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

☐ **Interim** ☒ **Final**

**Date of Report** December 11, 2018

## Auditor Information

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|---|---|
| **Name:** Brennan, Rhonda | **Email:** rbrennan@idoc.in.gov |
| **Company Name:** | |
| **Mailing Address:** PO Box 225 | **City, State, Zip:** Michigan City, IN 46361 |
| **Telephone:** (219) 874-7256 x 2310 | **Date of Facility Visit:** May 22-24, 2018 |

## Agency Information

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|---|---|---|---|
| **Name of Agency:**<br>Kansas Department of Corrections | | **Governing Authority or Parent Agency** *(If Applicable)*:<br>State of Kansas | |
| **Physical Address:** 714 SW Jackson, Suite 300 | | **City, State, Zip:** Topeka, KS 66603-3722 | |
| **Mailing Address:** | | **City, State, Zip:** | |
| **Telephone:** (785) 231-1111 or (800) 311-0860 | | **Is Agency accredited by any organization?** ☐ Yes ☒ No | |
| **The Agency Is:** | ☐ Military | ☐ Private for Profit | ☐ Private not for Profit |
| ☐ Municipal | ☐ County | ☒ State | ☐ Federal |

**Agency mission:** The Department of Corrections, as part of the criminal justice system, contributes to the public safety and supports victims of crime by exercising safe and effective containment and supervision of inmates, by managing offenders in the community and by actively encouraging and assisting offenders to become law-abiding citizens.

**Agency Website with PREA Information:** http://www.doc.ks.gov/prea

### Agency Chief Executive Officer

| | |
|---|---|
| **Name:** Joe Norwood | **Title:** Secretary of Corrections |
| **Email:** Joe.Norwood@ks.gov | **Telephone:** (785) 296-3310 |

### Agency-Wide PREA Coordinator

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|---|---|
| **Name:** Peggy Steimel | **Title:** Statewide PREA Coordinator |
| **Email:** Peggy.Steimel@ks.gov | **Telephone:** (785) 260-4658 |
| **PREA Coordinator Reports to:**<br>KDOC Deputy Secretary of Facilities Management | **Number of Compliance Managers who report to the PREA Coordinator** 10 |

## Facility Information

| | | | |
|---|---|---|---|
| **Name of Facility:** Larned Correctional Mental Health Facility | | | |
| **Physical Address:** 1318 KS Highway 264, Larned, KS 67550 | | | |
| **Mailing Address (if different than above):** | | | |
| **Telephone Number:** (620) 285-6249 | | | |
| **The Facility Is:** | ☐ Military | ☐ Private for profit | ☐ Private not for profit |
| ☐ Municipal | ☐ County | ☒ State | ☐ Federal |
| **Facility Type:** | ☐ Jail | ☒ Prison | |

**Facility Mission:** The Department of Corrections, as part of the criminal justice system, contributes to the public safety and supports victims of crime by exercising safe and effective containment and supervision of inmates, by managing offenders in the community and by actively encouraging and assisting offenders to become law-abiding citizens.

**Facility Website with PREA Information:** http://www.doc.ks.gov/facilties/prea

### Warden/Superintendent

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|---|---|
| **Name:** Don Langford | **Title:** Warden |
| **Email:** Don.Langford@ks.gov | **Telephone:** (620) 285-8039 |

### Facility PREA Compliance Manager

| | |
|---|---|
| **Name:** Tim Easley | **Title:** Deputy Warden |
| **Email:** Tim.Easley@ks.gov | **Telephone:** (620) 285-8039 |

### Facility Health Service Administrator

| | |
|---|---|
| **Name:** Christina Cline | **Title:** Health Service Administrator |
| **Email:** Christina.cline@EHR.doc.ks.gov | **Telephone:** (620) 285-8057 |

