



THE NATIONAL INSTITUTE OF CORRECTIONS TECHNICAL ASSISTANCE REPORT ON

Technical Assistance No. 10B4606

Kansas Department of Corrections

Topeka Correctional Facility

Topeka, Kansas

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DISCLAIMER

This technical assistance activity was funded by the Administration Division of the National Institute of Corrections. The Institute is a Federal agency established to provide assistance to strengthen state and local correctional agencies by creating more effective, humane, safe and just correctional services.

The resource persons who provided the onsite technical assistance did so through a cooperative agreement, at the request of the Kansas Office of the Governor, and through the coordination of the National Institute of Corrections. The direct onsite assistance and the subsequent report are intended to assist the agency in addressing issues outlined in the original request to enhance the effectiveness of the agency.

The contents of this document reflect the views of the resource persons associated with this technical assistance activity. The contents do not necessarily reflect the official views or policies of the National Institute of Corrections.

Executive Summary

Kansas Governor Mark Parkinson requested assistance from the National Institute of Corrections (NIC) to review the policies and training procedures related to staff sexual misconduct and cross gender supervision in the Kansas Department of Corrections, and in particular at the Topeka Correctional Facility. This Executive Summary provides an overview of the Departmental strengths, findings from the onsite work and document review, as well as a summary of the recommendations made by the consultant team to assist the Department in continuing to improve the sexual safety of inmates at the Topeka Correctional Facility.

Strengths

The consultants commend the Kansas Department of Corrections for their commitment to addressing the issue of sexual abuse, and would like to acknowledge the number of strategies that the Department has engaged in. They include: training their investigations staff in proper investigatory technique and process, changing the investigative processes and response timetables, developed an inmate orientation DVD, implementing a new PREA policy, developed training for volunteers, working with the community (Battered Women's group), implementing a sexual assault reporting hotline, institute a critical incident review process, implemented a medical protocol that includes a Sexual Assault Nurse Examiner (SANE), and are currently exploring a risk needs assessment to identify vulnerable and aggressive inmates. All of these efforts demonstrate the Department's awareness of this important issue, and their attention to continual improvement.

Findings and Recommendations

Policies and Procedures - The Kansas Department of Corrections written policies and procedures related to the prevention and detection of staff sexual abuse are generally consistent with national standards. The department leadership has progressively developed strategies to address issues of sexual abuse. Recommendations were made in the following areas regarding policies and procedures:

- Improving the notification, monitoring, and external access to Sexual Assault Hotline;
- Limiting cross gender pat searches to emergency situations, defining what circumstances constitutes an emergency, and augmenting training of staff in the proper technique for conducting such searches;
- Establishing a uniform process to ensure all inmates and staff are notified of policy changes; and
- Reviewing the 8 a.m. to 3 p.m. room restriction policy to see if changes are warranted or possible to reduce inmate idleness.

Training – The training curriculum for staff generally includes necessary components related to the prevention and detection of staff sexual misconduct. Recommendations were made in the following areas regarding training:

- Review the amount of time and delivery strategy for PREA-related training, and ensure that all staff participate in annual refresher training on the topic, including the prevention and detection of staff sexual misconduct.

- Develop a gender responsive training curriculum, potentially utilizing the National Institute of Corrections as a resource in this area to ensure most current information on research based training (including e-learning).
- Develop consistent volunteer training that minimally provides for full integration of the volunteer manual and adequate time to explore case examples related to sexual misconduct.

There has been a recent change in the leadership of the training department and, as a result, many staff are encouraged that there is a more intentional plan to develop gender responsive training materials and improve training delivery strategies.

Sexual Misconduct and Undue Familiarity - Inmate and staff discussion groups identified inconsistency in supervisory and leadership practices as barrier to reporting sexual abuse. Though most staff and inmates are generally familiar with PREA and DOC policies and procedures, an extensive review is necessary to determine (1) the application of these policies and procedures within the TCF, and (2) the willingness of staff and inmates to report inappropriate behavior. Recommendations were made in the following areas regarding sexual misconduct and undue familiarity:

- Clearly define for staff behaviors that would constitute undue familiarity, as well as those behaviors that would not.
- Consider a more extensive review of inmate perceptions and behavior regarding reporting staff sexual misconduct, as well as any barriers to reporting incidents when they occur.
- Consider a more extensive review of staff perceptions regarding reporting incidents of staff sexual misconduct.
- Review the grievance process to determine whether changes may be necessary to promote greater inmate confidence in the process, including additional means of providing assurances that there will be no retaliation for the filing of grievances.

Investigations - The investigative function within the DOC has been strengthened by recent restructuring. When made aware of staff sexual misconduct allegations, investigators have responded appropriately and have effectively used all available investigative tools such as interviews, surveillance, polygraphs, etc. Feedback in inmate and staff discussion groups indicated that there was inconsistency in the full understanding of what was a “reportable” incident, as well as a lack of confidence in the investigative process. Recommendations were made in the following areas regarding investigations:

- Ensure investigators have full access to video footage without going through administrators.
- Review proper installation of cameras with the retention schedule for camera videotapes ensured for the full allotted capacity of the equipment.
- Enhance the education of both staff and inmates about the investigative process and its purpose in protecting both staff and inmates.
- Establish guidelines for timely investigations and develop a process for monitoring those timelines.

