indicated in .2, but the PREA Coordinator shall be included in the case-by-case assessment."

When initially committing an inmate to PSD, the facility assignment is based off the inmate's legally recognized gender. Once received at a facility, the housing assignment is determined by medical and mental health practitioners with input from program and security staff initially during 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 makes a case-by-case assessment of whether the placement will ensure the inmate's health and safety, and whether the placement could present a management or security concern. PSD recognizes transgender, intersex and Gender X status'.

(d-e) PSD Policy ADM.08.08states on page 28, "Biannually designated facility staff identified by the Warden shall reassess the placement and programming assignment of each transgender or 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. A transgender or intersex offender's own view with respect to his or her own safety shall be given serious consideration."

At the time of the onsite review, there were not any inmates who identified as transgender.

(f) PSD Policy ADM.08.08states on page 28, "Transgender and intersex offenders shall be given the option to shower separately from other offenders in dorm shower situations, if so requested. This provision is applicable only when individual showers are not available at the offender's assigned housing unit."

MCCC has housing units with communal showers (a group of single showers put together in one room or area) and individual showers. If a transgender inmate is assigned to a unit with a communal shower, they are provided with a time to shower without other inmates' present. At the time of the onsite review, there were not any inmates who identified as transgender. Specialized and random staff confirmed this process in interviews.

(g) PSD Policy ADM.08.08 states on page 28, "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 judgment for the purpose of protecting such offenders."

According to the agency PREA Coordinator, MCCC is not subject to a consent decree, legal settlement, or legal judgment for protecting LGBTI inmates, and does not place those inmates in dedicated facilities, units, or wings solely based on such identification. No LGB inmates indicated in their interviews that they had been housed in such a manner. At the time of the onsite review, there were not any inmates who identified as transgender.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of use of screening information as it relates to PREA.

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 any access to programs, privileges, education, or work opportunities, does the facility document the opportunities that have been limited? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.) Yes No NA
- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the duration of the limitation? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.) Yes No NA
- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the reasons for such limitations? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.) Yes No NA

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- Inmate housing records
- Interview with warden
- Interview with staff who supervise segregated housing
- Interviews with random inmates

(a) PSD Policy ADM.08.08 states on page 28, "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."

(b) PSD Policy ADM.08.08 states on pages 28 and 29, “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.”

(c) PSD Policy ADM.08.08 states on page 29, “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.”

(d) PSD Policy ADM.08.08 states on page 29, “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.”

Interviews with the warden, facility PCM, and staff who supervise segregated housing confirmed MCCC has not used involuntary segregation as a means of separation or protection for inmates at high risk for sexual victimization.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of screening for risk of protective custody as it relates to PREA.

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? (N/A if the facility *never* houses inmates detained solely for civil immigration purposes) Yes No NA

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- Lesson Plan for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training
- PSD inmate postings/paintings within the facility
- *MCCC Facility Handbook*
- Interview with PREA Compliance Manager
- Interviews with random staff
- Interviews with random contractors and volunteers
- Interviews with random inmates

(a) PSD Policy ADM.08.08 states on page 29, *"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. Offenders may report non-consensual sexual acts, abusive sexual contacts, staff sexual misconduct, or staff sexual harassment to any PSD employee, contract employee or volunteer by using available methods of communication, including but not limited to verbal or written reports."*

Internal and external reporting options are readily available to inmates on the permanent PREA signs posted throughout the facility. All inmates interviewed indicated they were aware of the available reporting mechanisms.

(b) PSD Policy ADM.08.08 states on page 30, *"PSD provides notification to offenders on how to report abuse or harassment to a public entity, private 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."*

Offenders, staff, and others may report incidents of sexual abuse, sexual harassment, and retaliation for reporting by:

- a. Contacting the Ombudsman at 808-587-0770 or at 465 South King Street 4th Floor, Honolulu, HI 96813; a Legislative or Political Representative (at their office address), or the Department of the Attorney General at 808-586-1500 or at 425 Queen Street, Honolulu, HI 96813.*

- b. Contacting the Sex Abuse Treatment Center at 808-524-7273 or at 55 Merchant Street, 22nd Floor, Honolulu, HI 96813.*
- c. Contacting the Department PREA Coordinator at 808-587-1329 or at 919 Ala Moana Boulevard, Suite 400, Honolulu, HI 96814.*
- d. Contacting the Director or the relevant Deputy Director at 808-587-1288 or at 919 Ala Moana Boulevard, Suite 400, Honolulu, HI 96814; Internal Affairs at 919 Ala Moana Boulevard, Suite 400, Honolulu, HI 96814; or the Facility Warden or Investigator at the relevant facility.*
- e. Notifying a family member, who can initiate a telephone call or a letter to the Key Staff identified above; or*
- f. Filing an Emergency Offender Grievance Complaint.*
- g. Contacting the relevant County LE agency.*

If an offender is detained solely for civil immigration purposes, the offender shall be provided 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.”

PSD utilizes the State Ombudsman as an external reporting option. Internal and external reporting options are readily available to inmates on the permanent PREA signs posted throughout the facility, as well as in the *MCCC Facility Handbook*. Interviews with random inmates indicated they are aware of available reporting mechanisms.

MCCC does not normally house inmates detained solely for civil immigration purposes and did not have any at the facility during the onsite review.

