

PREA AUDIT REPORT Interim Final

ADULT PRISONS & JAILS

Date of report: March 21, 2016

Auditor Information			
Auditor name: Ray Reno and Talia Huff			
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Telephone number: 620-285-1405			
Date of facility visit: August 17-18 2015			
Facility Information			
Facility name: Douglas County Department of Corrections			
Facility physical address: 710 South 17 th St., Omaha, Nebraska 68102			
Facility mailing address: <i>(if different from above)</i> Click here to enter text.			
Facility telephone number: 402-444-7400			
The facility is:	<input type="checkbox"/> Federal	<input type="checkbox"/> State	<input checked="" type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
Facility type:	<input type="checkbox"/> Prison	<input checked="" type="checkbox"/> Jail	
Name of facility's Chief Executive Officer: Mark Foxall Ph.D.			
Number of staff assigned to the facility in the last 12 months: 397			
Designed facility capacity: 1,449			
Current population of facility: 1,056			
Facility security levels/inmate custody levels: Minimum, Medium, Maximum			
Age range of the population: 18-68			
Name of PREA Compliance Manager: Chris Sweney		Title: Accreditation Manager	
Email address: chris.sweney@douglascounty-ne.gov		Telephone number: 402-599-2255	
Agency Information			
Name of agency: Douglas County Department of Corrections			
Governing authority or parent agency: <i>(if applicable)</i> Douglas County, Nebraska			
Physical address: 710 South 17 th St., Omaha, Nebraska 68102			
Mailing address: <i>(if different from above)</i> Click here to enter text.			
Telephone number: 402-444-7400			
Agency Chief Executive Officer			
Name: Mark Foxall Ph.D.		Title: Director of Corrections	
Email address: mark.foxall@douglascounty-ne.gov		Telephone number: 402-599-2216	
Agency-Wide PREA Coordinator			
Name: Chris Sweney		Title: Accreditation Manager	
Email address: chris.sweney@douglascounty-ne.gov		Telephone number: 402-599-2255	

AUDIT FINDINGS

NARRATIVE

On May 9, 2015, 360 Correctional Consulting LLC signed a contract to provide PREA Audit services to the Douglas County Department of Corrections adult jail (DCDC) and a community confinement facility, Douglas County Criminal Justice Center (CJC), in Douglas County, Nebraska. The on-site portion on the audit was scheduled to occur on August 17-18, 2015, at the jail facility, and on August 19-20, 2015, at the community confinement facility. A notice of audit in both Spanish and English was sent to the facility PREA Coordinator for posting in the living units on July 6, 2015, and the notices were posted on the same day. Auditors did receive correspondence from one inmate at the Douglas County jail prior to the on-site visit. A letter was sent to the inmate advising him that he would be interviewed by an auditor during the visit. Auditors arrived at DCDC on the morning of Monday, August 17, 2015, and met with the facility Deputy Director, PREA Coordinator, and other key staff to discuss the audit process and to answer any questions staff had. Auditors then interviewed several of the specialized staff who were available.

That afternoon, auditors were escorted throughout the facility on a site review. Although signs about how to report sexual assault were posted in nearly every living unit that was toured, there were no signs visible in the other areas of the facility where staff and inmates have access. Additionally, the signs that were posted in the living units did not address sexual harassment, they did not actually say "PREA," and they were not displayed prominently. In most cases, there was only one sign. Adding PREA signage is recommended for all areas of the facility as a means of increasing PREA awareness for staff and inmates alike. Throughout the site review, the auditors noted several areas where inmates could be secluded with each other, or with staff, or where there were blind spots with no cameras. Some of the areas noted included the storeroom, laundry, library, and the programs area. Overall, the facility was clean and well maintained, and staff were friendly and cooperative. Auditors spent the remainder of the day on Monday and all day on Tuesday completing the random and specialized interviews of both staff and inmates. Wednesday morning, auditors again met with facility leadership, including the Deputy Director, to give an overview of the preliminary audit findings. One of the items discussed was the distinct difference between the language used in the facility's written materials and the language used in the PREA standards and definitions. During interviews with inmates, only one or two out of approximately 35 were familiar with the acronym PREA. Most said they had never heard of PREA, although almost all of them had some idea of the facility's sexual assault rules (but not sexual harassment). In addition, it was noted that the written materials did not contain the same definitions as the PREA standards and did not contain information on sexual harassment. Auditors felt this has caused some confusion among the staff and inmates as to what exactly sexual abuse and sexual harassment is by the PREA definition. Auditors felt that staff had a good understanding of the initial response procedures to a sexual assault, as defined by current policies; however, auditors felt the depth of PREA knowledge was superficial. This seems due to, in large part, the difference between what is written in facility materials and what is contained in the PREA definitions. It is important to speak the same language in order to create a facility culture that is fully saturated in PREA.

The staff and inmates at DCDC exhibited a positive attitude and demeanor toward DCDC. Auditors noted a very positive culture at DCDC, one that is permeated from the top down. The Director and leadership is very dedicated to contributing to and maintaining this culture. There are simply tweaks to be made in order to enhance the culture from a PREA and sexual safety perspective.

Auditors were provided with an updated PREA policy within just a few days after the on-site visit, which contained the requested definitions from the PREA standards. It is highly recommended that a review of all policies and other written materials and postings, such as inmate handbook, and offender orientation materials, be revised also to ensure they all match the language contained in the PREA definitions. Several of the documents that have been referred to were immediately updated to include the necessary language. The updated information has not yet been given to the larger population of staff and inmates through training.

Following the conclusion of the onsite audit and submission of the Interim Auditor Summary Report, DCDC entered into a corrective action period to address provisions of the PREA standards deemed by the auditors as "Does Not Meet." Ample communication occurred between the auditors and the PREA Coordinator. The agency opted to schedule bi-weekly conference calls with the auditors to discuss the corrective action status. The initial conference call with the PREA Coordinator and other administration was held on December 18, 2015. Throughout the corrective action period, the status of each corrective action item was tracked on a C.A.P. (Corrective Action Plan) document created by the auditors and exchanged with the agency. March 18, 2016, marked the last and final conference call, and the corrective action was closed out thereafter.

Several corrective action items required the agency to demonstrate institutionalization of practice. Some of these items included demonstrating consistent implementation of documentation, while some of the items required increased knowledge and awareness by staff and inmates. The agency implemented efforts to increase staff and inmate knowledge of PREA; in order for auditors to verify this, approximately 10 additional interviews were conducted via telephone with staff and inmates. This occurred on March 8, 2016. As further elaborated in the respective standards throughout the rest of this report, the additional interviews conducted did demonstrate to auditors the needed enhancement in staff and inmate knowledge. On March 18, 2016, the corrective action period was concluded as the agency had satisfied all corrective actions noted.

DESCRIPTION OF FACILITY CHARACTERISTICS

The Douglas County Department of Corrections (DCDC) is located at 710 South 17th Street in Omaha, Nebraska, and was opened in July 1979 with an original design capacity of 202. With the completion of new construction in May of 2005, the design capacity is now 1,449.

The mission of the Douglas County Department of Corrections (DCDC) promotes public safety by effectively managing individuals to secure custody and Community Corrections by offering programs to prepare individuals to successfully return to society.

Designed as a maximum/medium/minimum security facility, the Douglas County Department of Corrections houses both adult male and female inmates. DCDC does not house any youthful inmates, as defined in the PREA standards. The population consists of pretrial detainees; sentenced misdemeanants; sentenced felons awaiting transfer to state facilities; state and federal prisoners awaiting trial and/or hearings; and individuals who are returned from community programs due to alleged program violations. The facility also houses individuals for the United States Marshal's Office and U.S. Immigration and Customs Enforcement (ICE) detainees.

The facility is contained in one four-story building. The majority of the facility is direct supervision, and officers do not carry weapons, other than pepper spray.

SUMMARY OF AUDIT FINDINGS

As identified in the Auditor's Interim Summary Report, the agency initially exceeded zero (0) standards, met 20 standards, did not meet 21 standards, and two (2) standards were not applicable.

Upon completion of the corrective action period and as identified in this final report, the agency has exceeded one (1) standard, met 40 standards, not met zero (0), and two (2) standards were not applicable.

Number of standards exceeded: 1

Number of standards met: 40

Number of standards not met: 0

Number of standards not applicable: 2

Standard 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3.1.108
- Memo from Director saying Chris Sweney is the PREA Coordinator and the PREA Compliance Manager (PCM) at the Douglas County Jail. The memo is dated 11/07/14.

Interviews, Document and Site Review:

PREA Policy discusses Douglas County having a zero tolerance policy toward all forms of sexual abuse and sexual harassment. Chris Sweney is designated by the Director as the PREA Coordinator and the PREA Compliance Manager. Chris is the Accreditation Manager and reports directly to the Director, thus having sufficient authority to implement PREA compliance efforts. Chris stated he has sufficient time for his PREA duties.

Auditors noted and discussed with the facility leadership that the policy lacked emphasis on sexual harassment. In addition, it was strongly encouraged to amend the facility's definitions to be congruent with the definitions of sexual and sexual harassment in the PREA standards. Shortly following the onsite audit, the PREA Coordinator provided auditors with an amended policy that reflected definitions that were more in line with the PREA standards.

Standard 115.12 Contracting with other entities for the confinement of inmates

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Memo from Director Foxall stating DCDC does not contract with any other county or entity for the confinement of its inmates. The memo is dated 11/07/14.

This standard is not applicable since DCDC has no contracts for the confinement of its inmates.

Standard 115.13 Supervision and monitoring

- Exceeds Standard (substantially exceeds requirement of standard)

- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Staffing Requirements 1.3.109
- PREA Policy 3.1.108

Interviews, Document and Site Review:

DCDC does comply on a consistent basis with a staffing plan that allows for adequate supervision. Auditors were provided with a full staff roster and one auditor spoke with the roster administrator who explained the daily rostering and how positions and “holes” are filled. He was able to adequately explain the minimum number of staff required for each shift. In fact, DCDC operates at an optimal staffing level and requires overtime staff to fill positions to maintain that level of staffing; therefore, there are no times in which the facility is not in compliance with the staffing plan.

DCDC uses an NIC Staffing analysis to quantify their staffing requirements.

The staffing plan, per 1.3.109, is reviewed annually not only by the jail administration but also by the health authority. Auditors were also provided communication from a captain in which the PREA Coordinator was solicited for input for the staffing plan. In addition, the PREA Policy states that there is an annual PREA assessment that takes into consideration the deployment of video monitoring.

Cited in the Staffing Requirements policy, Nebraska Jail Standard Title 81 Chpt 2 004.2A states, “female employees that shall provide around the clock supervision of female inmates housed in a jail facility.”