- Develop a standard process for notifying staff and inmates about ongoing and concluded investigations.
- Ensure that all investigations are carried through to a final disposition even if a staff member resigns their position during the investigation.
- Increase confidence in investigations (see reporting recommendations).
- Build upon the newly-established process for reviewing sexual abuse incidents at both the facility and departmental level, and continue to emphasize the importance of the strategy.

Inmate Education - Inmate orientation materials, brochure, and video, adequately cover issues of sexual abuse and reporting of incidents. Not all long-term inmates have had the opportunity to receive PREA orientation training. A recommendation was made in the following area regarding inmate education about PREA and sexual abuse:

- Develop a single policy clearly delineating requirements for inmate orientation and education, as well as defining the entity responsible for providing such information.

Monitoring Systems - TCF has installed a number of new cameras within the facility, yet there are a number of areas that remain unmonitored, either by direct staff supervision and/or camera. Recommendations were made in the following areas regarding monitoring systems:

- Establish a set schedule for maintenance of the camera system to ensure that cameras are not out of service.
- Review the construction and placement of officer stations to ensure optimal viewing of inmate activity.
- Secure resources to install additional cameras in isolated areas where inmate movement and activity is frequent.
- Review all enclosed areas to determine whether blinds or other obstructions can be removed to facilitate effective monitoring.
- Conduct a comprehensive review of key control within the facility.

Staffing Plans – Current custody staffing levels are insufficient to effectively monitor activities at TCF – even considering the use of cameras throughout the facility. This impairs the safety of both staff and inmates, including sexual safety. Recommendations were made in the following areas regarding staffing plans:

- Review their current staffing plan and redistribute staff to increase inmate supervision.
- Review all post orders and determine whether they are reasonable and feasible for staff to adhere to.
- Undertake a comprehensive staffing study to determine sufficient staffing levels at TCF.
- Endeavor to fill all the positions that are currently approved but remain vacant or unfunded.

The consultant team recommends the Department and facility leadership prioritize these recommendations and explore additional support from the National Institute of Corrections to assist them in the prevention, detection, and response to instances of sexual abuse.

Consultant Team

The National Institute of Corrections team was comprised of the following four criminal justice consultants: Anadora (Andie) Moss, Susan Poole, David Marcial, and Jeff Shorba.

Background

Kansas Governor Mark Parkinson requested assistance from the National Institute of Corrections (NIC) to review the policies and training procedures related to staff sexual misconduct and cross gender supervision in the Kansas Department of Corrections, and in particular at the Topeka Correctional Facility (TCF). The letter of request specifically asked for a review of the following:

1. Effectiveness of departmental policies and procedures;
2. Consistency with generally accepted national practices of department training on sexual misconduct and undue familiarity;
3. Staff and inmate knowledge and understanding regarding sexual misconduct and undue familiarity;
4. Facility responses to specific allegations of staff sexual misconduct, particularly focusing on recent incidents at the Topeka Correctional Facility. Were the events, investigations and personnel actions handled in accordance with department policies and procedures?
5. Systems in place for inmate education regarding sexual abuse and reporting of incidents;
6. Adequacy of monitoring systems (camera, contraband controls, technology); and
7. Staffing plans for adequacy of coverage and supervision.

NIC contracted four nationally-recognized criminal justice consultants to conduct a review of the items requested by Governor Parkinson. The consultant team spent three days in Topeka meeting with Kansas Department of Corrections (DOC) and Topeka Correctional Facility (TCF) officials, holding discussion groups with staff and inmates and reviewing facility operations during all three shifts. As part of the review, the consultants analyzed over one hundred DOC policies, procedures, investigations, training materials, reports, statutes, etc. Some of the document review occurred on-site at TCF, with the majority of the review taking place in advance of the site work. This report organized around the issues raised in Governor Parkinson's request, containing the following seven areas of review:

1. DOC Policies and Procedures
2. DOC Staff Training
3. Staff and Inmate Knowledge of Sexual Misconduct and Undue Familiarity

4. Facility Response to Allegations
5. Inmate Education
6. Monitoring Systems
7. Staffing Plans

1. DOC Policies and Procedures

Consultants reviewed DOC policies related to the detection and prevention of staff sexual misconduct. A broad range of policies were analyzed in the review, with policy issues that are directly related to the request of the technical assistance discussed below.

Overall Finding: The Kansas Department of Corrections written policies and procedures related to the prevention and detection of staff sexual abuse are generally consistent with national standards. The department leadership has progressively developed strategies to address issues of sexual abuse.

The DOC has a broad policy covering the prevention of sexual assault – *Internal Management Policy and Procedure (IMPP) 10-103: Sexual Assault Prevention and Intervention Program*. This policy covers items that should be included in a policy of this type – reference to state statutes, prevention and screening of inmates, staff training and inmate education, reporting incidents and response, and tracking incidents and reporting. The policy reflects mandated components of the recently developed *National Prison Rape Elimination Act (PREA) Commission Standards for the Prevention, Detection, Response and Monitoring of Sexual Abuse in Adult Prisons and Jails (PREA Commission Draft Standards)*. The policy could be made to be clearer with a definition of the word “staff.” The policy should specifically state that the policy covers all employees, volunteers, and contractors when the word ‘staff’ is used. It is important to ensure that all staff are included and understand the Department’s sexual abuse policy.