### Facility Characteristics

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|---|---|---|---|
| **Designated Facility Capacity:** 608 | **Current Population of Facility:** 588 | | |
| **Number of inmates admitted to facility during the past 12 months** | | | 850 |
| **Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:** | | | 631 |
| **Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:** | | | 821 |
| **Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:** | | | 3 |
| **Age Range of Population:** | **Youthful Inmates Under 18:** None | **Adults:** 18-67 | |
| **Are youthful inmates housed separately from the adult population?** | ☐ Yes | ☐ No | ☒ NA |
| **Number of youthful inmates housed at this facility during the past 12 months:** | | | None |
| **Average length of stay or time under supervision:** | | | 104 days |
| **Facility security level/inmate custody levels:** | | | Maximum Security/Maximum, Medium, Minimum |
| **Number of staff currently employed by the facility who may have contact with inmates:** | | | 188 |
| **Number of staff hired by the facility during the past 12 months who may have contact with inmates:** | | | 44 |
| **Number of contracts in the past 12 months for services with contractors who may have contact with inmates:** | | | 4 |

## Physical Plant

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| **Number of Buildings:** 11 | **Number of Single Cell Housing Units:** 1 |
| **Number of Multiple Occupancy Cell Housing Units:** | 5 |
| **Number of Open Bay/Dorm Housing Units:** | 1 |
| **Number of Segregation Cells (Administrative and Disciplinary:** | 36 |

**Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):**

Video is stored on NVR's or DVR's on a continuous loop of 30 days for NVR/DVR. EAI, and Disciplinary reviews footage for their investigations to help with cases. The control room is in the SORT room, EAI's office, and in the Disciplinary office. Cameras are placed in blind spots whether it be inside or outside and down long stretches of hallway for everyone's protection. The facility currently has 299 cameras in use between the West Unit, CDRP, and throughout LCMHF. Additional cameras are anticipated.

## Medical

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| **Type of Medical Facility:** | The central infirmary houses offenders in need of 24 hour nursing care. It contains a 5-bed ward with one (1) isolation/negative air flow room. LCMHF has a level III infirmary. |
| **Forensic sexual assault medical exams are conducted at:** | Great Bend or Hays Regional Hospital |

| Other | |
|---|---|
| **Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:** | 503 |
| **Number of investigators the agency currently employs to investigate allegations of sexual abuse:** | 2 |

# Audit Findings

## Audit Narrative

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

A Prison Rape Elimination Act audit of the Larned Correctional Mental Health Facility (LCMHF) at 1318 KS Hwy 264, Larned, Kansas, was conducted from May 22-24, 2018. The purpose of the audit was to determine compliance with the Prison Rape Elimination Act Standards which became effective August 20, 2012. Certified PREA Auditor Bryan Pearson assisted with the onsite site review, staff and inmate interviews, and documentation review. It should be noted that the audit was conducted as part of a multi-state consortium consisting of California, Indiana and Kansas. This no cost audit is a circular audit with no reciprocal audits being conducted. The auditors did not conduct this audit for the agency/facility under the authority of the agency, or private facility operated by contract. The auditors are not and have not been employed or otherwise received financial compensation from the agency, facility or contractor within the past three (3) years. Throughout all phases of the audit: Pre-Audit, Onsite Phase and Post-Audit, the staff at LCMHF and the KDOC have assisted the auditor and provided to barriers to the completion of the audit.

PRE-AUDIT
The auditor provided the facility with a Notification of Audit on April 5, 2018. The notification contained information on the upcoming audit and stated that any inmate with pertinent information should mail the auditor at a post office address provided and including the onsite visit dates (May 22-24, 2018). The auditor instructed the facility to post this notification in all housing units and throughout the facility at least six weeks prior to the onsite audit. These postings were made the week of April 9-13, 2018. The recommendation is that notifications are posted using colored paper and that any correspondence be treated the same as legal mail. The facility used white paper with bold print that was easy to read. The auditor received confirmation via email with photographs of the postings in housing units. During the facility audit these signs were observed throughout the facility in all housing units posted on bulletin boards. The signs were also posted in program and visiting areas where staff and offenders would have time to review the information. No offender housed at LCMHF was identified as Limited English Proficient. No offender correspondence was received during the pre-audit phase, nor at any time following the audit. The 19 offenders interviewed randomly confirm the notices had been posted on the units.