(c) PSD Policy ADM.08.08 states on page 30, *“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.”*

Staff are trained on the expectation to immediately report during PREA-related trainings, as verified by curriculum review and through interviews with random staff. Slide 86 of the Lesson Plan for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training states, *“PSD staff are required to complete PSD PREA Response Incident Checklist (PSD 8313) for all allegations of sexual abuse and sexual harassment.”*

(d) PSD Policy ADM.08.08 states on page 30, *“A staff member may privately report incidents of offender sexual abuse, offender sexual harassment, or retaliation as indicated in paragraph (4) [115.51(b)] of this section.*

MCCC staff, volunteers and contractors can report sexual abuse and sexual harassment privately to any supervisor. Interviews with staff and contractors did not indicate that any person had concerns with regards to private reporting mechanisms and all stated that they felt comfortable reporting.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of screening for inmate reporting as it relates to PREA.

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

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- PSD Policy COR.12.03
- Interview with the agency PREA Coordinator
- Interview with security staff member who processes grievances

(a) PSD Policy ADM.08.08 states on page 31, *"PSD's policy COR.12.03: Inmate Grievance Program outlines the administrative procedures available to offenders for reporting incidents of sexual abuse, sexual harassment, or retaliation."* The agency is not exempt from this standard, as they do have procedures to address inmate grievances pertaining to sexual abuse.

(b) PSD Policy ADM.08.08 states on page 31, *"This section is an addendum to COR.12.03: Inmate Grievance Program as it relates 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.*

- PSD shall not restrict the processing of an offender grievance regarding an allegation of sexual abuse.*
- 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.*
- PSD shall not require an offender to utilize the informal grievance process for grievances alleging incidents of sexual abuse.*
- The statutory or legal provisions germane to the statute of limitations are applicable to any civil action in a court proceeding."*

(c) PSD Policy ADM.08.08 states on page 31, *"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."*

The audit team noted locked grievance boxes throughout the facility. The security staff member responsible for processing grievances indicated he consults with the facility PCM for any grievances related to sexual abuse or sexual harassment. The facility PCM reported there were no grievances related to sexual abuse or sexual harassment filed during the audit period.

(d) PSD Policy ADM.08.08 states on page 31, *“PSD’s grievance policy and timelines may differ from the PREA requirement that a decision on the merits of any 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) days, if the normal time period for response 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.”

(e) PSD Policy ADM.08.08 states on page 32, *“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 in 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.”

(f) PSD Policy ADM.08.08 states on page 32, *“PSD’s current Grievance policy establishes procedures for filing an emergency grievance alleging that an offender is subject to a substantial risk of imminent sexual abuse. This section is intended to supplement the Grievance policy by requiring that:*

a. An initial response is provided within forty-eight (48) hours.

b. After receiving an emergency grievance alleging an offender is subject to a substantial risk of imminent sexual abuse, the PSD staff member shall immediately forward the grievance or any portion thereof that alleges the substantial risk of imminent sexual abuse to a level of review where immediate corrective action may be initiated.

c. PSD shall issue a final agency decision within five (5) calendar days. The decision shall include a determination as to whether the offender is at substantial risk of imminent sexual abuse and it shall describe the action taken in response to the emergency grievance.”

(g) PSD Policy ADM.08.08 states on page 32, *“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.”*

An interview with the security staff member assigned to process grievances confirmed that no inmate had been disciplined for filing a sexual abuse or sexual harassment grievance.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of screening for exhaustion of administrative remedies as it relates to PREA.

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? (N/A if the facility *never* has persons detained solely for civil immigration purposes.) Yes No NA
- 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.

The auditor gathered, analyzed and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- State of Hawaii Contract No. 16-HSA-01
- *MCCC Facility Handbook*
- Intake Brochure – *An Informational Guide for Offenders*
- Interview with confidential community-based advocate
- Interview with PREA Compliance Manager
- Interviews with random inmates

(a) PSD Policy ADM.08.08 states on pages 32 and 33, *“PSD shall provide offenders with access to outside victim advocates for emotional support services related to sexual abuse by doing the following:*

- Providing offenders 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.*
- Providing offenders with mailing addresses and telephone numbers (including tollfree hotline numbers where available) for immigrant services agencies for persons detained solely for civil immigration purposes.*
- 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 permanent inmate PREA postings throughout the facility list the phone numbers for the Maui Sex Abuse Treatment Center and the Ombudsman, and indicates they are confidential in nature. Most inmates interviewed were unaware of advocacy services, despite the availability of information. Only one inmate interviewed indicated they had personally used advocacy services.

(b) PSD Policy ADM.08.08 states on page 33, *“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 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.”*

PSD has developed a posting specifically for use in medical or mental health offices. It indicates medical and mental health staff are required to report incidents of sexual abuse and sexual harassment, and limits to confidentiality.

(c) PSD Policy ADM.08.08 states on page 33, *“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 awarded to SATC to document the relationship and obligations for SATC and PSD.”*

The state of Hawaii has contracted with Kapiolani Medical Center for Women and Children (KMCWC)-Sex Abuse Treatment Center (SATC) to provide statewide, comprehensive victim sexual assault treatment services. The supplemental contract for SATC expires on June 30, 2021 but can be extended three times.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of inmate access to outside confidential support services as it relates to PREA.

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD inmate postings/paintings within the facility
- *MCCC Facility Handbook*
- PSD website

(a) PSD Policy ADM.08.08 states on page 33, "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 offender sexual abuse or sexual harassment on behalf of offenders by posting on PSD's website the Departmental PREA Policy, PREA Handout, PREA poster etc."

The PSD website lists the contact information for the agency PREA Coordinator, PSD Internal Affairs, the Office of the Ombudsman, the PSD Director, and the Sex Abuse Treatment Center. This information is available to the public at [How-to-report-PREA-Incident-2-3-15.jpg \(1800x1200\) \(hawaii.gov\)](#).