The DOC has established a departmental PREA coordinator who recently attended the first national PREA Coordinator’s Meeting in order to stay current on national practice. Also, the DOC has assigned facility level PREA coordinators. This represents best practice and seems to have resulted in a coordinated focus on systemic change.

The DOC has a number of policies addressing the investigations process. *IMPP 22-103: Enforcement, Apprehension and Investigation Division: Investigation Procedures* provides general guidance on the initiation and completion of investigations. The policy provides for essential items such as initiation of the investigation, assignment of investigators, use of surveillance and polygraphs, use of *Miranda* and *Garrity* warnings and completion of investigative reports. In the last year, the DOC has centralized oversight of its investigative functions under a Director of the Enforcement, Apprehension and Investigation (EAI) Division. This new oversight has helped to provide a more consistent approach to investigations across the DOC and is consistent with the direction many state corrections agencies are taking.

The DOC has established a Central Office Sexual Assault Line. The line is accessible from any inmate phone and there are posters present around the facility advertising how to report sexual abuse via the sexual assault line. Individuals calling the sexual assault line can leave a message on an answering machine that is monitored by central office staff in the

EAI Division. Consultants were concerned, however, with not only the placement of posters advertising the sexual assault line but also the content of the posters.

The posters do not clearly indicate that the line is confidential and a message can be left anonymously. This was confirmed in discussion groups with inmates during the assessment period. When the consultants accessed the hotline from one of the housing units, the voicemail instructed the inmate caller to leave identifying information. Such a practice may deter inmates from reporting incidents of sexual abuse, and may cause them to feel re-victimized by the conflicting messages. Consideration should be given to implementing a sexual assault hotline that provides for anonymous reporting with opportunities to provide more identifying information if desired.

There was also some indication that information left by a caller on the sexual assault line could be accessed directly by facility staff. This could compromise the integrity of the line since individuals may only feel comfortable reporting to an entity outside the facility, especially if an incident involves high-level facility staff. The DOC should ensure that calls are accessed and monitored only by EAI central office staff. This practice should also be clearly communicated to the inmate population. Consistent with the draft PREA Commission standards the DOC may also want to consider some way for individuals to report outside the DOC altogether or at least some way to allow non-inmates to report confidentially and anonymously.

Sexual Assault Hotline Recommendations: (1) The DOC should consider changing its posters and other information advertising the sexual assault line. It is not clear from the postings that callers may leave information anonymously and that callers using an inmate telephone will not have their identity recorded in any way. (2) Notice of the sexual assault line should also be placed directly on the inmate phones so it is easily visible to inmates. (3) The DOC should also ensure that only designated central office EAI Division staff are able to retrieve messages from the sexual assault line. (4) The DOC should consider establishing a way for non-inmates (staff, visitors, family members, etc.) to report to a sexual assault line. These individuals may also be good sources of confidential information.

DOC policy currently allows for cross gender pat searches of inmates. The majority of states have eliminated this practice in facilities housing women, except in cases of emergency. Limiting cross gender searches to cases of emergency is also consistent with the PREA Commission Draft Standards and existing case law. In those jurisdictions that allow cross gender pat searches, it is imperative that staff receive training on the proper method for conducting a pat search and that supervisors regularly observe staff conducting these searches.

Though the DOC is in the process of updating its training video on conducting pat searches, the current one is outdated. The inmates in the discussion groups were quite concerned with the use of cross gender pat searches and the methods currently employed by staff to conduct them. The DOC has recently implemented a rule that all pat searches must be conducted in front of cameras so that they can be reviewed if issues or complaints arise. While this is a positive step, many of the cameras used for monitoring are quite far from the locations where the inmates are undergoing pat searches (see Exhibits A and B).

Exhibit A – I Building “X” Indicating Where Inmates are to Stand in the Corridor for Routine Pat Searches



Exhibit B – I Building Corridor Where Pat Searches are Monitored at the Opposite End of Hallway (Consultant Standing on Red ‘X’ for Photo)



Pat Search Recommendation: *The DOC should revise its pat search policy to limit cross gender pat searches only to emergency situations – and define what circumstances would constitute emergency situations. This would be consistent with current operational practice in most women’s facilities. If these limitations are not imposed, at a minimum, the DOC should enhance its training of staff to ensure that proper techniques are used when conducting pat searches.*

The DOC maintains policies on its public website: www.doc.ks.gov. This helps family members, visitors, and staff obtain access to policies. Inmates report they have access to policies through the library but they are often unaware that a policy has been changed or updated. Staff also reported difficulty in knowing about policy changes. This results in inconsistent practices in facility operations.

Policy Recommendation: *The DOC should establish a uniform process to ensure all inmates and staff are notified of policy changes.*

The TCF has established a policy that all inmates who remain in the unit and are not assigned work must remain in their rooms from 8 a.m. to 3 p.m. This mix of idleness and lack of direct supervision adds to the vulnerability of sexual safety of inmates. This policy was instituted in an effort to encourage inmates to participate in work assignments by restricting their mobility. At the time of the assessment, it was reported by many inmates and staff that there are fewer job opportunities at TCF. Inmates stated that, even if they choose to work, employment opportunities are not available. Inmates have significant concerns with this policy since it appears to be a punishment even if they are willing to work. Facility staffing may limit changes to this policy since one staff member in each unit may not be able to monitor all inmates.