On April 16, 2018, the agency and facility provided the completed Pre-Audit Questionnaire and began sending documentation to the auditor. This documentation included policies and other relevant information to support compliance with the PREA standards. The auditor reviewed the questionnaire and the documentation provided. Prior to the onsite audit phase, the auditor provided the facility with follow-up questions based on the review of the pre-audit questionnaire and documentation that was requested onsite. The auditor also provided the facility with the steps in the audit process as part of this correspondence. The auditor reviewed the information provided and when the initial review was

done sent a listing of 20 questions covering 9 standards was sent to the facility. The information on 15 of the questions was provided prior to the onsite phase of the audit.

During this phase it was learned that the facility utilized community-based victim advocacy and SANE programs. The interviews with these agencies were conducted while onsite.

ONSITE:
On day one of the onsite visit there were 588 inmates assigned to the facility in housing units. The facility reports an operational capacity of 608 inmates. The agency indicates that it no longer tracks daily population, still tracking the 1st, 10th and 20th day totals. No reason for the change was provided. The auditor calculated a daily average of 476 based on the totals provided to the auditor for the 1st, 10th and 20th day of each month for the past year: the 36 numbers were added together and averaged. The average calculated by the auditor is less than the 588 inmates currently assigned. During this same time frame, the mission of the facility changed from Mental Health to Youthful Offenders (18-25 years of age).

An entrance meeting was held May 22, 2018 with the following persons in attendance: Warden Don Langford, Deputy Warden Tim Easley (PCM), Training Coordinator Kent Schmidt, Health Care Administrator Christina Cline, the Major, Human Resources Administrator, and Classification Director. PREA Coordinator Peggy Steimel was also in attendance. During this meeting the auditor established audit goals and expectations for each stage of the audit. It was explained that the audit was an opportunity for a thorough and objective review with the collaboration of the agency. Subjects discussed during the meeting included: time frames for the audit, the role of the auditor during the onsite audit and in any corrective action phase of the audit. The agency and facility leadership expressed their appreciation of the collaborative effort between the auditors and facility, welcoming a thorough audit of the facility. Timelines for completion of the corrective action were discussed, emphasizing that the agency had up to 180 days from the submission of the initial audit report for the corrective action phase.

After the entrance meeting, the auditors viewed each housing unit, program and service areas in the facility, noting the placement of cameras and staff throughout. The auditors checked the placement of posters outlining the reporting and advocacy services provided. On each unit, a board was placed which had materials for reporting, advocacy and outside confidential reporting. The auditors noted that the cross-gender announcements were being made. This was confirmed by staff and offenders who were assigned to the units. While on the site review, the auditors noted that the “Notice of PREA Audit” had been posted in the same board where reporting posters were placed. Posters detailing how to report are placed throughout the facility in education, visiting and programming and service areas, to include the offender dining rooms. Housing units at LCMHF consist of celled housing or dormitory style housing, which is further described in the facility characteristics section. In the celled housing, two offender are assigned to a room. The rooms have solid metal door with a window staff use to view into the rooms. Staff would have to lean into the window to observe if any offender was utilizing the toilet. Staff assigned to the housing units make frequent rounds on the units. Supervisory staff also make frequent rounds and were well-known to the offenders, who called them by name throughout the site review. Camera coverage was excellent: cameras were observed in all housing, programming and service areas to which offenders had access.

During the course of the onsite visit, the auditors reviewed separate areas of the facility where staff conduct intake, education and screening assessments, records retention for offenders/staff, and the locations of grievance forms and boxes that were attached to the wall on each housing unit adjacent to the phones. The auditors were able to review the method for screenings: which are completed utilizing

a formatted tool. This tool allows for consistency, ensuring all areas are addressed. The tool allows for additional information to be provided, if needed to clarify any concerns found during the intake/screening process. Intake and education materials are lengthy and provided to the offenders in written formats upon their arrival and then discussed individually with each offender to ensure understanding.

Informal interviews of random staff and offenders were conducted throughout the site review and all provided information on how to report sexual abuse and harassment, the frequency of supervisory staff rounds and opposite gender announcements. Interpretive services are available to the offender using "Big Word" but are not utilized as no offenders were housed at LCMHF that were Limited English Proficient. Each housing unit utilized a bulletin board, encased in a frame, with a glass cover, that allowed the offender to view each document, front and back, related to PREA: reporting, advocacy services and outside confidential reporting addresses. Each board was the same throughout the facility. In other areas, the posters for reporting and advocacy were posted approximately 5 feet up the wall.