Page 14 of the *MCCC Facility Handbook* states, "PSD provides several ways to report sexual abuse whether you are the victim, a witness, staff member, or a concerned individual...". Inmates are permitted to make third-party reports on behalf of other inmates at MCCC.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined the facility is in full compliance with this standard as it relates to PREA.

OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

Standard 115.61: Staff and agency reporting duties

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

115.61 (a)

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

115.61 (b)

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

115.61 (c)

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

115.61 (d)

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

115.61 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- HRS §346 Part X, Vulnerable Adult Protective Services
- PSD Policy ADM .08.08
- Lesson Plan for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training
- Interview with warden
- Interview with PREA coordinator
- Interviews with random staff
- Interviews with medical and mental health staff

(a) PSD Policy ADM.08.08 states on page 33, *“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.”*

This auditor reviewed the MCCC lesson plan and training curriculum for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training. Slide 145 states, *“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.”*

Interviews with random staff indicated they are aware of their responsibility to immediately report, as required by agency policy, staff training, and the standard.

(b) PSD Policy ADM.08.08 states on page 34, *“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.”*

MCCC staff training directs on slide 85, *“All information related to a victim of sexual assault is CONFIDENTIAL and should only be released to those who need this information to perform their duties. Staff who receive any information concerning a sexual assault, shall: IMMEDIATELY (NOW) report the*

information to their superior. The Superior will then comply with the list and the Priority Reporting Directive. PREA Check All staff involved must complete a detailed incident report prior to the end of their shift.”

Interviews with random staff indicated they are aware of their responsibility to keep information related to sexual abuse confidential, as required by agency policy, staff training and the standard.

(c) PSD Policy ADM.08.08 states on page 34, *“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.”*

PSD medical and mental health staff are required to report information regarding sexual abuse and sexual harassment. Interviews with those staff indicated they are aware of their responsibility. PSD inmates sign an informed consent form prior to receiving services that states medical and mental health staff will report if inmates disclose that they have been sexually assaulted or harassed by other inmates or staff.

(d) PSD Policy ADM.08.08 states on page 34, *“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.”

This auditor reviewed the MCCC lesson plan and training curriculum for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training. Slide 51 states, *“HRS §346 Part X explicitly names correctional staff as mandated reporters of abuse and neglect. Who are Mandated Reporters? Employees or officers of any law enforcement agency including, the courts, police departments, correctional institutions, and parole or probation offices. 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.”*

Interviews with the agency PREA Coordinator, warden, facility PCM, and medical/mental health staff indicated MCCC had not housed any inmates under the age of 18 or otherwise qualified as a vulnerable adult.

(e) PSD Policy ADM.08.08 states on page 34, *“PSD [staff] 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.”*

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of staff and agency reporting duties as it relates to PREA.

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- Interviews with random staff

(a) PSD Policy ADM.08.08 sets on page 34, *"When a Facility or PSD staff learns that an offender is subject to a substantial risk of imminent sexual abuse, the party shall take immediate action to protect the offender. Immediate action means to assess appropriate protective measures without unreasonable delay. The procedures are dictated by this policy and other relevant departmental policies."*

Interviews with all staff interviewed indicated they are aware of their responsibility to take immediate action if they learn an inmate is subject to substantial risk of imminent sexual abuse.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of agency protection duties as it relates to PREA.

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- Examples of prior confinement facility notifications from 2019 and 2020
- Interview with warden
- Interview with facility PCM
- Interviews with investigative staff

(a-d) PSD Policy ADM.08.08 states on page 35, "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 alleged PSD Facility Head or Warden of the PREA sexual abuse allegation. The Facility Head or Warden at the receiving facility shall include the department PREA Coordinator in the formal notification to the PSD facility, via 'Carbon Copy' for email notifications, or by emailing the fax transmittal to the head of the facility for fax notifications. The Facility Head or Warden shall provide such notifications as soon as possible, but no later than seventy-two (72) hours after receiving the allegation. The Facility Head or Warden shall document that he/she has provided such notifications within seventy-two (72) hours of receiving the allegation. The Facility Head or Warden shall require and advise the non-PSD or PSD facility that the allegation must be investigated as required by the PREA Standards."

An interview with the warden, facility PCM and investigative staff confirmed notifications are taking place as required. The facility had not received any allegations or referred any allegations during the audit period.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of reporting to other confinement facilities as it relates to PREA.

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- PSD *PREA Response Incident Checklist PSD 8313*
- Lesson Plan for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training
- Interviews with random staff

(a-b) PSD Policy ADM.08.08 states on pages 35 and 36, *“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.*

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 physical evidence, and then immediately notify security staff.”

PSD PREA Response Incident Checklist PSD 8313 includes space on page 1 to delineate first responder actions that were taken.

This auditor reviewed the MCCC lesson plan and training curriculum for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training. Slide 88 directs, *“Upon learning of an allegation that an offender was sexually abused, the first staff member to respond 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).”*

The facility reported there were no allegations made to date of the onsite review for 2021. There was one allegation of inmate/inmate sexual abuse, three allegations of inmate/inmate sexual harassment and one allegation of staff/inmate sexual harassment reported in 2020.

Interviews with random staff indicated they understood the distinction between first responder duties with a victim and with an alleged perpetrator.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the agency is fully compliant with this standard of staff first responder duties as it relates to PREA.

Standard 115.65: Coordinated response

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

115.65 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- PSD *PREA Response Incident Checklist PSD 8313*
- MCCC Coordinated Facility Response Plan

(a) PSD Policy ADM.08.08 states on page 36, *"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). Following a PREA incident, a copy of the PREA Incident Checklist (PSD 8313) shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days."*

PSD *PREA Response Incident Checklist PSD 8313* ensures no steps are missed when responding to an allegation.