Room Restriction Recommendation: *TCF should review its 8 a.m. to 3 p.m. room restriction policy to see if changes are warranted or possible. The review should include an analysis of additional full and part-time work assignments that could be structured, particularly in support of facility maintenance. Inmate idleness can contribute to increased sexual vulnerability.*

2. DOC Staff Training

Consultants reviewed training curriculum for staff, contractors and volunteers as well as department policies related to staff training. This review was conducted both off site in advance of the assessment via materials sent to the consultant team by the DOC, and on site via materials available at central office and TCF.

Overall Finding: *Training curriculum for staff generally includes necessary components related to the prevention and detection of staff sexual misconduct. Improvements could be made in training related to best practices in working with women offenders, training provided to non-custody staff, training provided to facility volunteers and overall delivery strategies. Often staff are provided training through self-study with little guidance. There has, however, been a recent change in the leadership of the training department. Many staff are encouraged that there is a more intentional plan to develop gender responsive training materials and improve training delivery strategies.*

There is no central training academy for the Kansas Department of Corrections. Hiring is done locally at the facility, with staff receiving training and orientation directly at the facility at which they are hired. The number of training hours is established at the facility and varies according to job classification. All staff receives one week of orientation. As new training mandates occur, it is left to the discretion of the local training division how to integrate new curriculum into the allocated number of training hours. This practice results in inconsistent delivery and integration of training outcomes.

Annual training is conducted at the facility and includes a session related to the prevention of sexual abuse. Non-custody staff are not mandated to have this training. This is a limitation of the current training plan. It can substantially limit the staff's understanding of their roles and their consistency in reporting and responding to incidents of sexual violence.

Annual Training Recommendations: *Annual training at TCF and other facilities should be reviewed to ensure there is appropriate focus on prevention and detection of staff sexual misconduct for all staff, including custody, non-custody, volunteer, and contractors (see additional recommendation specific to volunteer staff on page 11). The DOC should also review the following: (1) amount of time dedicated to PREA issues during annual training, (2) the delivery strategy and (3) the use of an evaluation tool for feedback from participants. This foundational material is necessary for a consistent response across all groups working with inmates to addressing the prevention, detection, and reporting of sexual abuse.*

In their review, consultants learned that several representatives of the TCF management team have attended NIC training on both *Agency Planning and Operational Practices in Women's Prisons*. These programs provide participants with the opportunity to develop action plans during the training for implementation at their facilities or organizations. One of the prime focus areas of these courses is the need to ensure staff working in female facilities receives training on gender responsive principles. Information obtained from the staff discussion groups revealed little training for TCF staff on working with female inmates representing current national practice. Additionally, the Department should consider accessing the National Institute of Corrections' online e-learning training, *Your Role: Responding to Sexual Abuse*, which is available at no charge to the field.

Gender Responsive Training Recommendation: *The DOC should develop a curriculum to use in training all TCF staff on working with female inmates. NIC would be a valuable resource to request assistance in the development and delivery of gender responsive training for staff. This foundational material is integral to the development of communication skills in working with a female offender population and in developing a basic understanding of the day-to-day dynamics that emerge between staff and inmates as well as between inmates.*

Under DOC policy, volunteers receive an orientation program as determined by their appointing authority or designee. All volunteers given clearance to work in a facility are provided with a Volunteer Manual, which provides an overview of the department, its mission, volunteer rules of conduct, undue familiarity and its consequences, and scenarios for volunteers to review. Though there are general guidelines in DOC policy providing topics, which should be addressed in volunteer orientation, there is considerable discretion left to each facility in the delivery of the orientation and the quality control processes used. Broad discretion of this type among correctional facilities results in considerable variation across the state.

Volunteer Training Recommendation: *The DOC should develop consistent volunteer training. The training should, at a minimum, (1) provide for full implementation of the volunteer manual and (2) provide for adequate time to explore case examples related to sexual misconduct.*

3. Staff and Inmate Knowledge of Sexual Misconduct and Undue Familiarity

Consultants held discussion groups with both staff and inmates to determine their understanding of sexual misconduct and undue familiarity.

Overall Finding: *Though most staff and inmates are generally familiar with PREA and DOC policies and procedures, an extensive review is necessary to determine (1) the application of these policies and procedures within the TCF, and (2) the willingness of staff and inmates to report inappropriate behavior. In discussion groups, some inmates and staff believed there to be inconsistency in supervisory and leadership practices, creating a barrier to reporting sexual abuse.*

All staff, either through orientation or annual training, receives some information regarding staff sexual misconduct and undue familiarity. Most staff have a general understanding of both PREA and departmental policies related to the prevention and detection of sexual misconduct.

Staff expressed some confusion about the definition of undue familiarity, particularly with respect to their role in restricting personal contact with inmates. Some staff believe that all communication with inmates is to be limited to very brief interactions. These staff report feeling limited in their capacity to obtain information and follow up with inmates due to these restrictions. In instances where there have been allegations of staff sexual misconduct, administration and staff can sometimes overcompensate by limiting even legitimate contact with inmates.