In the general population housing units, toilets and shower areas had appropriate coverage and did not allow for viewing by the opposite gender. The auditors checked from varied angles and were unable to view into these areas. The segregation shower area required additional coverage. Three (3) areas: C Hallway bathroom, the Supply Warehouse bathroom and Barton Education bathroom, allow for offenders to lock the rooms from the inside.

Supervisory staff were present in all areas visited: housing units, program and education areas, medical and mental health services, food services, laundry areas, work areas and the warehouse. Blind spots were covered by the use of cameras and mirrors, supplementing staff that were also present in these areas.

FORMAL INTERVIEWS:
The offenders and staff were interviewed using the recommended Department of Justice PREA Compliance Audit Instrument Interview Guides and PRC Audit Handbook guidance and staff covered all three (3) shifts. The offender and staff interviews were conducted in the following manner:

While conducting the site review, the auditor made a determination of the housing units to ensure that offenders from each housing unit were interviewed, this included several areas that had a common control area, but separate wings, with showers and dayrooms. The wings were counted by the facility as separate housing units and were audited as separate housing units.

An offender roster was provided to the audit team, and a random sampling of offenders was chosen for interviews from each housing unit. Offenders were chosen by picking a name from the beginning, center or end of each list for each separate housing unit, to ensure that those closest to the officer's post were not always the ones chosen. If the person selected was not available, an alternate selection was picked in advance. At least one random offender was chosen from each housing unit.

The auditors were able to meet with all offenders in private and with their consent and none indicated that they were pressured or coerced into participating. The auditors conducted the following interviews during the Onsite Audit Phase:

| | |
|---|---|
| Random Inmates | 19 |
| Targeted Inmates | 11 |
| Total Inmates Interviewed | 30 |

Targeted offenders were identified through lists provided, a review of investigative files and through random interviews. No offenders were reported to be in segregated housing for high risk of sexual victimization. There were no youthful offenders, no offenders who were physically disabled, blind, deaf or hard of hearing, or LEP. One offender was identified as cognitively impaired but was able to read, write and comprehend and was not counted for that target area. Additional offenders were chosen to ensure that the proper number of offenders were interviewed.

The breakdown of the targeted inmates who were interviewed is as follows:

| | |
|---|---|
| Inmates with a Physical Disability | 0 |
| Inmates who are Blind, Deaf, or Hard of Hearing | 0 |
| Inmates who are LEP | 0 |
| Inmates with a Cognitive Disability | 0 |
| Inmates who Identify as Lesbian, Gay, or Bisexual | 4 |
| Inmates who Identify as Transgender or Intersex | 3 |
| Inmates in Segregated Housing for High Risk of Sexual Victimization | 0 |
| Inmates Who Reported Sexual Abuse | 2 |
| Inmates Who Reported Sexual Victimization During Risk Screening | 2 |

Rosters and lists of 188 staff, 47 active volunteers, and 110 contractors (Barton Education, Aramark and Corizon for Medical/Mental Health Services) assigned to the facility were provided and a random sampling was obtained utilizing those lists/rosters. The shift roster for custody staff employed at the facility was provided at the entrance meeting.

| | | |
|---|---|---|
| Random Staff | 13 | |
| Specialized Staff | 13 | (26 specialized interviews) |
| Total Staff Interviewed | 26 | |

Six of the 26 specialized staff interviewed were responsible for more than one of the specialized staff duties; therefore, the number of specialized staff interviews presented in the table above exceeds the number of specialized staff interviewed.