MCCC's Coordinated Facility Response Plan outlines the actions taken by facility staff in response to an incident of sexual/physical abuse, harassment, and misconduct allegations. The response includes when the initial disclosure is within 72 hours of a sexual assault incident, investigative actions, the forensic

examination, after action and follow-up care, court referral/presentation and the after-action review. The policy was most recently revised and signed by the warden on July 20, 2020.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of coordinated response as it relates to PREA.

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- PSD Policy ADM.08.08
- United Public Workers Unit 10 Agreement
- Interview with agency head/designee
- Interview with warden

(a) PSD Policy ADM.08.08 states on page 37, “PSD or any other governmental entity responsible for collective bargaining on PSD’s behalf shall not enter into or renew any collective bargaining agreement (CBA) or other similar agreement that limits PSD’s ability to:

- a. Remove alleged staff sexual abusers from contact with any offender pending the outcome of an investigation; or
- b. In a determination of whether and to what extent discipline is warranted.

Nothing in the PREA standards shall restrict the entering into or renewal of a CBA or similar agreement related to:

- a. The conduct of the disciplinary process as long as said CBA or similar agreement is not inconsistent with PREA standard §115.72 (evidentiary standard) and §115.76 (disciplinary action); or
- b. Whether a non-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member’s personnel file following a determination that the allegation of sexual abuse is not substantiated.”

This auditor reviewed the United Public Workers Unit 10 Agreement, effective July 1, 2017 to June 30, 2021. There are no provisions of the agreement that would limit the agency’s ability remove an alleged staff sexual misconduct abuser from contact with inmate pending the outcome of an investigation, or upon determining whether discipline is warranted. To the contrary, page 11 of the agreement shows the Employer may opt to *retain the Employee at work; place the Employee on leave of absence with pay; return the Employee to work from the leave without pay pending investigation; or, reassign the employee to a temporary workplace in the same or different position.*

(b) Auditor is not required to audit this provision.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of coordinated response as it relates to PREA.

Standard 115.67: Agency protection against retaliation

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

115.67 (a)

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

115.67 (b)

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

115.67 (c)

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

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

115.67 (d)

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

115.67 (e)

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

115.67 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- Interview with PREA Compliance Manager
- Review of investigative files

(a-e) PSD Policy ADM.08.08 states on page 37 and 38, "PSD's policy protects all offenders and staff who report sexual abuse or sexual harassment or cooperates with a sexual abuse or sexual harassment

investigation, from retaliation by other offenders, staff, or others. The designated Facility PREA Compliance Manager in conjunction with the Warden or the Sheriff is charged with monitoring any issues related to retaliation. PSD utilizes multiple protection measures, such as housing changes or transfers for offender victims or abusers, removal of alleged staff or offender abusers from contact with victims, and emotional support services for offenders or staff; when the individual fears or experiences retaliation for reporting sexual abuse or sexual harassment or for cooperating with a PREA investigation. 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.
- d. In the case of offenders, monitoring by the Facility PREA Compliance Manager shall also include periodic status checks, preferably conducted weekly, at a minimum.

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. 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. 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.”

The PSD Facility Handbook states on page 14, *“Any retaliation against individuals for reporting an incident is also prohibited.”*

The facility PCM indicated that MCCC did not receive any allegations of retaliation during the audit period. Documents in investigative files did not reveal any allegations of retaliation. An interview with the facility PCM indicated they are knowledgeable of the requirements associated with retaliation monitoring.

While this auditor found the facility was compliant with the subsections of this standard, a review of investigative files indicated that some cases were determined to be unfounded when they should have been unsubstantiated. As part of corrective action, this auditor required the facility PCM to review investigational outcomes, make necessary changes and check in with victims and/or informants who have had a change in outcome in order to determine if they have been retaliated against. Only one investigational change required a check in of this nature; that inmate was no longer in PSD’s custody.

(f) Auditor is not required to audit this provision.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of agency protection against retaliation as it relates to PREA.

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- Interview with the warden
- Interview with PREA Compliance Manager
- Interviews with staff who supervise segregated housing

(a) PSD Policy ADM.08.08 states on page 38, "Any use of involuntary segregated housing to protect an offender post allegation, who is alleged to have suffered sexual abuse, is subject to the requirements of §27.0 of this policy." Section §27.0 of the policy is outlined in the compliance determination narrative for 115.43.

The facility reported they did not use segregated housing as a means of separation or protection for any inmates' post allegation. Interviews with the warden, facility PCM, and staff who supervise segregated housing confirmed MCCC has not used involuntary segregation as a means of separation or protection for inmates' post allegation.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of post-allegation protective custody as it relates to PREA.

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- PSD Training Curriculum on Sexual Abuse Investigations
- Interview with PREA Compliance Manager
- Interviews with investigative staff
- Review of administrative and criminal investigations

(a) PSD Policy ADM.08.08 states on page 38, *"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."*

While this auditor found the facility was compliant with the subsections of this standard, a review of investigative files indicated that some cases were determined to be unfounded when they should have been unsubstantiated. For corrective action, the facility conducted a review of their investigational outcomes to determine which ones should be changed. Documentation of changes to investigational outcomes was provided to this auditor for review.

- Two inmate-on-inmate sexual harassment outcomes were changed from unfounded to unsubstantiated.
- One inmate-on-inmate sexual abuse outcome was changed from unfounded to unsubstantiated.
- One staff-on-inmate sexual harassment outcome was changed from unfounded to unsubstantiated.