New inmates also receive orientation about these issues in both oral and written formats. Every Thursday, a representative from the Battered Women's task force delivers a presentation on the cycle of abuse. Two inmate peers talk to the new inmates about how to handle relationships while incarcerated. The consultants did not observe these discussions, but acknowledge the Department's effort in this area.

Further, an orientation DVD is available to inmates, with a statement made by the Secretary that emphasizes the Department's zero tolerance policy. While this creates a strong statement from the agency leadership, the DVD focuses primarily on inmate-on-inmate abuse, and is more identified with male sexual violence. Augmenting the video with more gender-responsive case examples and discussion is recommended.

Undue Familiarity Recommendation: *The DOC and TCF Administration should clearly define for staff behaviors that would constitute undue familiarity, as well as those behaviors that would not. Orientation materials should be reviewed for gender appropriateness.*

Inmates receive a general orientation to PREA at intake as well as various written materials. Inmates in focus groups had a general understanding of PREA, though they felt somewhat reluctant to report staff misconduct. Some inmates feared either retaliation or disciplinary

violations if they were to report staff misconduct. Some inmates also did not appear to understand what happens when a complaint is made via the sexual assault line.

Inmate Reporting Recommendation: *The DOC should consider a more extensive review of inmate perceptions and behavior regarding reporting staff sexual misconduct, as well as any barriers to reporting incidents when they occur.*

Staff in discussion groups indicate familiarity with PREA and believe that if staff becomes aware of misconduct they will report it. The DOC should be acknowledged for implementing a 120-day review process, and should consider evaluating its effectiveness as some staff members reported that the women were reluctant to use it for reporting. It was not clear if staff who were found to have known about misconduct and did not report it were subjected to any type of discipline. Despite a general sense by staff that misconduct would be reported, there were some discrepancies in what staff felt was reportable behavior. Some staff were concerned with false reporting by inmates and many staff felt inmates were not being disciplined appropriately for false reporting.

Staff Reporting Recommendation: *The DOC should consider a more extensive review of staff perceptions regarding reporting incidents of staff sexual misconduct. Some correctional systems have found value in distributing surveys to both inmates and staff to determine perceptions of sexual safety. These surveys, in turn, provide baseline information that can be utilized to gain a deeper understanding of the reporting culture at an institution.*

Inmates discussed strong mistrust of the grievance process. They do not feel that grievances are answered, and some inmates communicated their fear of retaliation from staff for filing grievances. As documented in the Inmate Rule Book (*Section 44-15-104: Reprisals Prohibited*), the DOC provides strong statements prohibiting staff from retaliating against an inmate who files a grievance against a staff member. However, consistent comments from all inmate discussion groups warrant a review of the grievance process. An effective grievance process is a critical tool for management to identify potential areas of concern related to sexual abuse. Therefore, it is important that the department actively encourage confidence in the process.

Grievance Process Recommendation: *The DOC and TCF should review its grievance process to determine whether changes may be necessary to promote greater inmate confidence in the process, including additional means of providing assurances that there will be no retaliation for the filing of grievances.*

4. Facility Response to Allegations

Consultants reviewed both past and present investigations at TCF involving allegations of staff sexual misconduct. Consultants also held extensive interviews with EAI investigators at central office and TCF to review investigative materials. Staff and inmate discussion groups were also asked about the investigative process. As mentioned earlier in this report, the DOC recently restructured its investigative operation by centralizing oversight in a Director of EAI who provides direction to investigators located at each correctional facility. Though in its early stages of implementation, the consultants believe this new organizational structure has helped to provide better oversight, greater consistency, and more accountability for investigations across the DOC.

Overall Finding: *The investigative function within the DOC has been strengthened by recent restructuring. When made aware of staff sexual misconduct allegations, investigators have responded appropriately and have effectively used all available investigative tools such as interviews, surveillance, polygraphs, etc. Feedback in inmate and staff discussion groups indicated inconsistency in the full understanding of what qualifies as a “reportable” incident, as well as a lack of confidence in the investigative process.*

Investigative staff at TCF has been there for a number of years and understand the facility and the investigative process. Looking at formal investigative files there is no evidence to suggest that either investigators or the administration have ignored allegations brought forward to them. In reviewing investigative files, it was clear that a variety of techniques were used to pursue information in individual cases. Some of these techniques have been limited in recent years. For example, due to state law and collective bargaining agreement changes, polygraphs can no longer be used without the consent of an employee. Additionally, under state statute, an alleged victim of a sex crime can not be forced to submit to a polygraph examination.

The DOC did receive funding over the past few years to install additional cameras at TCF, which have been effective tools in conducting investigations. The process can be streamlined, however, to ensure that investigators have independent access to cameras and do not have to go through other administrators to review any tapes. Efforts should also be made to ensure that the full 27 – 33 day storage capacity for maintaining videotape footage from the cameras is utilized. It was reported by security staff across a number of levels within the institution that the current practice for maintaining videotape footage is approximately 15 days.

Investigative Process – Camera Recommendation: *The DOC should review investigator access to cameras, proper installation and maintenance of cameras, and the retention schedule for camera videotapes for the full allotted capacity of the equipment. Many systems are implementing a minimum retention period of 30 days.*

Although investigative techniques used at TCF were generally effective, the Department must ensure that both staff and inmates feel comfortable reporting information. Reporting of allegations could be enhanced by developing a greater understanding of the investigative process among both staff and inmates. This would increase the prevention, detection, and reporting of sexual abuse.