In the Offender Management System (GTL), unannounced rounds are documented. This is a log in which the Watch Commander documents their rounds and shows the Shift Lieutenant making regular rounds at different times. The rounds cover every shift, and the documentation provided shows that rounds were conducted nearly once per day. Auditors were provided Post Orders for the Watch Commander and Shift Lieutenant directing unannounced rounds to be conducted in all areas and documented in GTL. One auditor interviewed a shift supervisor about alerting others of unannounced rounds. He understood the purpose of not alerting others and asserted that it is a part of their culture that is in the process of changing. In the Employee Code of Conduct policy 1.3.110 p4 asserts, “Staff shall not intentionally alert others about rounds performed by supervisory staff.”

Corrective Action:

1. The staffing plan and staffing levels at DCDC likely exceed this standard. However, auditors need actual documentation of how the elements of 115.13(a) are considered.

Update 01/04/16:

1. The PREA Coordinator provided auditors with a narrative breakdown of how the 11 elements are considered in the staffing plan, which was sufficient for satisfying this standard. This documentation and the staffing plan and levels employed at DCDC exceed this standard.

Standard 115.14 Youthful inmates

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Memo from Director Foxall stating DCDC does not house youthful inmates. The memo is dated 11/07/14.

This standard is not applicable since DCDC does not house youthful inmates. Auditors verified this fact while onsite.

Standard 115.15 Limits to cross-gender viewing and searches

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Search Policy 3.5.100
- Strip Search Decisions Tree
- Housing Unit Post Order
- Inmate Hygiene and Grooming 4.4.100
- Inmate-Detainee Strip Search Checklist

Interviews, Document and Site Review:

DCDC do not conduct cross-gender strip searches, which was consistently confirmed by staff and inmates. Strip searches rarely occur. When they do occur, DCDC implements the Inmate-Detainee Strip Search form which documents the strip search and reasons for the search in detail. A body cavity search would never typically be conducted. No staff could recall such an incident, but knew if that were to happen, it would have to be conducted by a medical professional.

Search Policy prohibits cross-gender searches except in exigent circumstances. This was corroborated consistently by all staff. In fact, no staff knew of such an incident happening.

Throughout the site review, staff announcements of opposite gender staff were often not conducted, and interviews also indicated that the announcements are sporadic. The Housing Unit Post Order does require this announcement.

In the Inmate Hygiene and Grooming policy, “officers are encouraged to protect and preserve the inmate’s dignity.”

During interviews, staff were consistently aware that they would not be allowed to search a transgender inmate for the purpose of determining genital status.

Auditors were provided with the Search training curriculum, which does address searches of searches of transgender inmates as well as cross-gender searches. The curriculum states that this would occur in emergency circumstances.

Corrective Action:

1. DCDC needs to institutionalize the practice of opposite gender announcements. Auditors suggest revisiting training for this particular practice and then charge shift supervisors with ensuring compliance.

UPDATE 01/04/16:

1. PREA Coordinator has increased the signage in the living areas reminding opposite gender staff to announce when entering. The sign was provided for auditor review. The PREA Coordinator provided the agenda for shift briefing for the week of September 1, 2015, and shift briefing notes from October 2015 documenting the topic of opposite gender announcements. This documentation covered all shifts. Documentation is satisfactory at this point, although auditors will verify institutionalization of this practice via phone interviews with staff and inmates, which will likely occur in March 2016.

UPDATE 03/18/16:

1. Upon conducting additional interviews on 03/08/16, institutionalization of opposite gender announcements was demonstrated. Staff and inmates consistently reported that the announcements are being made. This standard is satisfied.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Limited English Proficiency Policy 3.5.104
- Inmate Brochure, English and Spanish
- PREA Information Acknowledgement Form
- PREA Poster, in English and Spanish

Interviews, Document and Site Review:

DCDC takes steps to ensure that limited English proficient inmates have an equal opportunity to participate in PREA education. DCDC acquires a significant number of inmates who speak Spanish and also other exotic languages. There is a language line, which provides services to communicate with inmates and is available in a plethora of languages. A poster on the wall lists all the languages from which inmates can choose. A staff member then calls the language line to acquire an interpreter for the inmate. DCDC has a contract for this service, which includes document translation. DCDC provided all their PREA information (given at inmate orientation) in English and Spanish. For other languages, the language line would be utilized. The Inmate Handbook is also available in Spanish and is given at orientation. PREA posters around the facility are in English and Spanish and are posted in every living unit. Auditors were provided documentation of PREA Acknowledgement forms that were in English and Spanish, and auditors reviewed forms that had been signed by inmates. As part of PREA orientation, in addition to the PREA materials, inmates watch a PREA video (from Just Detention International). For deaf inmates, the PREA video is subtitled.

Auditors interviewed two Spanish-speaking inmates using a staff interpreter. The inmates were able to relay information about PREA and how to report incidents of sexual abuse and sexual harassment.

One auditor interviewed two inmates with mental disabilities; one male and one female. Again, these inmates were able to relay information about PREA and how to report incidents of sexual abuse and sexual harassment.

Intake (Classification) Staff who were interviewed articulated well their process for addressing the needs of inmates with

disabilities or limited English proficiency. They also were able to speak to inmates who have limited reading skills, in which case they would talk through the material and ensure comprehension. One thing reported to auditors, however, is that there are some dialects that staff do not have access to or resources to address. Specifically, one Burmese dialect was mentioned as being encountered without a good method for interpretation. Admittedly, this is a difficult situation due to the many dialects used by small sectors of a culture that would be near impossible to accommodate. DCDC staff make considerable effort to do so. For blind inmates, Intake (Classification) Staff read the PREA material, and the staff member interviewed conveyed that it is his job to ensure they *understand* the material.

In instances that require a sign language interpreter, per Policy 3.5.104, the shift supervisor approves a staff member to make contact with an interpreter from the approved qualified list.

As far as using inmate interpreters, most staff relayed that inmate interpreters or inmate readers are used, though they reported consistently that inmate interpreters would not be used in relation to an allegation of sexual abuse or sexual harassment. DCDC policy 3.5.104 states that they shall not rely on inmate interpreters or inmate readers or other inmate assistance, except in cases where it would compromise inmate safety. Interviews did not necessarily support DCDC policy, but staff did articulate that inmate interpreters would never be used for allegations or investigations of sexual abuse or sexual harassment. Auditors did note, during review of investigations, that a certified staff member was in fact used in this situation.

DCDC employs staff interpreters. Bilingual staff are sought out and encouraged to apply and take a test in order to be placed on the certified interpreter list. Auditors gathered that bilingual staff have an incentive to do so, since they receive compensation for passing this test and being placed on the list. Random staff interviews indicated that this service and opportunity is well known throughout the facility.

Recommendation:

1. Due to the high number of inmates who speak other more exotic languages (i.e. Sudanese), it is recommended that DCDC obtain additional resources that are specific to these regularly-encountered languages, particularly since staff reported that some dialects are very difficult to match.

Standard 115.17 Hiring and promotion decisions

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Hiring Policy 1.1.107
- Background Check Investigation Worksheet
- Employment Application

Interviews, Document and Site Review:

DCDC does not hire or promote anyone who has engaged in sexual abuse or sexual harassment. Auditors reviewed the Employment Application, which contains the required three questions of 115.17(a). Staff indicated during interviews that in order to apply for a promotion, one would have to fill out an Employment Application again.

As guided by the Hiring Policy 1.1.107, the Office of Professional Relations (OPR), which is the investigating division, conducts all employee background checks. OPR staff were interviewed regarding this background check process. It was reported that NCIC, Douglas County, and NCJIS are utilized in this process for new hire, as well as for all employees every three years. The

staff further explained that OPR is given a list of employees each month from HR (based on their date of hire) that are due for their background checks. The auditors reviewed backgrounds that had been conducted. OPR had these filed by month and also had these documented in an electronic database. The background checks are documented on the Background Investigation Worksheet. This worksheet shows the respective supervisors' approval to run the check, as well as the outcome of the background investigation. Auditors selected a group of random staff ensuring that newer staff and more veteran staff as well contractors were in the group. These files were followed throughout their employment – from initial and up-to-date background checks and PREA training, to checks of the existence of previous institutional employers.

Incidents of sexual harassment are considered on a case-by-case basis. For a new hire, if that information was available, it would be considered. For promotions, a review of employee files would likely indicate whether there were any such incidents to consider.

Criminal background checks of contractors and volunteers are also conducted by OPR. Contractors and volunteers are managed by HR, and HR provides the list of candidates to OPR to run the background checks. The background checks are documented on the Background Investigation Worksheet. This worksheet shows the respective supervisors' approval to run the check, as well as the outcome of the background investigation. A selection of five additional contractors/volunteers were verified through OPR that background checks were completed and current; they were.

Per 115.17(f), the Employment Application does include the three required questions, and the Employee Code of Conduct requires that employees disclose misconduct within 24 hours to the facility (with the exception of minor traffic citations).

Auditors found that the practice of contacting prior institutional employers was not occurring. OPR stated that for some facilities with which DCDC has a rapport, informal contact may be made. However, this process is not institutionalized or documented. Within two weeks of the onsite audit, the PREA Coordinator provided auditors with an Institutional Contact Form. This form is to be used from now on to document such contacts made.

The Employment Application states that falsification or omission of information may disqualify the applicant from employment.

Corrective Action:

1. Because of the recent implementation of the Institutional Contact form, a period of time is necessary to demonstrate institutionalization of this process. After a period of three months, provide auditors with documentation of such institutionalization.

UPDATE 10/15/15:

1. The PREA Coordinator provided an example of their first use of the Institutional Contact form. Additional forms shall be sent upon completion.

UPDATE 12/15/15:

1. The PREA Coordinator provided additional completed examples of the Institutional Contact form. The standard is satisfied.

Standard 115.18 Upgrades to facilities and technologies

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Memo from Director Foxall stating that there have been no substantial expansions or modifications since the PREA standards have been passed.
- PREA Policy 3.1.108

Interviews, Document and Site Review:

It was reported that there has been facility expansions or modifications, but policy does require that they will consider how upgrades to video monitoring and other technologies can enhance their ability to protect inmates from sexual abuse.

PREA Policy states that there is an annual PREA assessment that takes into consideration the deployment of video monitoring.

Standard 115.21 Evidence protocol and forensic medical examinations

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Disposition of Evidence Policy 3.1.110
- Emails to and from the Women’s Center of Advancement
- PREA Policy 3.1.108
- Sexual Assault Emergency Response

Interviews, Document and Site Review:

DCDC conducts administrative investigations and refer criminal investigations to the Sheriff’s Office (SO). Office of Professional Relations (OPR) is the division that conducts these investigations. OPR seems to have a good working relationship with the SO, and the SO has a dedicated investigator for DCDC investigations. Because of this relationship, DCDC is able to keep abreast of investigations with ease.