(b) PSD Policy ADM.08.08 states on page 39, *"If sexual abuse is alleged, a PSD IA investigator, who has received specialized training in sexual abuse investigations pursuant to §21.0 of this policy will conduct the administrative investigation, unless the Director has authorized the Facility to conduct the administrative investigation. The Facility Investigator must have received the specialized training in sexual abuse investigations pursuant to §21.0."*

This auditor reviewed the curriculum utilized for PSD's *Training Curriculum on Sexual Abuse Investigations*. The training includes instruction on interviewing sexual abuse victims, the proper use of Miranda and Garrity warnings, evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. Interviews with

investigative staff indicated they were knowledgeable in each aspect of sexual abuse and sexual harassment investigations.

MCCC has one facility investigator and PSD has two agency investigators. This auditor reviewed training certificates for all staff to ensure the required training was received.

(c) PSD Policy ADM.08.08 states on page 39 that agency investigators shall *“Gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data. Interview alleged victims, suspected perpetrators, and witnesses, unless a delay of an interview of a victim is requested by county LE. Review prior complaints and reports of sexual abuse involving the suspected perpetrator.”*

An interview with investigative staff indicated they are knowledgeable on evidence collection, interviewing and interrogation techniques and the requirement to review prior reports of sexual abuse involving the alleged perpetrator.

(d) PSD Policy ADM.08.08 states on page 39, *“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.”*

An interview with investigative staff indicated they do not conduct compelled interviews; such interviews may be conducted by the appropriate local law enforcement agency.

(e) PSD Policy ADM.08.08 states on page 39, *“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 the victim or non-staff witnesses the option to participate in this type of technological process (polygraph, CVSA or other truth-telling device).”*

An interview with investigative staff indicated they are conducting credibility assessments properly, and do not require incarcerated survivors to submit to a polygraph or other truth-telling device as a condition for investigation. A victim may request to participate in CVSA but cannot be forced to participate.

(f-g) PSD Policy ADM.08.08 states on page 40, *“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 procedures for criminal investigations conducted by county LE shall be dictated by their policies. In practice, the county LE’s procedures do require a written report that contains a thorough description of the physical, testimonial, and documentary evidence.”

Agency and facility investigators confirmed they immediately notify county LE if their administrative investigation reveals any criminal conduct.

(h) PSD Policy ADM.08.08 outlines that the county LE agency is charged with the responsibility to make the required referrals for criminal prosecution. The county LE refers substantiated allegations of criminal conduct for prosecution.

(i) PSD Policy ADM.08.08 states on page 40, *“PSD shall retain all written reports referenced in paragraph 8b) of this section for as long as the alleged abuser is incarcerated or employed by PSD, plus an additional five (5) years.”*

(j) PSD Policy ADM.08.08 states on page 40, *“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 formulizing a conclusion that the allegation is substantiated, unsubstantiated, or unfounded.”*

Interviews with agency and facility investigators confirmed they will continue an investigation until there is an outcome, independent of resignations or releases.

(k) Auditor is not required to audit this provision.

(l) PSD Policy ADM.08.08 states on page 40, *“When an external agency is charged with investigating an incident of sexual abuse, the facility staff shall cooperate with the outside investigators and shall endeavor to remain informed about the progress of the outside agency investigation.”*

Interviews with the warden and facility PCM indicated they have a positive relationship with external law enforcement, and do not experience obstacles when seeking information.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of criminal and administrative agency investigations as it relates to PREA.

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- Interview with the warden
- Interview with investigative staff
- Review of administrative and criminal investigations

(a) PSD Policy ADM.08.08 states on page 40, "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."

A review of investigational files indicated the agency/facility is not requiring a burden of proof higher than a preponderance of the evidence. Interviews with the warden and agency/facility investigative staff indicated they are aware of this standard in determining if allegations of sexual abuse or sexual harassment are substantiated.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of evidentiary standard for administrative investigations as it relates to PREA.

Standard 115.73: Reporting to inmates

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

115.73 (a)

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

115.73 (b)

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

115.73 (c)

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

115.73 (d)

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

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

115.73 (e)

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

115.73 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- PSD *PREA Mandated Reporting Form (PSD 8317)*
- Review of administrative and criminal investigations
- Interview with PREA Compliance Manager
- Interview with investigative staff

(a-b) PSD Policy ADM.08.08 states on page 41, “*Upon completion of an investigation (administrative or criminal) into an offender's allegation that he/she suffered sexual 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. 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.*”

PSD and MCCC utilize form 8317 to make notifications to inmates. The notification is made verbally and documented in writing. Interviews with the agency PREA Coordinator, facility PCM and investigative staff indicated they obtain the appropriate information from investigative agencies to inform inmates.

While this auditor found the facility was compliant with the subsections of this standard, a review of investigative files indicated that some cases were determined to be unfounded when they should have been unsubstantiated. For corrective action, the facility conducted a review of their investigational outcomes to determine which ones should be changed.

- Two inmate-on-inmate sexual harassment outcomes were changed from unfounded to unsubstantiated.
- One inmate-on-inmate sexual abuse outcome was changed from unfounded to unsubstantiated.
- One staff-on-inmate sexual harassment outcome was changed from unfounded to unsubstantiated.

The facility PCM provided this auditor with documentation of updated notifications to the affected inmates for review.

(c) PSD Policy ADM.08.08 states on pages 40-41, *“Following an offender’s allegation that a staff member has committed sexual abuse against the offender, the facility or PSD shall subsequently inform the offender (unless PSD has determined that the allegation is unfounded) whenever: The staff member is no longer posted within the offender’s unit; the staff member is no longer employed at the facility; the facility or PSD learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or the facility or PSD learns that the staff member has been convicted on a charge related to sexual abuse within the facility.”*

PSD and MCCC utilize form 8317 to make notifications to inmates. The notification is made verbally and documented in writing. Interviews with the agency PREA Coordinator, facility PCM and investigative staff indicated they obtain the appropriate information from investigative agencies to inform inmates.