Many individuals in discussion groups indicated they are not sure how the investigative process works. Consultants were told that there is some discussion of the investigative process at both staff and inmate orientation, but it is limited.

Investigative Process – Orientation Recommendation: *The DOC should enhance its efforts to educate both staff and inmates about the investigative process and its purpose in protecting both staff and inmates.*

Another issue raised by staff in discussion groups was the time it takes to conduct an investigation and the notification process to staff members during an investigation or at its conclusion. When an investigation drags on it leaves both those under investigation and those making allegations in a state of uncertainty. Delays may also compromise the statements and memories of witnesses and the ability to influence behavior through prompt

and effective discipline of staff and inmates. Investigations are complex and take time to resolve, it is important to have a clear timeline established with guidelines for adhering to the timeline. The Enforcement, Apprehensions, and Investigations Division (EAI) Director should analyze compliance with these guidelines on a regular basis. This would increase confidence in the investigatory process.

Investigative Process – Timeline Recommendation: *The DOC should establish guidelines for timely investigations and develop a process for monitoring those timelines.*

In addition, a process should be developed for ensuring that those under investigation are notified on developments – when appropriate – in the investigation and are provided written results when an investigation is concluded. The DOC will have to weigh issues related to confidentiality and the need to ensure that an ongoing investigation is not compromised in doing so. However, to promote greater trust in the investigative process, the DOC needs to ensure that those under investigation are kept informed and receive a written notice of substantiated, unsubstantiated, or unfounded when the investigation is concluded. A process should be developed for both staff and inmate notifications. This recommendation is also consistent with the draft PREA Commission standards.

Investigative Process – Notice Recommendation: *The DOC should develop a standard process for notifying staff and inmates about ongoing and concluded investigations.*

Consultants discussed with investigative staff the process for continuing investigations once an individual resigns from their position. In reviewing investigative files, it is clear that some staff choose to resign when confronted with allegations. Consistent with the draft PREA Commission standards and current accepted practice, it is important that all investigations are carried through to completion even if an individual resigns in the middle of an investigation. If an allegation of staff sexual misconduct or other inappropriate behavior is substantiated through the investigatory process, it is important that information be conveyed to future employers, ensuring that such employees are not permitted to re-enter the system. The consultants learned that – in such substantiated cases – employees are required, before a resignation will be accepted, to sign a document that they will not seek employment in the future with any Kansas Department of Corrections facility. In some instances, this document will also authorize the department to notify other law enforcement agencies who seek employment references for the individual of the reason the individual's employment with the Kansas Department of Corrections ended.

To facilitate the retrieval of such information, it is recommended that all final dispositions be documented in a centralized location (see Staff Resignation Recommendation on page 14).

Investigative Process – Staff Resignation Recommendation: *The DOC should ensure that all documentation to substantiate investigations is easily retrievable, including circumstances where a staff member resigns their position during the investigation.*

The process used by consultants to review investigations required discussions with both investigative and human resources staff. Investigators were able to provide a summary of the investigative work but they were not able to provide a disposition in each case. Human resources staff with input from the TCF Warden was able to provide information on the dispositions of each case. There appeared to be little sharing of information with

investigative staff about what actually happened with respect to staff members whose cases had been closed.

Periodically reviewing investigations for patterns is crucial to identify trends in the behavior of staff and inmates, gaps in the investigative process or ways to improve the detection, reporting and response to incidents of staff sexual misconduct. The draft PREA Commission standards requires that a team of upper level facility managers conduct sexual abuse incident reviews to determine policy, training or other issues related to these incidents. The standards also require a review at the departmental level. A recent Departmental policy revision has implemented a review process. This will enable the Department to identify trends and patterns in the data and assist in their responses to sexual abuse. The consultants were further informed that the Department has recently purchased new software for building the internal capacity for tracking and analyzing investigations patterns.

Investigative Process – Sexual Abuse Incident Review Recommendation: *The DOC recently established a process for reviewing sexual abuse incidents at both the facility and departmental level, and should continue to emphasize the importance of the strategy. The review process should include all investigations related to sexual abuse and should be monitored by senior staff.*

5. Inmate Education

Overall Finding: Inmate orientation materials, brochure, and video, adequately cover issues of sexual abuse and reporting of incidents. Not all long-term inmates have had the opportunity to receive PREA orientation training addressing the prevention and reporting of sexual abuse.

Inmates are educated about PREA and reporting of sexual abuse at facility inmate orientation. It appeared from discussion with inmates and a review of orientation materials that inmates who arrived at the facility subsequent to the passage of PREA have viewed a PREA video and also received a brochure entitled “Offender’s Guide to Sexual Assault Prevention.” TCF staff told consultants that this brochure was recently updated and handed out to all inmates within the last month. Not all long-term inmates have had the opportunity to receive PREA orientation training. The department has identified these inmates and is currently developing an action plan to address this need. This is critical in encouraging a reporting environment.

Consultants reviewed the inmate brochure and it appears adequate to address issues of inmate-on-inmate sexual abuse as well as staff sexual misconduct. As mentioned earlier in this report, the brochure should be updated to clarify that calls to the sexual assault line are confidential and clarify whether the call can be made anonymously. The brochure may also be a vehicle for the DOC to address explanations of the investigative process.