Auditors were provided the Sexual Assault Emergency Response Plan (MCC EP32), which outlines a uniform evidence protocol for sexual abuse. The PREA Policy also outlines Investigation Procedures on p5 and Treatment for Victims on p6. The Disposition of Evidence policy outlines the preservation and collection of evidence and chain of custody in a detailed manner.

Staff interviewed by auditors were able to articulate their responsibilities with regard to preserving and protecting evidence; they consistently reported that to be their duty, and that the evidence collection would be the duty of the investigating entity.

Provision (b) is not applicable as DCDC detains no youth inmates or residents.

Inmate victims of sexual abuse would be offered forensic medical exams without cost. Inmates would be taken to Nebraska Methodist Health Systems for the exam. These exams would be performed by SANEs. DCDC is in the process of forming a community SART. Members of the community SART are: Phoenix House, Women’s Center of Advancement, Nebraska Methodist Health System, CCS from the facility, two SANEs.

Inmate victims of sexual abuse would be offered an advocate to accompany them through a forensic exam. This would be done automatically by the hospital as part of the SAFE process. Auditors were provided email documentation of efforts to enter into MOUs or to secure services with the Women’s Center for Advancement (WCA). Auditors were also provided a draft unsigned MOU with the Nebraska Methodist Hospital. The MOU has not yet been signed, although DCDC has had communications and has met with them.

Policy states the verbiage of 115.21(e), but auditors were not able to establish that advocacy services were available to inmates beyond the forensic exam, for crisis intervention and emotional support services.

DCDC should continue attempts to secure victim advocacy for alleged victims of sexual abuse. The PREA Coordinator informed one of the auditors that DCDC does employ a psychiatrist who is certified in sexual abuse counseling, though it did not seem that this is a duty that is requested of the psychiatrist.

Auditors were not provided with documentation requesting the SO to follow the requirements of 115.21(f).

Corrective Action:

1. Provide auditors with documentation requesting the SO follow the requirements of 115.21(f).
2. Establish, or provide auditors with the information, of how DCDC provides a victim advocate, crisis intervention, and emotional support beyond the forensic exam.

UPDATE 11/13/15:

1. The PREA Coordinator provided an email string between himself and the Douglas County Sheriff’s Office (DCSO), and this was discussed on conference call on 11/13/15. The auditors learned that there have also been some phone calls between the PREA Coordinator and the Sheriff’s Office regarding PREA standards. Relayed via email by the DCSO was, “We discussed our current investigative protocol with our first responders and Criminal Investigations Bureau command members, and after review of the PREA standard and our own protocols, we are confident that our criminal investigatory response to DCDC incidents is really no different than our similarly situated response to non-DCDC reports of crime and subsequent criminal investigation. As a 4x CALEA accredited agency, we are confident that our response and investigatory protocols are satisfactory, reflect law enforcement professional excellence and best practices, and consistent with PREA standard 115.21 you forwarded to us for review/consideration.”
This provision is satisfied.
2. On the conference call on 11/13/15, the second corrective action item was also discussed. DCDC has not established an MOU with a community-based provider for victim advocacy, crisis intervention, and emotional support. In the event of a forensic exam, an advocate would be offered. Beyond the forensic exam, DCDC mental health staff provide emotional support and crisis intervention. This provision is satisfied.

Standard 115.22 Policies to ensure referrals of allegations for investigations

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3.1.108
- Investigative Reports
- Investigator email

Interviews, Document and Site Review:

DCDC does ensure an investigation is completed for all allegations of sexual abuse and sexual harassment. DCDC conducts administrative investigations while criminal investigations are referred to the Sheriff Office (SO). The PREA Policy 3.1.108 mandates this.

During the reporting period, there were seven allegations of sexual abuse and sexual harassment. Five were administrative investigations and two were criminal and were referred to the SO. These referrals are completed and documented via email.

There is no State agency or Department of Justice entity responsible for conducting investigations at DCDC.

Auditors reviewed the investigative reports. The reports reviewed were primarily a collection of Informational Reports from security staff, rather than an Investigative Report completed by an OPR investigator containing interviews, findings, conclusions and disposition. Further auditor analysis of the *quality* of investigations is in the comments of 115.71.

Standard 115.31 Employee training

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Staff training records
- SART Team Training sign-in
- Lieutenants’ Training sign-in
- Pocket Cards

Interviews, Document and Site Review:

All of the elements of 115.31(a) are addressed in the staff PREA training, which is required of staff at least annually. Training is provided via Relias Learning Management System. One auditors reviewed the training curriculum online with the PREA Coordinator. Staff reported that they receive PREA training as a new hire and then each year thereafter. DCDC reported that they trained 251 staff during the review period. Interviews with staff revealed that their strongest area was of first responder duties. Staff were very knowledgeable in their response to an allegation of sexual abuse. Auditors did note and discuss with facility leadership that elements of sexual harassment and several of the other training elements (in 115.31(a)) were lacking in staff interviews. Auditors suggested that perhaps some face-to-face, interactive training may enhance comprehension and retention of material rather than relying solely online training.

Auditors were not able to establish whether the training was tailored to the gender of the inmate population, and since DCDC houses both males and females, it is particularly important to convey these differences to staff who have direct contact. Only female staff are posted in the female housing units, although male staff do cover and rove those units, as well as having female staff posted on male living units. This distinction should be seen in training.

Training records were provided and reviewed by auditors, which indicated that all staff had received this required training. This was provided in the form of a printout of Course Completion History reports which logged staff members, their title, location, course, and completion status.

Auditors were not able to establish that staff, through employee signature or electronic verification, understood the training they had received. The Training and Orientation Checklist form was provided. This form is a new hire checklist that states at the bottom that the staff does, “...acknowledge and agree that I will comply with the above-mentioned policies.” The PREA Policy is listed among the 47 policies. However, this form does specify that the staff have received and understand DCDC’s PREA training.

Corrective Action:

1. Ensure, or demonstrate to auditors how the training is tailored to the gender of the inmate population.

2. Enhance staff knowledge on the dynamics of sexual abuse in confinement, dynamics of sexual harassment in confinement, definitions and professionalism with LGBT (lesbian, gay, bisexual, transgender) inmates, detecting and responding to signs of threatened or actual sexual abuse.
3. Establish, or demonstrate to auditors how, through employee signature or electronic verification, staff understood the training they received.

UPDATE: 03/18/16

1. Auditors gained a better understanding of the training process as a whole; they were provided with an additional PowerPoint lesson plan that is part of the rotated training curriculum. The PowerPoint contained gender-specific content. Auditors were also provided staff training sign-in sheets for this training. Upon conducting additional interviews on 03/08/16, better comprehension of the training elements required of this standard were demonstrated. This provision is satisfied.
2. On 10/23/15, the PREA Coordinator sent a course outline and test results from staff training, which covered the following topics: the dynamics of sexual abuse in confinement, dynamics of sexual harassment in confinement, definitions and professionalism with LGBT (lesbian, gay, bisexual, transgender) inmates, detecting and responding to signs of threatened or actual sexual abuse. As discussed on the conference call on 02/19/16, an online quiz was mandated for all staff on the revised PREA definitions. This was made available on 02/18/16. Following the call, the PREA Coordinator provided the quiz and quiz results which indicated that 107 staff had taken it as of 02/19/16. The PREA Coordinator reported that staff must receive 100% in order to pass the quiz. He also reported that the quiz and results would be sent for auditor review once all staff had completed it. Staff comprehension and retention will be verified via additional staff phone interviews, which will likely be conducted in March 2016. Upon conducting additional interviews on 03/08/16, better comprehension of the training elements required of this standard was demonstrated. This provision is satisfied.
3. Through the Relias training system, staff verify electronically that they have received and understand the training. This provision is satisfied.

Standard 115.32 Volunteer and contractor training

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Sexual Assault/Abuse Policy A Guide for Contracted Staff and Volunteers
- Volunteer application
- Volunteer Orientation agreement
- PREA Policy 3.1.108 p7

Interviews, Document and Site Review: DCDC contracts with CCS for medical and mental health care, Aramark for food service, and Keef for Commissary. These contract staff are required to take the online training, and auditors reviewed records that verified this. The PREA Policy specifics that all staff including contract and volunteer staff will receive PREA training in initial orientation and annually thereafter. Page 10 of the PREA Policy contains language of this standard verbatim.

DCDC reported that they trained 149 volunteers and contractors during the review period. An Aramark contract employee was interviewed as a contractor and a random staff. This employee remembered receiving PREA training as part of their training. However, very little of the required training elements were recalled. In terms of first responder duties, this staff knew to keep the inmate safe and ensure evidence is not destroyed, report to a supervisor, and document. As full-time employees who has such significant inmate contact, contractors should be more familiar with the PREA training elements of 115.31(a). This staff also reported that he/she had “not seen anything like that in the kitchen.” However, the concern is that 1) training to recognize warning

signs and threats of sexual abuse and sexual harassment is lacking, and 2) the kitchen is generally a common place for covert sexual abuse and sexual harassment between inmates or staff and inmates.

A religious services volunteer was interviewed. This volunteer, who had been volunteering at DCDC for 10 years, said she is escorted to the classroom, is alone with inmates during class, and is then escorted out of the facility once class is done. It was reported that she had been trained in responsibilities regarding sexual abuse and sexual harassment, that any concerns of this nature would be brought to the chaplain, and that she did not specifically remember being notified of the agency's zero-tolerance policy, but felt she had an "awareness" and recalled being given a list of policies. It seems that all volunteers receive the same amount of training. Documentation provided to the auditors included a pamphlet: Sexual Assault/Abuse Policy: A Guide for Contracted Staff and Volunteers. This pamphlet explains the zero tolerance policy, reporting, avoiding inappropriate relationships, definition of sexual abuse (but not sexual harassment). In addition, volunteers fill out an application which includes a statement that DCDC is required to inform volunteers of the zero tolerance policy, and that they are required to report. This form also gives authorization to conduct a background investigation which is signed by the volunteer. DCDC also uses an Orientation form for volunteers on which they acknowledge they understand the policies given to them, and it is signed by the volunteer. All volunteer orientation forms from 2014 and 2015 (to date) were provided for auditor review.