(d) PSD Policy ADM.08.08 states on page 41, *“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: the facility or PSD learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or the facility or PSD learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.”*

PSD and MCCC utilize form 8317 to make notifications to inmates. The notification is made verbally and documented in writing. Interviews with the agency PREA Coordinator, facility PCM and investigative staff indicated they obtain the appropriate information from investigative agencies to inform inmates.

(e) PSD Policy ADM.08.08 states on page 41, *“The facility or PSD shall document all notifications to offenders 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.”*

(f) Auditor is not required to audit this provision.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of reporting to inmates as it relates to PREA.

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- MCCC Investigative Reports

(a) PSD Policy ADM.08.08 states on page 42, *"Staff are subject to disciplinary sanctions up to and including termination for PREA sexual abuse or sexual harassment policy violations."*

The facility PCM reported that MCCC had one instance of staff sexual harassment during the audit period. As it was unfounded, there was no discipline.

(b) PSD Policy ADM.08.08 states on page 41, *"Termination shall be the presumptive disciplinary sanction for all staff, who, after an investigation and a pre-disciplinary due process hearing, have been found to have engaged in sexual abuse."*

(c) PSD Policy ADM.08.08 states on page 41, *"Disciplinary sanctions for violations of PSD policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) must be 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."*

(d) PSD Policy ADM.08.08 states on page 42, *"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."*

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of disciplinary sanctions for staff as it relates to PREA.

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- Interview with the warden
- Interview with Agency PREA Coordinator
- Interview with PREA Compliance Manager
- Interviews with contractors and volunteers

(a) PSD Policy ADM.08.08 states on page 42, "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, PREA Audit Report – V6. Page 109 of 130 Maui Community Correctional Center

unless the activity was clearly not criminal. PSD shall also report the incident to any relevant licensing body applicable to the contractor or volunteer.”

The facility PCM indicated that MCCC did not have any contractors or volunteers who engaged in the sexual abuse of an inmate during the audit period.

(b) PSD Policy ADM.08.08 states on page 42, *“PSD shall take appropriate remedial measures and consider whether to prohibit further contact with offenders in the case of any other violations not covered by the paragraph (1) of this section, such as sexual harassment by a contractor or volunteer.”*

The facility PCM indicated that MCCC did not have any instances of remedial measures with contractors or volunteers during the audit period.

Interviews with the warden, Agency PREA Coordinator, and facility PCM indicated that any contractor suspected of engaging in any prohibited activity is immediately removed from the facility and prohibited from contact with inmates. Interviews with contractors and volunteers indicated they are aware of the agency’s zero-tolerance policy and action the agency will take if they engage in prohibited conduct.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of corrective action for contractors and volunteers as it relates to PREA.

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)

- If the agency prohibits all sexual activity between inmates, 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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- *MCCC Facility Handbook*
- Interview with warden
- Interviews with medical and mental health staff
- Inmate misconduct reports/adjustments

(a) PSD Policy ADM.08.08 states on page 42, *"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."*

Inmates are held accountable through an internal disciplinary process, called "adjustments". Adjustments are adjudicated by lieutenants.

(b) PSD Policy ADM.08.08 states on page 42, *"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."*

Adjustments are reviewed and signed by the Chief of Security (COS). The COS may approve the sanction, modify the sanction, dismiss the report, or order a new hearing.

(c) PSD Policy ADM.08.08 states on page 42, *"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. PSD medical and mental health staff shall provide therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for abuse."*

If there are concerns about the inmate's mental health, the adjudicating officer will request information from the mental health provider. The mental health provider indicates if the inmate is currently in treatment, the date of their last encounter with mental health and if the misconduct could be due to symptoms of the inmate's mental illness.

(d) PSD Policy ADM.08.08 states on page 42, *“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.”*

There are no sexual offender treatment programs at MCCC.

(e) PSD Policy ADM.08.08 states on page 43, *“The PSD may discipline an adult in custody for sexual contact with staff only upon a finding the staff member did not consent to the contact.”*

The facility PCM indicated that no instances of sexual contact with a staff member occurred during the audit period. MCCC inmates who are victim of staff sexual misconduct are not disciplined.

(f) PSD Policy ADM.08.08 states on page 43, *“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.”*

MCCC did not discipline any inmates for a report of sexual abuse made in good faith during the audit period. Interviews with the agency PREA Coordinator and facility PCM indicated allegations are determined to be in bad faith only when there is conclusive evidence the allegation did not occur, such as through video surveillance records.

(g) Sexual contact is prohibited between inmates, but it is not considered to be sexual abuse. PSD Policy ADM.08.08 states on page 43, *“PSD prohibits all sexual activity or sexual contact between offenders and shall discipline offenders for such activity or contact. PSD shall not deem such activity to constitute sexual abuse, if it determines that the activity is consensual or not coerced.”*

The *MCCC Facility Handbook* states on page 14, *“Although not a PREA incident, it is prohibited and a misconduct, for offenders to engage in consensual sexual acts with another offender.”*

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of disciplinary sanctions for inmates as it relates to PREA.

MEDICAL AND MENTAL CARE

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

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

115.81 (a)

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

115.81 (b)

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

115.81 (c)

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

115.81 (d)

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

115.81 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- Interviews with staff responsible for risk screening
- Interviews with medical and mental health staff
- Interviews with inmates who disclosed sexual victimization at risk screening
- Review of inmate files

(a) This subsection of the standard does not apply as MCCC is not a prison.