The DOC Sexual Assault Prevention and Intervention Program provides that inmate orientation must include the following elements: (1) how inmates can protect themselves from being victims; (2) treatment options available to victims; (3) methods of reporting incidents of sexual abuse/assault; (4) information on service and programs for sexually assaultive or aggressive inmates; (5) information on monitoring, discipline and or prosecution of sexual perpetrators; and (6) the DOC brochure, Offender’s Guide to Sexual

Assault Prevention. Some of these topics are covered in orientations conducted by health services or mental health staff.

There is not a single policy where all inmate orientation requirements are described in detail in their entirety. Some information is provided in writing and some information is provided by staff in face-to-face discussions with inmates. Consistent with the draft PREA Commission standards information should be provided in formats accessible to all inmates including those who may be deaf, learning disabled, visually impaired, unable to read English, etc. The DOC should also ensure that all inmates, including those who have been incarcerated for long periods of time, receive the same orientation materials.

Inmate Orientation Recommendation: *The DOC should develop a single policy clearly delineating requirements for inmate orientation and education, as well as defining the entity responsible for providing such information.*

6. Monitoring Systems

Overall Finding: *TCF has installed a number of new cameras within the facility, yet there are a number of areas that remain unmonitored, either by direct staff supervision and/or cameras. Steps should be taken to review camera maintenance and placement, key control and methods to improve monitoring from officer stations and within all isolated areas.*

The Topeka Correctional Facility has installed over 250 new cameras within the last few years as the result of federal PREA grant funding. These cameras were installed to improve staff and inmate safety due to the fact that the facility has a number of isolated areas. Staff were not able to provide consultants with a schematic that delineated the placement of all cameras.

Due to insufficient staffing, the majority of the cameras are not simultaneously monitored. The camera system is set up to record activity; however, as mentioned earlier in this report this information is not currently archived for a sufficient time to aide in the investigative process. Maintenance of the cameras is done only when (1) a technician is in an area working on another project and checks the camera or (2) when a specific work order is submitted. There is no set maintenance schedule.

Use of the monitoring equipment was discussed in both staff and inmate discussion groups. Both groups expressed frustration with the camera system when necessary to validate claims or allegations. Complaints were raised about the time it takes to obtain approval to view camera recordings and often it was too late or the tape had been reused. Inmates complained that they were told cameras “were not working” when they asked to have allegations verified. In general the cameras have improved safety and security in the facility. Ensuring that cameras are in working order would enhance monitoring system.

Maintenance Recommendation: *TCF should establish a set schedule for maintenance of the camera system to ensure that cameras are not out of service and impacting the prevention, detection, and response to sexual abuse and physical safety.*

Correctional officer posts are located in or immediately adjacent to inmate living areas to permit officers to monitor inmate activity. However, in several units toured by the

consultants the officer station was enclosed with solid partitions that were almost six feet high (see Exhibit C).

Exhibit C – G Housing Unit Officer’s Desk



The size of these partitions made it virtually impossible for staff to see out into the living units unless they were standing. Officers were forced to rely on video cameras to see into the units and down the hallways. The video feed from multiple cameras is often viewed on a single screen with small picture tiles. This can make monitoring of behavior challenging, and can diminish the level of inmate supervision. While cameras can be a useful management tool, adequate staffing to monitor key areas and provide inmate supervision is essential. Staffing will be addressed in the next section of this report.

Officer Station Recommendation: TCF should review the construction and placement of officer stations to ensure optimal viewing of inmate activity.

Although a number of cameras have been installed throughout the facility there are many isolated areas with inmate movement and activity not covered by cameras (see Exhibits D, E, and F).

**Exhibit D – Obsolete Showers Adjacent to Recreation Room/Gymnasium
(No Camera Present)**



**Exhibit E – J Building Hallway with Elevator Entrance to the Right of the Exit Sign
(Camera Placed Directly Overhead of Photo Location)**



**Exhibit F – Hallway Elevator Entrance Blind Spot
(Camera Located Around Corner to the Right)**



Additionally, inmates regularly move between I and J units for a variety of services including medical line, pill line, programming and library services. Much of this movement is outside the viewing area of cameras. In addition there are areas where cameras are only located in hallways and cannot capture events in offices and program rooms.

Camera Recommendation: The DOC should secure resources to install additional cameras in isolated areas where inmate movement and activity is frequent. This recommendation should be implemented in concert with recommendations on staffing in Section 7.

Monitoring of activity would also be facilitated by removal of blinds and other obstructions that limit viewing of activities in offices and enclosed program areas (see Exhibit G).

**Exhibit G – Office Blinds in I Building (top left)
and Program Office Blinds (bottom right)**



Some offices may need to have blinds for privacy when medical procedures or other similar activities are being conducted. However, in the majority of situations offices should be viewable by officers and others to reduce incidents of misconduct.

Enclosed Areas Recommendation: *TCF should review all enclosed areas to determine whether blinds or other obstructions can be removed to facilitate effective monitoring of these areas.*

The facility also has a number of closets, mechanical rooms and other enclosed spaces that could be used for inappropriate activity (see Exhibits H and I).