Standard 115.33 Inmate education

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Inmate Handbook
- Inmate PREA Education (14 day)
- Inmate PREA Education (Intake)
- PREA Awareness Pamphlet, in English and Spanish
- PREA posters, in English and Spanish
- PREA Policy p2 & 10

Interviews, Document and Site Review:

Upon intake and as outlined on p2 of the PREA Policy, inmates are provided PREA information (generally within two hours). They are given a handout which is available in English and Spanish, and then they sign a PREA Information acknowledgement form which contains English and Spanish verbiage. The handout contains information regarding sexual assault/abuse, prevention and intervention, self-protection, reporting, treatment, and counseling. Intake (Classification) staff reported that if an inmate could not read or write, they would utilize other means or walk them through the material to ensure comprehension. It was also reported that there is a video that plays in the booking area that has a section about PREA.

PREA policy states that within 30 days, inmates will be provided comprehensive PREA education. In practice, DCDC provides this at 14 days, and it consists of showing inmates the PREA video. This video is from Just Detention International and is available in English with Spanish subtitles and in Spanish with English subtitles. Documentation is on the Health and Physical/PRE Education Sign-In Sheet.

Due to the average length of stay being only approximately three weeks, there were no inmates at DCDC prior to the effective date of the PREA standards.

As noted in the comments for 115.16, DCDC does provide education in formats accessible to inmates who are limited English

proficient, are hard of hearing or visually impaired, have limited reading skills, or are otherwise disabled. This is done through written materials in Spanish, the language line for LEP, translation service for hard of hearing, video subtitles for visually impaired, and individual staff assistance for limited reading skills or otherwise disabled. Intake staff articulated well that it is their responsibility to ensure the inmate comprehends the materials.

Auditors gathered that the PREA Information form signed upon intake is maintained in the inmate's file, and the sign-in sheet for the 14-day PREA education is maintained by the Records Department.

It was noted, however, that the handout does not include any information on sexual harassment at all. Inmates should be informed of what constitutes sexual harassment and that they have a right to be free from it.

DCDC reported that the number of inmates during the 12 month review period who were given PREA information at intake was 11,838. The number of inmates whose stay was longer than 30 days who were given comprehensive PREA education was 4,296.

Standard 115.34 Specialized training: Investigations

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Relias Course Outline for PREA: Investigative Protocols
- Training Records showing completion of PREA: Investigative Protocols

Interviews, Document and Site Review:

Auditors were provided documentation of completed specialized training. Those who had completed the course were two Lieutenants (of OPR) and a Sergeant who works with OPR. The completion of this course was in addition to the general PREA e-learning course. DCDC also had documentation of this completed specialized training by the Sheriff Deputy who is assigned to work DCDC cases.

Interviews with OPR staff indicated that he had received specialized training for sexual abuse investigations in confinement. In fact, the OPR staff reported that he has traveled out of state for training of this nature. It was noted, however, that knowledge regarding case dispositions (substantiated, unsubstantiated, unfounded) and what evidence/criteria is required to substantiate a case was lacking.

Upon review of the investigative files, it was noted that there were investigations completed by other staff members who were not members of OPR, nor had they received the specialized training.

Corrective Action:

1. Provide completed training certificates for all those that conduct sexual abuse investigations, and ensure that only those staff are conducting them and/or provide clarification regarding this discrepancy.

Recommendations

1. Enhance knowledge of case dispositions. It is suggested that these definitions be added to the PREA policy.

UPDATE

1. During the 01/18/16 conference call, this DCDC practice was discussed as related to this standard. The PREA Coordinator

explained that no one conducts an investigation at DCDC other than OPR, and that the documentation reviewed by auditors was not an “investigation.” Auditors urged the agency to ensure OPR investigators compile investigative statements and documents and to issue a report of their own citing OPR’s conclusion and findings. The PREA Coordinator asserted that he relayed this distinction to the OPR Lieutenants, and he also stated that the case disposition definitions have been added to their PREA Policy. This standard is satisfied.

Standard 115.35 Specialized training: Medical and mental health care

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Course History printout for CCS and medical staff showing completed training
- Relias Course Outline for PREA: Staff Roles and Responsibilities Under the Prison Rape Elimination Act
- Relias Course Outline for PREA: What It Means for You and Your Agency
- CCS training curriculum

Interviews, Document and Site Review:

Auditors reviewed the Relias courses, which covered the topics of specialized training for medical and mental health. Auditors also interviewed the Health Services Administrator who reported that, as CCS employees, they are required to take the CCS training as well, which was also provided to auditors for review. Auditors were provided the CCS curriculum to review, the content of which covered general PREA training.

Standard 115.41 Screening for risk of victimization and abusiveness

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Classification Review form
- Intake Initial Screening and Re-Classification form
- Classification Post Order 10.1
- PREA Policy p 2&3, 10&11
- Weighted Scale for Prediction of Sexual Predator-Victimization

Interviews, Document and Site Review:

Auditors gathered that inmates are screened right away upon intake by Classification staff; generally, within two hours. DCDC reported that during the review period, 8,141 inmates had been screened within 72 hours of intake. The intake Classification officer completes a scored screening electronically and then fills out the Weighted Scale for Prediction of Predator-Victimization (DCC 117) form. This form indicates, by score, whether the inmate is currently indicated as “High Risk Sexual Predator” or currently indicated as “Potential Victim of Sexual Assault.”

The Weighted Scale and the electronic screening is weighted and scored and, thus, objective.

All elements of 115.41(d) were accounted for in this screening process except for 115.41(d)(10) whether the inmate is housed solely for civil immigration purposes.

The initial screening considers prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse as known to the agency.

During the review period, DCDC reported that 3569 inmates (whose length of stay was 30 days or more) had been reassessed within 30 days of intake. All inmates receive a classification review at 30, 90, 150, 210, 270 days or as new information becomes available. The auditors were not able to ascertain, however, whether the review considered or reassessed the inmate for risk of sexual victimization or abusiveness. This review is documented on the Classification Review Notification form, which accounts only for an inmate’s custody level and any change thereof. This reassessment should consist of reviewing the elements of victimization and abusiveness and make an account of whether that specific risk has changed.

Intake/Classification staff did not seem to be confident in articulating whether reassessments occurred as a result of a referral, request, incident of sexual abuse, or receipt of additional information potentially affecting an inmate’s risk of sexual victimization or abusiveness.

Auditors gathered that inmates were not disciplined for refusing to answer any of the screening questions. Intake/Classification staff reported that it is a voluntary process.

As far as appropriate controls over the screening information, it was clear that the information was never in a place where it could be accessed by other inmates or non-employees, though it was unclear if there were any controls beyond that.

It was noted that the room utilized to conduct intake screenings and processes is an open room in which there are one to two other intakes occurring at the same time. Staff reported that, “It’s not very private [if an inmate wants to disclose anything],” which was concurred by the auditor. Anything discussed or disclosed by the inmate would easily be heard by the others in the room.

Corrective Action:

1. Account for the one missing screening element; 115.41(d)(10) Whether the inmate is housed solely for civil immigration purposes.
2. Implement a practice of reassessment that accounts for any change in risk of sexual victimization or abusiveness. Perhaps, use the Weighted Scale during the review process as well.

Recommendations:

1. Ensure appropriate controls are protecting the screening information from being exploited to the inmate’s detriment by staff.
2. Because of the personal and potentially traumatic and private information disclosed during the intake and screening process, it is strongly recommended that this be done in an area or manner that gives the inmate that courtesy, and which furthermore increases the likelihood that the intake officer would get full and accurate information from the inmate.

UPDATE 10/20/15:

1. On 10/20/15, auditors were provided with an amended screening form, which accounted for the missing element. Auditors were satisfied with the form and asserted that completed forms would need to be sent for auditor review, to verify institutionalization. On the 02/19/16 conference call, auditors had not yet received any such completed forms and requested again.
2. On several occasions, the facility and the auditors discussed the expectations of reassessment from a PREA perspective and how that differs from the agency practice. The PREA Coordinator expressed that the agency does conduct classification reviews that he considers as reassessments. However, to the auditors it did not seem to address and reassess

risk of sexual victimization and abusiveness and any change thereto. The PREA Coordinator said he would provide additional documentation to auditors that would support reassessments.

UPDATE 03/11/16:

1. Auditors received completed assessment forms spanning a sufficient period of time to demonstrate institutionalization. This provision is satisfied.
2. Auditors received an updated Classification Review form used to document reassessments. This revised form now includes documentation that shows that staff review the weighted scale at each reassessment and thus, take into consideration any change in sexual risk. This standard is satisfied.

Standard 115.42 Use of screening information

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Classification Review form
- Intake Initial Screening and Re-Classification form
- Classification Post Order 10.1

Interviews, Document and Site Review:

Intake/Classification staff conduct the screening for victimization and abusiveness in addition to custody classification and other intake duties, and then they make the housing and bed assignments based thereon. Intake/Classification officers articulated that they were responsible for the inmate’s safety. If an inmate scores as high risk, they are isolated until seen by mental health. In addition, if an inmate scores as high risk, depending on the circumstances, they can be designated as “house alone” and/or “rec alone.” If an incident occurs, per the intake staff, an alleged victim is sent to PREA Coordinator, and the alleged abuser is sent to administrative confinement. It was further explained that transgender inmates would initially be isolated and designated as “house alone, rec alone” until seen by the transgender committee, who would make the appropriate determination.

During the interview with the PREA Coordinator, it was explained that housing decisions are primarily made by custody classification and that many things are taken into consideration, including their screening score. For work or programs, inmate requests are sent to and decided by Classification officers.

Standard 115.43 Protective custody

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Protective Custody Policy 4.2.107
- PREA Policy 3.1.108

Interviews, Document and Site Review:

Upon intake, Classification officers take many factors into consideration to include custody level and risk of sexual victimization and abusiveness. If an inmate scores as high risk, notification is sent to mental health staff for review. It is possible, if certain circumstances are present, that an inmate at risk of sexual victimization will be involuntarily isolated. Per policy, an inmate can request to be taken out of PC (protective custody) using the Protective Custody Request Form, which is then reviewed and considered.

DCDC reported that no inmates were placed in involuntary segregated housing pursuant to sexual victimization. Through conversations with administration, it appears that PC is basically a segregation unit; inmates are generally not allowed off the unit, and they are not allowed out together. They receive their programs and food on the unit. Taking this into consideration, PREA would consider this use of isolation, and therefore when DCDC restricts these inmates access to programs, education, privileges, and work, the following needs to be documented:

- 1) Opportunities that have been limited;
- 2) Duration of the limitation;
- 3) Reason for such limitations.

Additionally, if an inmate is placed in PC due to being high risk of sexual victimization, the following needs to be documented:

- 1) The basis for the facility’s concern for the inmate’s safety;
- 2) The reason why no alternative means of separation can be arranged.