(b) This subsection of the standard does not apply as MCCC is not a prison.

(c) PSD Policy ADM.08.08 states that any offender who has disclosed a prior sexual victimization or previous perpetration of sexual abuse shall be offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.

All inmates interviewed because they disclosed sexual victimization at risk screening indicated they were offered follow up meetings with mental health providers.

(d) PSD Policy ADM.08.08 states on page 43, *"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."*

Interviews with staff indicated they are aware of and adhere to the requirements around confidentiality.

(e) PSD Policy ADM.08.08 states on page 43, *"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)."*

PSD medical and mental health staff indicated they utilize form DOC0404A *Authorization to Release Medical Information* to obtain informed consent from inmates. Interviews with medical and mental health staff confirmed they obtain informed consent prior to reporting prior sexual victimization that occurred outside of an institutional setting.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of medical and mental care as it relates to PREA.

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- Lesson Plan for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training
- Interviews with medical and mental health staff

(a-c) PSD Policy ADM.08.08 states on page 44, *“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 judgment. If qualified medical or mental health staff are not on duty at the time of the report of a 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. 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.”*

This auditor reviewed the MCCC lesson plan and training curriculum for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training. Slide 120 states, *“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.”*

There were no incarcerated survivors at MCCC who had received forensic medical exams within the audit period to be interviewed by the audit team. Interviews with medical staff indicated incarcerated survivors are offered sexually transmitted infection prophylaxis medication and treatment during the forensic medical exam and upon their return to the facility. There were no staff who had acted as a first responder during the audit period to be interviewed by the audit team.

(d) PSD Policy ADM.08.08 states on page 44, *“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 auditor reviewed the MCCC lesson plan and training curriculum for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training. Slide 89 states, *“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...or at a hospital emergency unit. This will be at no financial cost to the victim.”* This is mentioned again on slides 91 and 120, and additionally notes services are *“provided without financial cost regardless of whether the offender victim names the abuser or cooperates with the investigation”*.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of access to emergency medical and mental health services as it relates to PREA.

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. *Note: in “all-male” facilities, there may be inmates who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*) 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. *Note: in “all-male” facilities, there may be inmates who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*) 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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- Lesson Plan for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training
- Review of inmate files
- Interviews with medical and mental health staff

(a-c, f) PSD Policy ADM.08.08 states on page 44, *"PSD shall offer medical and mental health evaluations and, as appropriate, treatment to all offenders (including external referrals), who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. The evaluation and treatment of such victims includes, as appropriate, follow-up services, treatment plans, and when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. PSD shall provide offender victims of sexual abuse with medical and mental health services consistent with the community standard level of care. Offender victims of sexual abuse, while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate."*

Files for each inmate selected for a targeted or random interview were reviewed. Referrals to mental health were completed as required. Interviews with inmates who reported previously perpetrating sexual abuse or prior victimization of sexual abuse indicated they had been offered the opportunity to meet with mental health providers.

Interviews with medical and mental health services staff members indicated ongoing treatment is provided to victims of sexual abuse, as well as to known inmate-on-inmate abusers. When asked about the comparison with a community-level of care, they indicated they believed the facility's standard of care

to be higher, as inmates are scheduled for appointments and do not have to seek these services out on their own.

Interviews with medical staff indicated initial testing for sexually transmitted infections would occur at the hospital during the forensic medical examination, but any follow up testing would occur at the facility. Incarcerated survivors who declined to receive a forensic medical examination would have any testing conducted at the facility, upon their request.

(d-e) PSD Policy ADM.08.08 states on page 44, *“Offender victims of sexually abusive vaginal penetration, while incarcerated shall be offered pregnancy tests. If pregnancy results from the sexual abuse while incarcerated, offender victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.”*

Interviews with medical staff confirmed this testing is available for female inmates.

(g) PSD Policy ADM.08.08 states on page 44, *“Treatment services shall be provided to the offender victim without financial cost and regardless of whether the offender victim names the abuser or cooperates with any investigation arising out of the incident.”*

This auditor reviewed the MCCC lesson plan and training curriculum for Prison Rape Elimination Act of 2003 Corrections & Law Enforcement Training. Slide 89 states, *“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...or at a hospital emergency unit. This will be at no financial cost to the victim.”* This is mentioned again on slides 91 and 120, and additionally notes services are *“provided without financial cost regardless of whether the offender victim names the abuser or cooperates with the investigation”*.

There were no incarcerated survivors at MCCC who had received forensic medical exams within the audit period to be interviewed by the audit team, to determine if they had been held financially responsible for any charges related to a forensic medical exam or STI prophylaxis or treatment.

(h) This subsection of the standard does not apply as MCCC is a jail.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of ongoing medical and mental health care for sexual abuse victims and abusers as it relates to PREA.

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy & Procedures 3C-4
- Interview with the warden
- Interview with the PREA Compliance Manager
- Interview with an incident review team member

(a-c) PSD Policy ADM.08.08 states on page 45, *"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. SAR shall ordinarily occur within thirty (30) days of the when the Warden has been informed of the conclusion of the investigation and its findings, excluding allegations determined to be unfounded. 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."*

(d-e) PSD Policy ADM.08.08 states on page 45, *"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; and*

The Recorder or Reporting Team Member shall prepare a report by utilizing the Sexual Abuse Incident Review Report form (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 recommendations for improvement. The SAR Team's report shall be forwarded to the Warden to review and complete the

Warden's Response Section. The Warden shall decide as to whether the recommendations of the SAR Team will be implemented or document the reasons for not implementing the recommendations of the SAR Team."