Exhibit H – Mechanical Area



**Exhibit I – Obsolete Bathroom Adjacent to Recreation Room/Gymnasium
(No Camera Installations Permitted)**



Many of these areas are locked but it appears there may be gaps in key control process within the facility. Consultants were told that there are approximately six “grand master” key sets that are issued as take home keys to the Warden, various management staff and the electronic technician. These key sets open approximately 80% of the doors within the facility, but will not open any gates. In addition there are keys issued to unit staff that may also open offices, supply rooms, etc. Consultants were not able to conduct a full review of key control but we recommend TCF conduct such a review. Access to keys should be limited to necessary work related activity and should be logged in a manner which ensures accountability for keys and records who has access to specific areas of the facility at any given time.

Key Control Recommendation: TCF should conduct a comprehensive review of key control within the facility.

7. Staffing Plans

According to staff rosters for the week the consultants were at TCF, the facility had 140 custody staff with 100 of those staff providing direct custodial supervision.

Preliminary review of staffing and the layout of the facility indicate that it would be very difficult to effectively monitor inmates with the current level of direct supervision staff. For example, the I housing unit has four housing pods and one central control center. The general population pod houses 80 inmates and has only one officer assigned. One officer is also assigned to the segregation pod and to the control center. Certain officers are specially trained to work in the mental health pod. However, there are no trained relief officers for these posts so when the trained officers are off they are one officer short in this pod.

When a facility is short-staffed, as TCF appears to be, custody staff cannot adhere to and complete the mandated tasks as outlined in the post orders. For example, the post orders for the I housing unit mandate that every inmate returning to the pods on a pass are to be pat searched. With only one officer present in the unit, it is not possible for her or him to execute this function. Similarly, on days that the mental health pod officers are off, the segregation officer is left to manage and supervise three pods that are comprised of new Reception and Diagnostic (R&D) inmates along with inmates in the segregation and mental health units. As thirty-minute checks and the required fifteen-minute watches required for inmates who may pose a danger to themselves, that one officer is often times walking around constantly from one pod to another and not able to execute the remainder of his or her duties as prescribed under the post orders. Some of the inmates in these units are also required to be fed directly in their cells – which is another task that the single officer is expected to do.

In addition the staffing pattern in the J housing unit was set up for a system where the vast majority of inmates were absent from the unit each day for work. This is no longer the case. Another concern with many facility posts is that there is little or no direct contact with other staff members while an officer is on duty. The absence of support or contact with other staff may contribute to a staff member's vulnerability with the inmate population.

Overall Finding: Current custody staffing levels are insufficient to effectively monitor activities at TCF – even considering the use of cameras. This impairs the safety of both staff and inmates, including sexual safety.

Staffing Recommendations: The DOC should: (1) review their current staffing plan and redistribute staff to increase inmate supervision, (2) review all post orders and determine whether they are reasonable and feasible for staff to adhere to, (3) undertake a comprehensive staffing study to determine sufficient staffing levels at TCF, and (4) endeavor to fill all the positions that are currently approved but remain vacant or unfunded. The National Institute of Corrections Prisons Division could be contacted regarding potential assistance for a full and comprehensive gender responsive staffing analysis.

Conclusion

The consultants would first like to convey their appreciation to the Secretary and Deputy Secretary of Corrections, the Topeka Correctional Facility Warden, and staff at all levels of the organization for their cooperation with this review. The consultants were provided unencumbered access to all areas of the facility and conducted interviews with any staff or inmates requested. All documents requested by consultants were provided in an expedited manner. All of these efforts enabled the consultants from the National Institute of Corrections to meet the objectives of this review and gain valuable insight into the policies and training

procedures related to staff sexual misconduct and cross- gender supervision in the Kansas Department of Corrections, and in particular at the Topeka Correctional Facility.

The consultants commend the Kansas Department of Corrections for their commitment to addressing the issue of sexual abuse, and would like to acknowledge the number of strategies that the Department has engaged in. They include: training their investigations staff in proper investigatory technique and process, changing the investigative processes and response timetables, developed an inmate orientation DVD, implementing a new PREA policy, developed training for volunteers, working with the community (Battered Women's group), implementing a sexual assault reporting hotline, institute a critical incident review process, implemented a medical protocol that includes a Sexual Assault Nurse Examiner (SANE), and are currently exploring a risk needs assessment to identify vulnerable and aggressive inmates. All of these efforts demonstrate the Department's awareness of this important issue, and their attention to continual improvement.

Over the course of the review, the consultants identified a number of findings related to the prevention, detection, and response to instances of sexual abuse. We recommend the Department and facility leadership prioritize these recommendations and explore additional support from the National Institute of Corrections to assist with:

- a full and comprehensive gender responsive staffing analysis;
- an extensive review of both staff and inmate perceptions and behaviors related to reporting staff sexual misconduct, as well as any barriers to reporting incidents when they occur;
- the design and delivery of gender-responsive training; and
- accessing and implementing the online e-learning training, *Your Role: Responding to Sexual Abuse*, which is available at no charge to the field.

The consultant team hopes these recommendations enhance the Department's efforts in addressing sexual safety at the Topeka Correctional Facility. Again, on behalf of the consultant team, we appreciate the professionalism and openness of the Kansas Department of Corrections and the Topeka Correctional Facility staff throughout the review.

Report submitted by:

/s/

Anadora "Andie" Moss
Criminal Justice Consultant