Staff interviewed said they would take immediate action if they were aware of an inmate in imminent danger of sexual abuse. They were also able to articulate several options that are available, such as moving the perpetrator to another unit, placement of the perpetrator into a segregation status, or placement of the victim into a protective custody status. It was noted by auditors that supervisors perceive the need to move both the victim and the perpetrator when reports of sexual misconduct are received. Auditors recommend this practice be reviewed by administration, as it is often not necessary to require victims to be placed into PC. We understand there are times when it is necessary to maintain their safety, but it should be determined on a case-by-case basis and not be part of the response routine. Inmates know that if they make a PREA report, they will likely be moved to PC status and removed from their current location. Knowing this can serve as a barrier to making a report. The facility should reconsider this practice to create and maintain a positive “reporting culture.”

Corrective Action:

1. Provide clarification or documentation to the auditors relative to the use of protective custody and documentation items outlined above.

UPDATE 01/11/16:

1. The PREA Coordinator provided an amended Protective Custody Request form. The amended form was implemented in March, 2016, and requires the Watch Commander to document why alternative housing is not available and what programs and privileges, if any, are restricted. In addition, the form states that, “Unless documented below, access to programs, privileges, and work will not be restricted.” The items documented below are: 1) Privileges that have been limited due to placement in protective custody; 2) Duration of limitation; 3) Reason for limitation. The form is a good way to satisfy the documentation requirements of this standard. There have been no PC placements related to PREA since the new form was deployed. The PREA Coordinator provided auditors with two examples of the revised Protective Custody form. As he stated, the two examples were not specific PREA incidents. However, this did demonstrate the use of the revised form. There have been no relevant PREA incidents. This standard is satisfied.

Standard 115.51 Inmate reporting

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- DCDC Inmate Handbook
- PREA Awareness Pamphlet
- DCDC PREA Policy 3.1.108
- Facility PREA Posters

Interviews, Document and Site Review:

Inmates can report sexual abuse and sexual harassment via staff, kite, grievance, and hotline (which goes to OPR, internally). Staff reported that arriving inmates are provided with information about PREA and how to report sexual abuse and sexual harassment. This information is given out in a pamphlet on the same day the inmate arrives as part of the orientation process done in the admission area. The pamphlet only encourages to report via staff and should be updated to include the multiple avenues of report and the PREA definitions of sexual abuse and sexual harassment. Additionally, more formal PREA education is delivered by the Classification department within 14 days of intake.

Auditors conducted numerous random inmate interviews. Inmates were aware of the basic information regarding sexual safety, but they did not always understand the PREA acronym and did not generally report awareness of sexual harassment. Most inmates were able to convey at least one way of reporting sex abuse. Most reported they could report to staff, and that they were confident that staff would take their report seriously. Only some were aware of the posters that were located in the living units containing phone numbers they could call to report.

As part of the facility site review, auditors saw signs posted in the living unit areas, but there was nothing posted near the inmate phones. The poster contained a phone number for making a report that would go to an answering machine in the OPR office. To call this number, inmates are required to include their pin number, and so this is not a means to report anonymously. The instructions for placing a call on the inmate phones were not very clear. When auditors attempted to test the phones to make a report, the instructions on how to leave a message did not play. There was only silence on the line and after about one minute, a recording said that the call was not accepted. Facility staff was made aware of the issue and immediately set out to correct the problem. The problem still existed at the time the auditors departed the facility. There was also a notebook kept in each living unit with the name, address, and phone number for the National Domestic Violence Hotline and the National Sexual Assault Hotline. Auditors attempted to call this number from the inmate phones in the housing units, enlisting the help of a volunteer inmate. After several attempts, the call eventually went through and we were able to speak to a live person. Most of the inmates interviewed were not aware that this information was available in the notebook.

Corrective Action:

1. Provide clarification/information on the resolution of the phone reporting problem.
2. Ensure the awareness of the multiple methods of reporting, to inmates and staff as well.

UPDATE:

1. Through conversations and email communications with the PREA Coordinator, auditors feel confident that the malfunction in the phone reporting has been resolved. The agency worked with the phone service company and tested the service thereafter. Auditors recommend that the agency periodically check to ensure adequate functioning of the phone reporting. This provision is satisfied.
2. Since the onsite audit, the agency has added, “basically our own cable station,” as reported by the PREA Coordinator. Continuously looped on the channel is PREA information and reporting methods (including phone numbers and addresses). The agency PREA postings are also shown on the inmate TV system. The TVs are in every unit and in common areas. Additional interviews of staff and inmates on 03/8/16 demonstrated increased knowledge and awareness of this. This provision is satisfied.

Standard 115.52 Exhaustion of administrative remedies

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Memo from PREA Coordinator

Interviews, Document and Site Review:

Pre-audit DCDC reported exemption from this standard since they have grievance procedures, but the grievance procedures are not specifically outlined for sexual abuse grievances. After consultation with the National PREA Resource Center, interpretive guidance clarified that if a facility has a grievance system, it is not exempt from this standard. Furthermore, throughout document review, auditors noted some places that instructed or alluded to inmates reporting sexual abuse through the grievance system.

Corrective Action:

1. The agency shall not impose a time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse. The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.
2. The agency shall not require an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.
3. The agency shall ensure that: (1) An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and (2) Such grievance is not referred to a staff member who is the subject of the complaint.
4. The agency shall 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 shall not include time consumed by inmates in preparing any administrative appeal. The agency may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The agency shall notify the inmate in writing of any such extension and provide a date by which a decision will be made. 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, the inmate may consider the absence of a response to be a denial at that level.
5. Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be 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. If the inmate declines to have the request processed on his or her behalf, the agency shall document the inmate’s decision.
6. The agency shall establish procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse. After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, the agency shall 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, shall provide an initial response within 48 hours, and shall issue a final agency decision within five (5) calendar days. The initial response and final agency decision shall document the agency’s determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.
7. The agency may discipline an inmate for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the inmate filed the grievance in bad faith.

UPDATE 03/04/16:

1. The agency has updated their grievance policy and provided it for auditor review. It includes information on filing a grievance for sexual abuse and the procedure for filing an emergency grievance related to when an inmate is in imminent danger of sexual abuse. Auditors conducted additional inmate interviews on 03/08/16. Inmates were aware of the procedure and knew they could use a grievance to make a PREA report. The Inmate Handbook provides information on the grievance process, and policy language was updated to reflect the response timeframes of this standard and the enhanced practice. There have been no sexual abuse grievances filed during the corrective action period. This standard is satisfied.

Standard 115.53 Inmate access to outside confidential support services

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3.1.108
- DCDC-WCA E-mails
- PREA Responder Training Sign-Up Sheet
- Sexual Assault Awareness Pamphlet
- PREA Reporting Signage

Interviews, Document and Site Review:

The facility does provide inmates with the name and address for outside confidential services. In the inmates’ Sexual Assault Awareness pamphlet, phone numbers for the National Domestic Violence hotline, National Sexual Assault hotline, and Nebraska Spanish Helpline are listed. There is no charge for use of this service. No mailing addresses are listed. Interviews with staff and inmates revealed that there is limited knowledge that outside services are available. Therefore, not only are inmates not aware, but staff are not aware of the procedure to enable inmate access to these services. Neither staff nor inmates are aware of the extent to which communications of this type are monitored and/or forwarded to authorities.

The facility is attempting to enter into an MOU with the Women’s Center for Advancement. Documentation of this was provided to auditors pre-audit and was discussed onsite. Information about mandatory reporting laws is also provided to inmates at the time of orientation to the facility.

Corrective Action:

1. Provide mailing addresses to the outside emotional support services as well and post them where visible and accessible to inmates. This should inform inmate of the extent to which these communications will be monitored and/or forwarded to authorities.

UPDATE

1. Mailing addresses to outside emotional support services were added to the Inmate Handbook and the Inmate Sexual Assault-Abuse brochure. The PREA Coordinator provided these documents for auditor review. The revised Inmate Handbook was issued in early March, 2016. The Inmate Sexual Assault-Abuse brochure is given at initial classification and is also available in every housing unit. This standard is satisfied.

Standard 115.54 Third-party reporting

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- DCDC Web Page
- PREA Policy 3.1.108

Interviews, Document and Site Review:

The PREA policy states, in part:

Third Party Reporting Procedures: Reporting procedures are available to the public on the department's web site and in the lobby and visiting area. Any person who has knowledge of sexual assault/rape or sexual misconduct involving any inmate(s) at DCDC is encouraged to inform DCDC Administrative Offices/OPR via telephone, fax, e-mail, mail, or any other means necessary. Every reported incident will be fully investigated.

There is also information located on the DCDC website. Again, it is recommended that the PREA language be incorporated into the information available on the website and into the DCDC culture.

Staff and inmates were aware that third party reports could be made and are received with the same expedience as any report of sexual abuse. Investigative staff corroborated that, also; any third party report is handled in the same manner and with the same expediency.

Standard 115.61 Staff and agency reporting duties

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- FOP Contract
- PREA Policy 3.1.108

Interviews, Document and Site Review:

As outlined in the PREA policy, staff, including volunteers and contract staff are required to immediately report any sexual abuse or harassment. The policy reads in part:

Staff members, contract staff members or volunteers who receive information, regardless of its source, concerning sexual assault/rape or sexual misconduct, or who observe an incident of sexual assault/rape or sexual misconduct, are required to immediately report the information or incident directly to their immediate supervisor and write an Informational Report (DCC 79). The supervisor will notify the Watch Commander, who will in turn notify the Director of Corrections and the Duty Officer.

All staff, including facility mental health staff, medical staff, and volunteers, had a solid grasp of their duty to report all instances, or suspected instances of sexual abuse or harassment. Staff interviewed were aware of their responsibility to not talk about PREA cases, other than as needed to complete official business.

Recommendation:

1. Further incorporate sexual harassment awareness into the culture, so staff consistently recognize and can report incidents of sexual harassment.

Standard 115.62 Agency protection duties

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3.1.108

Interviews, Document and Site Review:

Consistently staff interviewed said they would take immediate action if they were aware of an inmate in imminent danger of sex abuse. They were also able to articulate several options that are available, such as moving the perpetrator to another unit, placement of the perpetrator into a segregation status, or placement of the victim into a protective custody status. It was noted by auditors that supervisors perceive the need to move both the victim and the perpetrator when reports of sexual misconduct are received.

Recommendation:

1. Auditors recommend this practice be reviewed by administration, as it is often not necessary to require victims to be placed into PC. We understand there are times when it is necessary to maintain their safety, but it should be determined on a case-by-case basis and not be part of the response routine. Inmates know that if they make a PREA report, they will likely be moved to PC status and removed from their current location. Knowing this can serve as a barrier to making a report. The facility should strive to create and maintain a “reporting culture.”