There were no sexual abuse incident reviews conducted by the facility during the audit review period. The investigational outcomes that were updated during this audit did not necessitate new sexual abuse incident reviews. Interviews with the warden, facility PCM and other potential members of the incident review team indicated they were aware of the required considerations.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with and exceeds this standard of sexual abuse incident reviews as it relates to PREA.

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- PSD website
- 2017, 2018 and 2019 *PREA Annual Reports*
- Interview with agency PREA Coordinator

(a-f) PSD Policy ADM.08.08 states on page 46, *"The Department PREA Coordinator shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control by utilizing a standardized format based on PREA definitions. The standardized format includes, 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 Department PREA Coordinator shall aggregate the incident based sexual abuse data at least annually. The Department PREA Coordinator shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and SARs. At least once a year, the Mainland Branch Unit shall report to the Department PREA Coordinator all incident-based and aggregated data from any private facility with whom it contracts for the confinement of PSD offenders. PSD shall provide all such data from the previous calendar year to the Department of Justice's Survey of Sexual Violence, no later than June 30th of each year."*

When interviewed, the agency PREA Coordinator confirmed that she sends the required information to the Department of Justice. This auditor reviewed the agency's annual reports for 2017, 2018 and 2019. The annual reports for 2011-2018 are available on the agency website at [Department of Public Safety | PREA \(hawaii.gov\)](http://Department of Public Safety | PREA (hawaii.gov)).

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of data collection as it relates to PREA.

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- PSD website
- 2017, 2018 and 2019 *PREA Annual Reports*
- Interview with agency head
- Interview with agency PREA Coordinator

(a-d) PSD Policy ADM.08.08 states on pages 46 and 47, *"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*
- b. 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-C8. This report shall include a 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. This report shall be approved by the Director and be made readily available to the public through PSD's departmental website. 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."

PSD collects and reviews data to assess and improve the effectiveness of its sexual abuse prevention, detection and response policies, practices and training in order to identify problem areas, take corrective action on an ongoing basis, compare the current year's data/corrective action with data/corrective action from previous years, and assess the agency's progress in addressing sexual abuse within its facilities. The report is prepared by the agency PREA Coordinator and signed by the PSD Director, as confirmed in interviews.

This auditor reviewed the agency's annual reports for 2017, 2018 and 2019. The annual reports for 2011-2018 are available on the agency website at [Department of Public Safety | PREA \(hawaii.gov\)](http://Department of Public Safety | PREA (hawaii.gov)).

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of data review for corrective action as it relates to PREA.

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.

The auditor gathered, analyzed, and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD Policy ADM.08.08
- PSD website
- 2017, 2018 and 2019 PSD PREA Annual Reports
- Interview with Agency PREA Coordinator
- Interview with facility PREA Compliance Manager

(a) PSD Policy ADM.08.08 states on page 47, *“The Department PREA Coordinator shall ensure that the incident-based and aggregated data are securely retained.”* The agency and facility utilize an electronic database to collect and secure data, and includes all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. Access to the database is granted for employees with a legitimate need to know.

(b) PSD Policy ADM.08.08 states on page 47, *“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.”* Data is maintained in an electronic database. The annual reports for 2011-2018 are available on the agency website at [Department of Public Safety | PREA \(hawaii.gov\)](http://Department of Public Safety | PREA (hawaii.gov)).

(c) PSD Policy ADM.08.08 states on page 47, *“The Department PREA Coordinator shall remove all personal identifiers and comply with federal and state statutes, HRS §92(F), Uniform Information Practices Act, prior to publishing the data.”* The reports on the website do not contain any personal identifiers.

(d) PSD Policy ADM.08.08 states on page 47, *“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 law requires otherwise.”*

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard.

AUDITING AND CORRECTIVE ACTION

Standard 115.401: Frequency and scope of audits

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

115.401 (a)

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

115.401 (b)

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

115.401 (h)

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

115.401 (i)

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

115.401 (m)

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

115.401 (n)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The auditor gathered, analyzed and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD website
- Interview with Agency PREA Coordinator

(a) PSD directly operates four jails (to include MCCC) and four prisons and houses additional inmates on the mainland in a privately-operated facility. The agency began receiving audits in the first year of the first cycle. All audits were completed by DOJ-certified auditors, and all final audit reports have been posted on PSD's website, available to the public at [Department of Public Safety | PREA \(hawaii.gov\)](http://Department of Public Safety | PREA (hawaii.gov)). During the prior three-year audit period, Cycle Two, the agency ensured that each facility under their control was audited at least once.

(b) This is the first year of Cycle Three.

(h, l, m, n) While onsite at MCCC, the audit team was provided with access to, and the ability to observe, all areas of the facility. The auditor received copies of all requested documents and the team was permitted to conduct private interviews with staff and inmates. Inmates were permitted to send confidential correspondence to the auditor, prior to the onsite review. There were no barriers to conducting the audit.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard.

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. The review period is for prior audits completed during the past three years PRECEDING THIS AUDIT. 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.

The auditor gathered, analyzed and retained the following evidence related to this standard:

- MCCC Pre-Audit Questionnaire (PAQ) responses
- PSD website
- Interview with Agency PREA Coordinator

(f) PSD directly operates four jails (to include MCCC) and four prisons and houses additional inmates on the mainland in a privately-operated facility. The agency began receiving audit in the first year of the first cycle. All audits were completed by DOJ-certified auditors, and all final audit reports have been posted on PSD's website, available to the public at [Department of Public Safety | PREA \(hawaii.gov\)](http://Department of Public Safety | PREA (hawaii.gov)).

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard.

AUDITOR CERTIFICATION

I certify that:

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

Auditor Instructions:

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

Amanda van Arcken

October 27, 2021

Auditor Signature

Date

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

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