Standard 115.63 Reporting to other confinement facilities

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Letter from Leavenworth Kansas Detention Center
- PREA Policy 3.1.108
- Investigation File

Interviews, Document and Site Review:

The PREA policy says in part:

Upon receiving an allegation that an inmate was sexually abused while confined at another facility, the Director of Corrections (Designee) will notify the head of the facility or appropriate office of the agency where the alleged abuse occurred (115.63). Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. The agency shall document that it has provided such notification.

Speaking with the Deputy Director revealed there were no instances in this review period where an inmate reported sex abuse at another facility. There was one report of a DCDC inmate transferring to another facility and then reporting that she had been sexually abused while in custody at DCDC. Documentation showed that the incident that was reported had already been investigated. This information and the outcome of the investigation were provided to the other facility.

Standard 115.64 Staff first responder duties

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Response Pocket Cards
- PREA Policy 3.1.108

Interviews, Document and Site Review:

All staff who were interviewed had a good knowledge of their duties as a first responder. Most reported they would immediately separate and keep safe the victim and perpetrator; not to allow them to go to the bathroom, change clothes or wash themselves, eat or drink, or brush their teeth; protect any potential crime scene or evidence; and notify the shift commander.

During the facility site review, one security officer was informally asked about how he would respond to discovering a sexual assault in progress. This security officer produced a pocket card with the initial response steps printed on it that he could reference. The practice of giving security staff a first responder tip card is an excellent practice, even if only one officer pulled it out and referred to it. Included in the documentation was an example of a responder card for non-security staff who may be involved in a first response. Again, this is an excellent practice.

Standard 115.65 Coordinated response

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Emergency Response Plan for Sexual Assault
- PREA Policy 3.1.108

Interviews, Document and Site Review:

The PREA policy, and the PREA training staff receive, do a good job of lining out what each group of responders’ responsibilities are in the event of a “sexual assault.” The shift supervisor has a commander’s sexual assault checklist to help to ensure that medical and behavioral health staff are part of the response, along with the investigator, PREA Compliance Manager, and facility administrative staff.

Interviews with medical and mental health staff revealed that they have a good understanding of the dynamics of sexual abuse. Medical staff reported they examine the victims of sex abuse, but they do not collect any physical evidence or complete any part of a rape kit.

The PREA policy reads in part as follows:

Sexual Assault Response Team (SART): The DCDC will operate a Sexual Assault Response Team consisting of Medical and Mental Health staff, the designated PREA Coordinator, Investigative staff and individuals as identified by the Director. The SART team will be responsible for ensuring appropriate steps are taken to care for an inmate who reports sexual abuse.

Recommendation:

1. Incorporate or increase awareness for staff about their duties to report and respond to reports of sexual harassment.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Memo from PREA Coordinator dated July 10, 2015, indicating that DCDC does not do any collective bargaining that would limit the agency’s ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation.
- Fraternal Order of Police (FOP) Contract

Interviews, Document and Site Review:

DCDC is not involved with collective bargaining, though staff can opt to become a member of the Fraternal Order of Police. Auditors were provided with the FOP contract to review.

Interviews with the Deputy Director and the PREA Compliance Manager confirmed that the agency does allow staff to become

members of the FOP, but there are no collective bargaining provisions through the FOP, or anywhere else, that would limit the agency's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation. Furthermore, no such provision has been suggested by any FOP member.

Standard 115.67 Agency protection against retaliation

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA 90 day Review and Tracking Form
- PREA Policy 3.1.108 p3

Interviews, Document and Site Review:

DCDC does have policy language in their PREA Policy 3.1.108 p3. The facility uses the PREA 90 Day Review and Tracking form to monitor both staff and inmates against retaliation. The form does document the date of the allegation, outcome of the investigation, dates of review, and includes room for notation from OPR, Grievances, Medical/Mental Health, Classification, Inmate Requests, and Inmate Statements. It has signature line for the inmate, PREA Coordinator, and Deputy Director. As this standard requires, auditors did not ascertain that this monitoring entailed periodic in-person status checks of the inmate, or that inmate disciplinary reports, housing or program changes, or negative performance reviews or reassignments of staff were taken into account for items that should be monitored for an inmate. Additionally, there was no indication or demonstration that retaliation monitoring occurs for staff members, and the method or procedure for doing so was not made evident to auditors.

Additionally, the standard requires that the facility designate which staff members or departments are responsible for monitoring retaliation. It is recommended that policy state who is charged with this duty. Interviews and discussion with staff seemed to reveal that it is not widely known whose responsibility the monitoring is. Auditors were able to review several cases that were currently within the 90 day time frame, and it appears the form is being used.

Corrective Action:

1. The staff or department charged with monitoring retaliation should be named in the PREA policy, or by memo, and should be implemented as such in practice.
2. Documentation is needed to show that training or other instruction is provided on how to monitor staff and/or inmate retaliation. It is recommended that the current 90-day monitor form be revised to include the items to be monitored; any inmate disciplinary reports, housing or program changes, or negative performance reviews or reassignments of staff. In addition, the method and expectations of monitoring staff should be outlined, or perhaps separate forms should be used to monitor staff and inmates.

UPDATE

1. Auditors were provided with amended policy language that stated, "DCDC shall protect all inmates (and staff) who report sexual abuse or sexual harassment or cooperate with investigations from retaliation from other inmates and staff. The DCDC PREA Review Team shall monitor the conduct and treatment of inmates (and staff) who have reported sexual abuse or cooperated with investigations, including inmate disciplinary reports, housing and/or programs for at least 90 days. Monitoring will be documented by the PREA Review Team on a PREA 90 day Review and Tracking Form (DCC 420) during their monthly meeting. (Additional monitoring may continue if warranted.)" This language is found on page 5 of the agency's PREA policy. This corrective item is satisfied.
2. The items to be monitored are outlined in policy as noted in the above corrective action. The monitoring is conducted

monthly by the PREA Review Team. In addition to using the tracking form, the use of the PREA Review Team provides opportunity for multi-disciplinary monitoring and discussion of inmate behavior, demeanor, changes, etc. This corrective item is satisfied.

Standard 115.68 Post-allegation protective custody

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- PC Request Form
- PC Review Form
- PREA Policy 3.1.108
- Protective Custody Policy 4.2.107

Interviews, Document and Site Review:

Some of the documentation provided to the auditors was not pertinent to the placement of an inmate who was moved into segregated housing after being the victim of sex abuse. The PREA policy does outline that inmates who are placed into restricted housing are still allowed to participate in programs and services as much as possible. The provisions of this standard and standard 115.43 both speak to the use of involuntary segregated housing. An inmate who has reported being sexually abused can be housed in segregated housing, but it should only be after an assessment of all other available alternatives has been made, and a determination was made that concluded there were no other alternative means of keeping the victim and perpetrator separate.

During interviews with security supervisors and inmates, as well as a review of the PREA policy, it seemed that moving the victim to a PC placement is standard operating procedure. To meet the intent of this standard, staff should consider all other options available to keep the victim safe. If the best option is to move the victim to PC status or segregated housing, staff are required to document what other options were considered and why not using them was justified. One of the reasons to avoid moving an inmate who has reported being victimized is that the inmate may perceive being moved to another unit, or moved into a PC unit, as punishment for reporting sex abuse. The facility should strive to create a “reporting culture” where inmates are confident that all reports will be taken seriously, and where they feel safe to report sex abuse and sexual harassment.

Corrective Action:

1. The PREA policy should be revised to include language explaining that moving an inmate victim who reports sexual abuse into restricted housing, or placement into a PC unit, should be used only as a last resort, and only after considering and documenting why other options were not used.
2. Once the policy is revised, documentation showing that staff have been trained on the revisions should be provided.

UPDATE:

1. The policy has been updated, along with the Protective Custody placement form. This provision is satisfied.
2. Supervisors have been trained on the new process. Documentation of the new form in use has been received 03/10/16. This provision is satisfied.

Standard 115.71 Criminal and administrative agency investigations

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Investigative Reports
- PREA Policy 3.1.108
- Investigation Cover Sheet
- Investigation Log,
- Potential Perpetrator/Victim Screening Tracking and Mental Status Exam Form
- Disciplinary Misconduct Reports
- Informational Report
- Inmate Statement Forms

Interviews, Document and Site Review:

Auditors reviewed investigative files while onsite. In general, files were missing some elements that are required in this standard. Administrative investigations should include written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence, and attaches copies of all documentary evidence where feasible. Complete and thorough documentation of these elements was lacking. In addition, it was noted that in many instances, the investigations were completed by staff other than those in the OPR office. In any reports of alleged sexual abuse as defined by the PREA standards, an investigator who has received specialized training in sexual abuse investigations in confinement must conduct the investigation.

The investigator for case (5-389), which was included in the PAQ, was Sgt. Dawn Russell-Cummings. Also included as part of the documentation was an investigation cover sheet, an investigation log, a potential perpetrator/victim screening tracking and mental status exam form for each inmate, informational report(s), disciplinary misconduct reports for each inmate, inmate statement forms, correction restriction screen copies for each inmate including a photo, and inmate request forms. The report did not contain a conclusion as to whether the allegation was substantiated, unsubstantiated, or unfounded. Each inmate was given a disciplinary report, but not for prohibited sexual activity. Both inmates in this case were moved from their housing unit to A/C. The report contained a recommendation that since this was the first PREA report the victim had been involved in, that she remain in A/S and work her way out. It is not known if this case was referred to the DCSO for investigation, or to the County Attorney for prosecution.

PREA policy 3.1.108 states that an investigation will be conducted and documented whenever a sexual assault or threat is reported. The policy does not include a definition of sexual assault. This is another example of the PREA language and the facility language differing. To eliminate confusion, and to clearly define what behaviors are prohibited by the PREA standards, the policy should contain the definitions for sexual abuse and sexual harassment as contained in the PREA standards. Documentation was provided to show several staff in the OPR had received the specialized investigator training through NIC. However, there was no documentation to show that Sgt. Russell-Cummings had completed the training for investigators. Interviews with staff did reveal that records of investigations are retained for the length of time required.

Interviews with OPR staff indicated that sexual abuse investigations are of utmost importance and priority and that the initiation of those investigations is immediate. These interviews and discussions corroborated that these allegations are met with objectivity. Generally, when there is evidence to be collected, that will be performed by the criminal investigator from the SO. OPR staff also

explained (and was demonstrated to auditors) that upon any inkling of criminal activity, a case would be referred to the SO immediately. OPR staff also asserted that the departure of an alleged victim is never cause to terminate an investigation. Additionally, it appeared to auditors that there is a good relationship between OPR and the SO, and that remaining informed of the status of an investigation is a naturally-occurring process.

Corrective Action:

1. The PREA policy needs to contain definitions for Sexual Abuse and Sexual Harassment.
2. Each investigation for sexual abuse or sexual harassment should be determined to be substantiated, unsubstantiated, or unfounded.
3. Provide documentation that Sgt. Russell-Cummings has completed specialized training in sexual abuse investigations. Ensure that alleged sexual abuse investigations are conducted only by investigators with specialized training. It is recommended that sexual harassment investigations be conducted by the same investigator or by staff who have received the specialized training.
4. Train all staff on the revised PREA policy and definitions for sexual abuse and sexual harassment. Provide documentation of training.

UPDATE 03/18/16:

1. The definitions have been added to the policies and to the inmate handout materials. The information has been played regularly on the inmate TV system. This provision is satisfied.
2. All investigations are now determined to be substantiated, unsubstantiated, or unfounded. Auditors have reviewed said documentation. This provision is satisfied.
3. Sgt. Cummings has completed specialized training for investigators, although all PREA investigations go to the OPR for investigation. This provision is satisfied.
4. All staff have been trained on the changes to the PREA policy. Documentation of the training was provided. This provision is satisfied.

Standard 115.72 Evidentiary standard for administrative investigations

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3.1.108

Interviews, Document and Site Review:

The PREA policy reads in part as follows:

The DCDC shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated.

Interviews with OPR staff indicated that sexual abuse investigations are of utmost importance and priority, and that the initiation of those investigations is immediate. Auditors did not get a solid and clear picture that OPR is completely aware of and utilizes the dispositions as defined and set forth in the PREA standards; substantiated, unsubstantiated, and unfounded. When queried as to the preponderance of evidence, it was not clearly articulated. Auditors were not necessarily able to determine this by file review, due to the fact that most files did not document the disposition of the case.

Corrective Action:

1. Incorporate the practice and understanding of the PREA case dispositions.
2. Provide documentation to show dispositions as outlined above are included in investigative reports.

UPDATE

1. Case disposition definitions have been added the agency PREA Policy and verified by auditors in the form of investigation review and additional documentation provided. This standard is satisfied.

Standard 115.73 Reporting to inmates

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3.1.108
- Investigation Files

Interviews, Document and Site Review:

The PREA policy states in part as follows:

Following the investigation, DCDC shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated or unfounded. If the DCDC did not conduct the investigation, it shall request the relevant information from the DCSO in order to inform the inmate. OPR will notify the ICE Field Office Director when an investigation involves an ICE detainee.

The policy does not state how the inmate is informed of the outcome. Through discussion with a facility investigator, it was learned that the notification does not always happen because the inmate who made the report may have been released or transferred. It appeared that the notification is made verbally, when it is made. Auditors were not provided documentation of this notification nor told the procedure for doing so.

Corrective Action:

1. While the PREA standards relieve the facility from its obligation to report if the inmate is released from the agency's custody, documentation of that is still necessary. Auditors recommend creation of a form that can be used to make notification. In the event the inmate has released prior to making the notification, note the date of release on the form and keep it in the investigation file as documentation.
2. In addition, there are several other stipulations for this standard that are not addressed in the policy, noted as follows: Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the agency shall subsequently inform the inmate (unless the agency has determined that the allegation is unfounded) whenever:
 - (1) The staff member is no longer posted within the inmate's unit;
 - (2) The staff member is no longer employed at the facility;
 - (3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
 - (4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

Following an inmate's allegation that he or she has been sexually abused by another inmate, the agency shall subsequently inform the alleged victim whenever:

- (1) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

- (2) The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
3. All such notifications or attempted notifications shall be documented.

UPDATE 02/03/16:

1. The agency created a form for inmate notification. The PREA Coordinator provided said form for auditor review, which was an example of a completed notification. This provision is satisfied.
2. Agency policy dictates that an inmate will be notified pursuant to provisions (c) and (d) following an allegation of sexual abuse. This could be strengthened by incorporating the language or checkboxes with the language of provisions (c) and (d). Nevertheless, this provision is satisfied.
3. Documentation is completed on the Notification Memo form. This provision is satisfied.

Standard 115.76 Disciplinary sanctions for staff

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Policy 1.3.110 Employee Code of Conduct

Interviews, Document and Site Review:

Staff at DCDC are subject to disciplinary sanctions up to and including termination for any violation of sexual abuse policy, though again, the policy and awareness of sexual *harassment* is not adequately addressed or permeated.

The policy states that termination is the presumptive sanction for “sexual touching.” The policy does not have a definition for what sexual touching entails. This is another example of the use of language that is different from the language in the PREA standards (i.e. sexual touching, sexual contact, sexual misconduct, and sexual assault). For the purpose of PREA, there is sexual abuse or sexual harassment. Interviews with HR staff indicate that in cases where termination is not indicated, disciplinary action is based on the severity of the violation and the disciplinary history of the staff member. Violations are reported to law enforcement when the violation is a criminal matter.

Recommendation:

1. In order to remain consistent in the terms used, the language from the PREA standards need to be incorporated into the policy.

Standard 115.77 Corrective action for contractors and volunteers

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Policy 5.5.106 Screening and Selection of Volunteers and Contract Providers
- SEXUAL ASSAULT/ABUSE POLICY: A GUIDE for CONTRACTED STAFF AND VOLUNTEERS
- PREA Policy 3.1.108

Interviews, Document and Site Review:

Policy 505.106 states in part as follows:

Contractors or volunteers who engage in sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

It was learned through discussions with staff that there were no cases of disciplinary action involving contractors or volunteers during the period under review. Policy mandates this corrective action, and this was corroborated through interviews with staff and leadership, including the staff who oversee the volunteer/contractor programs.

Recommendation:

Auditors recommend the pamphlet be revised to include the language and definitions from the standards.

Standard 115.78 Disciplinary sanctions for inmates

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Inmate Handbook

Interviews, Document and Site Review:

Inmates are given a copy of the inmate handbook when they arrive at the jail, as part of the orientation process. The facility rules and sanctions are provided, along with Sexual Assault Information. The information from the inmate handbook reads, in part, as follows:

Sexual Assault Information: DCDC has a zero tolerance policy concerning sexual contact. Sexual Assault/ Misconduct: Sexual Assault is prohibited. Any case of sexual assault will be investigated. When an inmate, or group of inmates, through the use of threats, intimidation, force, or other actions and/or communication reasonably calculated to cause submission of another inmate to engage in a sexual act, it is a crime. Perpetrators of sexual assault will be prosecuted. Sexual misconduct is prohibited. Sexual misconduct is when an individual attempts to engage in, or engages in sexual act(s). Any sexual touching, attempted sexual act or sexual act is prohibited by DCDC under the zero-tolerance policy and may be subject to prosecution for sexual assault and/or sexual misconduct.

The handbook lists “sexual activities” as a major rule violation, and contains another definition that is not compliant with the PREA definitions. The handbook lacks information regarding sexual harassment.

There is a formal disciplinary process, and the Inmate Rules and Discipline policy indicates that an inmate can be assisted through

mental health, another staff member, or an interpreter if needed. The agency should ensure that the facility hearing officer considers an inmate's mental illness or disability in determining the sanction for a conviction of inmate on inmate sexual abuse.

The facility does not offer therapy or counseling to address any underlying motivations for sexual abuse.

Corrective Action:

1. The inmate handbook needs to be revised to include the definitions of sexual abuse and sexual harassment as outlined in the PREA standards. Also, the section of the handbook titled "Inmate Discipline" which starts on page 19, should be revised to include the language from PREA standard 115.78.
2. Documentation will need to be provided to show that facility disciplinary hearing officers have been trained on this section of the PREA standard.

UPDATE 03/18/16:

1. Auditors were informed that the revised copies of the Inmate Handbooks were received and the agency began distributing them to new inmates on 03/10/16. This provision is satisfied.
2. On 03/02/16, the PREA Coordinator provided auditors with documentation that the hearing officers had reviewed this entire standard. Hearing officers' signatures were provided as additional verification. This provision is satisfied.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Memo from PREA Compliance Manager

Interviews, Document and Site Review:

A memo dated July 10, 2015, from the PREA Coordinator was provided as documentation for this standard. The memo states that this standard applies to prisons only. However, this is not a correct assessment of standard 115.81, Medical and Mental Health Screenings; History of Abuse. This would be accurate for provisions (a) and (b). However, provisions (c)-(e) do apply and read in part as follows:

(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, staff shall ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.

(d) Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.

(e) Medical and mental health practitioners shall 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.

It appears that the facility does not ensure that inmates who report previous sexual victimization at the time of the intake screening are provided a follow-up meeting with a medical or mental health practitioner within 14 days of the screening. In interviews with staff, medical/mental health staff, and inmates did not corroborate this practice. One auditor observed the intake process and did not observe the gathering or referring of this information. Part of this information was gathered, although it was not done in a

private space (to increase the chances of disclosures) and was not done for this purpose of making this referral.

Although many of the inmates who were interviewed reported they were asked about previous sexual victimization, apparently they were not given a follow-up appointment. Auditors did not see documentation of this practice.

Corrective Action:

1. This provision needs to be added to facility policy regarding risk screening, and to the PREA policy, using language from the PREA standard.
2. Staff need to be given training on the new procedure. Once this has been accomplished, auditors will need to be provided with a sample of documentation to show that follow-up meetings are occurring.
3. Medical and mental health practitioners shall 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.

UPDATE 10/16/15:

1. The PREA Coordinator provided policy which contains the needed language; policy 4.5.100. This provision is satisfied.
2. Auditors were provided with the agency’s intake medical screening and follow-up within 14 days. The PREA Coordinator asserted that this process had been established prior to this audit, in 2005. To verify institutionalization, documentation of an inmate referral example that shows an inmate who reported prior sexual abuse was referred. This provision is satisfied.

Consent is obtained from inmates upon intake. A release of information is required prior to the agency releasing inmate records, particularly of this nature. This provision is satisfied.

Standard 115.82 Access to emergency medical and mental health services

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Policy 4.5.100 Health Care Services
- PREA policy 3.1.108

Interviews, Document and Site Review:

The PREA policy states in part as follows:

Treatment for Victim: Inmate or staff victims will be provided urgent/emergent medical attention by medical staff when indicated. Treatment services shall be provided without financial cost and regardless of whether the victim names the abuser. Victims of sexual assault are referred under appropriate security provisions to a community facility for treatment and gathering of evidence. If these procedures are performed in-house, the following guidelines are used: A history is taken by health care professional who conduct an examination to document the extent of physical injury and to determine if referral to another medical facility is indicated. With the victim’s consent, the examination includes collection of evidence from the victim, using a kit approved by the appropriate authority. Provision is made for testing for sexually-transmitted diseases (for example, HIV, gonorrhea, hepatitis, and other diseases) and counseling, as appropriate. (Inmate victims of sexual abuse while incarcerated shall be offered timely information about and access to all pregnancy-related medical services that are lawful in the community.) Prophylactic treatment and follow-up for sexually-transmitted diseases are offered to all victims, as appropriate.

• Following the physical examination, there is availability of an evaluation by a mental health professional to assess the need from crisis intervention counseling and long-term follow-up. A report is made to the facility or program administrator or designee

to assure separation of the victim from his or her assailant. Whenever an inmate reports that a sexual battery/assault/rape occurred while incarcerated in DCDC, the DCSDO will coordinate collection of physical evidence with the local medical facility. Under no circumstances will on-site medical staff gather evidence. All potential victims will be referred to a community facility.

The Health Care Policy, 4.5.100, reads in part as follows:

When immediate action is required, consultation to review the appropriateness of the action occurs as soon as possible, but no later than 72 hours. There are twenty-four-hour (24) emergency medical, dental, and mental health services. Services include the following: On-site emergency first aid and crisis intervention. Emergency evacuation of the inmate from the facility. Use of an emergency medical vehicle. Use of one or more designated hospital emergency rooms or other appropriate health facilities. Contract medical services provides emergency on-call or physician, dentist, and mental health professional services are available 24 hours per day, and also uses when the emergency health facilities located in the community.

Inmate victims of sexual abuse at DCDC are provided with timely and unimpeded access to emergency medical services. These are obtained through the Nebraska Methodist Hospital. DCDC has 24/7 medical staff who would be there to respond to any report of sexual abuse. Access to timely emergency contraception and STI prophylaxis is provided as part of the forensic exam process. Correspondence between the PREA Coordinator and SANE supported that these services are provided as part of the protocol. All services are provided free of cost to inmates.

Interviews with staff corroborated what is written in this policy. There were no inmates taken for forensic exams during the review period.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- Policy 4.5.100 Health Care Services
- PREA policy 3.1.108

Interviews, Document and Site Review:

DCDC employs 24/7 medical staff and full-time mental health staff who offer follow-up and treatment as necessary to inmate victims of sexual abuse. Largely due to the accessibility and availability, these services are likely above that of the community level of care.

Female inmate victims of sexual abuse are offered pregnancy and STI testing as part of the forensic exam protocol. DCDC would ensure all lawful pregnancy-related medical services, although there have been no such instances at DCDC.

The information auditors provided for 115.82 also applies to this standard. Staff reported that inmates are not required to pay for the treatment services they receive, and there is no provision that makes naming their perpetrator a condition of receiving services without cost.

Provision (h) is not applicable to jails.

Standard 115.86 Sexual abuse incident reviews

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3.1.108

Interviews, Document and Site Review:

The facility does have a PREA team that conducts a review of sexual abuse cases on the third Wednesday of each month. The policy contains the information that the standard requires for review. However, the facility practice has been to only conduct a review of sexual abuse cases that have been substantiated. The standard requires that a review be completed on unsubstantiated sexual abuse cases, also. This needs to be made clear in the policy. In addition, auditors were not provided with a demonstration that the required elements were considered in practice; these were not included in the review form or any other documentation.

A revised PREA review process form was received by the auditors shortly after completing the on-site portion of the audit.

Corrective Action:

1. Implement sexual abuse incident reviews for substantiated and unsubstantiated sexual abuse investigations. Demonstration of this in practice will need to be provided for auditor review. A period of three months of such documentation will be need to be provided in order to demonstrate institutionalization.

UPDATE:

1. On 09/11/15, the PREA Coordinator provided the agency's formalized incident review form. After some clarification and discussion between the PREA Coordinator and auditors, an additional amendment was made to the form. The PREA Coordinator reported that the review process had not yet been utilized, due to all investigations being unfounded. Auditors iterated that it would be normal and anticipated that the review be utilized and, in fact, perhaps indicative of an effective reporting culture and coordinated response. On 02/23/16, auditors requested any investigations that had been conducted, which were received on 02/25/16. The two (2) investigations were deemed unfounded and appeared to be justified as such, thus not requiring an incident review. This standard is satisfied.

Standard 115.87 Data collection

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3.1.108 p8
- 2014 PREA Annual Report
- 2013 Survey of Sexual Victimization

Interviews, Document and Site Review:

DCDC reported that sexual abuse and sexual harassment data is collected and aggregated. The most recent Survey of Sexual Victimization (SSV) completed by DCDC was provided for auditor review. SSV data is aggregated by CY 2014, and thus it differed from the data of the review period (August 2014-August 2015). The SSV indicated that there were 20 allegations of Nonconsensual Sexual Acts, all of which were reported as unfounded. This causes concern due to the unlikely probability of 100% of allegations being truly unfounded; meaning that evidence existed to prove the allegation did NOT happen. Similarly, there were 0 allegations of inmate-on-inmate sexual harassment reported, which raises a similar concern of whether that is an accurate portrayal or reporting culture. Additionally, there were three substantiated cases of Staff Sexual Misconduct reported, while the Abusive Sexual Contact section and the Staff Sexual Harassment sections were blank. Missing information and data made it difficult for this documentation to support the institutionalization of sexual abuse data collection efforts. Auditors were not provided documentation of incident-based data, other than the incomplete SSV. Therefore, it was difficult to see the whole picture of allegations and investigations and be able to compare that with completed investigations or with the data reported for the SSV.

Furthermore, the definitions offered in the PREA Policy at the time of the onsite audit were included in section “H. Types of Sexual Assault/Rape or Sexual Misconduct.” There were three types listed: Inmate on Inmate; Inmate on Staff; and Staff, Contractor or Volunteer Contact with Inmates. These definitions did not include sexual harassment and were not congruent with the definitions of sexual abuse and sexual harassment in the PREA standards. Auditors had this discussion with the PREA Coordinator and facility leadership. Within the week following the onsite audit, the PREA Coordinator provided a revised PREA Policy that reflected revised definitions that were congruent with the PREA definitions. Hence, the SSV is the standardized instrument, though it needs to be fully completed, and the PREA definitions are now the standardized set of definitions. DCDC now needs to gather and aggregate sexual abuse and sexual harassment data based upon those revised definitions.

DCDC does collect this data at least annually by virtue of reporting on the SSV.

Auditors learned that incident-based documents and investigative files are collected, secured, and maintained by OPR, while the sexual abuse incident reviews are collected, secured, and maintained by the PREA Coordinator.

115.87(e) is not applicable because DCDC does not contract with private facilities for the confinement of inmates.

115.87(f) is not applicable because DOJ has made no requests for data.

Corrective Action:

1. Provide auditors with completed 2014 SSV forms.
2. Provide auditors with some documentation (i.e. spreadsheet, database) in which sexual abuse and sexual harassment data is collected and broken down by allegation type and disposition, etc. This will provide the auditors with a glimpse into the typology and trends of reports during the reporting period.

UPDATE 02/16/16:

1. BJS reported to the agency that the 2014 SSV forms are no longer available, thus, they could not provide them. Auditors were forwarded the email verifying this. Consequently, this provision is null.
2. The enhanced PREA Annual Report more thoroughly outlines data collected and aggregated to show that the agency collects, “accurate, uniform data for every allegation of sexual abuse, it includes the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence, and demonstrates that the agency maintains, reviews, and collects data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.” This standard is satisfied.

Standard 115.88 Data review for corrective action

- Exceeds Standard (substantially exceeds requirement of standard)

- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3.1.108 p8
- 2014 PREA Annual Report

Interviews, Document and Site Review:

Auditors gathered that DCDC does use sexual abuse data to improve the effectiveness of its sexual abuse prevention, detection, and response. Auditors reviewed the 2014 PREA Annual Report, which cites the facility’s PREA efforts. These PREA efforts include some corrective actions that have been taken, such as modification of the inmate risk assessment and modification of the timeframe for inmate reclassification. There are aspects of the data utilization that could be strengthened in order to do this more effectively. However, this annual report should include the identification of problem areas, corrective actions taken on an ongoing basis, and “findings and corrective actions for each facility, as well as the agency as a whole” per 115.88(a). Additional guidance from a Department of Justice representative clarified that data posted on an agency’s website should at minimum break down sexual abuse vs. sexual harassment. Better still would be also to break down that data by staff-inmate and inmate-inmate sexual abuse vs. sexual harassment.

115.88(b) is not applicable since this is DCDC’s first PREA audit. Therefore, there are no previous year’s data or reports to compare.

The pre-audit information, as well as the PREA Coordinator and Agency Head designee onsite, asserted that the PREA Annual Report is approved by the Agency Head. In addition, the auditors viewed it on the agency website.

It was not necessary for the agency to redact any information from this annual report. In future reports, DCDC will need to ensure that specific material can be redacted if it presents a clear and present threat to the safety and security of the facility, though the nature of the material that was redacted must be indicated.

Corrective Action:

1. Enhance the PREA Annual Report to include the identification of problem areas, corrective actions taken on an ongoing basis, and “findings and corrective actions for each facility, as well as the agency as a whole.”
2. Provide data in the Annual Report and thus on the website that breaks down sexual abuse and sexual harassment.

UPDATE 02/19/16:

1. Auditors were provided with an enhanced PREA Annual Report which includes identification of problem areas, corrective actions taken on an ongoing basis, findings and corrective actions. Auditors felt the report satisfied the needed corrective action and verified that this enhanced report had been placed on the agency website. This provision is satisfied.
2. Auditors verified that the data provided in the PREA Annual Report and website did differentiate sexual abuse from sexual harassment. This provides a much clearer picture of the overall reporting culture of the agency. Auditors reiterated that, in the future, the report will also need to include a data comparison from previous years. This provision is satisfied.

Standard 115.89 Data storage, publication, and destruction

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3.1.108 p8
- 2014 PREA Annual Report

Interviews, Document and Site Review:

DCDC sexual abuse data is contained in the 2014 PREA Annual Report. Auditors learned that the data therein is collected, secured, and maintained by OPR (Office of Professional Responsibility) and is available on the agency website at the following link: <http://corrections.dccorr.com/images/sexualabuseprevention.pdf>

115.89(b) is not applicable, as DCDC contracts with no private facilities.

Review of the annual report on the agency website revealed no personal identifiers. The PREA Coordinator creates the PREA Annual Report and ensures that no personal identifiers are present.

DCDC PREA Policy p8 states, “All sexual abuse data is securely stored for a minimum of 10 years.”

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.

Ray Reno/Talia Huff

03/21/16

Auditor Signature

Date