The breakdown of the specialized staff who were interviewed is as follows:

| | | |
|---|---|---|
| The Agency Head, Warden, PREA Coordinator, and Agency Contract Administrator | | 4 |
| PREA Compliance Manager | | 1 |
| Intermediate-or-higher level facility staff responsible for conducting and documenting unannounced rounds to identify and deter staff sexual abuse and sexual harassment | | 4 |
| Medical staff | (Corizon - contracted agency) | 1 |
| Mental health staff | (Corizon - contracted agency) | 1 |
| Non-Medical staff involved in cross-gender strip or visual searches | | 0 |
| Administrative (human resources) staff | | 1 |
| Volunteers who have contact with inmates | | 2 |
| Contractors who have contact with inmates | | 1 |
| Investigative staff | (No agency staff conduct investigations at LCMHF) | 2 |
| Staff who perform screening for risk of victimization and abusiveness | | 1 |
| Staff who supervise inmates in segregated housing | | 2 |
| Staff on the sexual abuse incident review team | | 2 |
| Designated staff member charged with monitoring retaliation | | 1 |
| First responders, security staff | | 1 |
| First responders, non-security staff | | 1 |

| | | |
|---|---|---|
| Intake staff | | 1 |

Outside agency staff not counted in total for specialized staff:

| | | |
|---|---|---|
| SAFE and SANE staff | (Great Bend and Hays Regional Hospitals) | 1 |
| Victim Advocates | (Family Crisis Center) | 1 |

REVIEW OF FILE DOCUMENTATION:
The auditors reviewed 19 files: 8 administrative, 4 custody, 4 contract staff and 3 volunteers who have contact with offenders, who were chosen directly from the listings of staff that had been divided into those areas and further by individual position, to determine if background checks were conducted. Once the person was identified their file was pulled and reviewed for NCIC Interstate Identification Index and NCIC wants. The auditor was able to review the file but not permitted to copy any data on the background from the review, which is the policy for the State of Kansas. Notes were allowed. The checks were in the files and show that all were conducted during a three-day time frame May 21-23, 2018. The facility maintains a sheet for each request to show if the request was made due to a promotion, transfer or hire.

The auditors reviewed 12 files: 6 employee and 6 contractor/volunteer chosen directly from the files maintained by the training department, pointing at 6 from each section, choosing one from the beginning, center and end. One person transferred and the records were no longer maintained at the facility. Of the three files for medical staff where specialized training would be required, one person had not completed the specialized training. This person completed the training, which was computer-based, prior to the end of the audit.

The auditors reviewed 17 Inmate files for intake education, housing and screening. While onsite it was found that prior to December of 2017, the 72-hour screenings were being conducted prior to transferring the offender to the facility and would not be in compliance with this standard. This was corrected in December of 2017. Due to this, only screenings conducted after that time frame were reviewed for this audit. Two of 17 were over the 30-day window for screenings.

LCMHF reported that 26 allegations of sexual abuse and sexual harassment were received over the past 12 months. Onsite a request for a listing of all investigations opened since January 2017 was made. The result was 38 total number of investigations. A complete list was provided to the auditor. From this list, the auditor selected a number both criminal and administrative:

| | |
|---|---|
| 7 Staff Sexual Misconduct (one was incorrectly identified as Non-consensual Sex) | 5 reviewed |
| 3 – Unfounded 2 – Unsubstantiated 1 – Substantiated | |
| 4 Staff Sexual Harassment | 2 reviewed |
| 1 – Unfounded 1 - Substantiated | |
| 1 Abusive Sexual Contact | 1 reviewed |
| 1 - Unfounded | |
| 26 Offender Sexual Harassment | 4 reviewed |
| 3 – Unfounded 1 - Substantiated | |

One allegation was not in their jurisdiction (not KDOC and not subject to reporting without consent) and was not investigated. It was not forwarded from LCMHF as the offender was not at the facility to give consent. Of the 12 investigations reviewed, 1 was initiated by a 3rd party, 2 were reported to contract staff, 5 were reported directly to custody staff and 1 was received from the hotline. One offender grievance was filed alleging sexual abuse or sexual harassment at the facility. One case on staff sexual misconduct was criminal in nature, presented for prosecution and subsequently declined.

LCMHF duty rosters for each of the three shifts were provided prior to the audit. These rosters covered a weekend time for each of the past three years 2015-2017. Information for the weekday and 2018 was requested and received. Additional rosters for each shift were obtained once onsite covering a two-day time period randomly selected by the auditor. All rosters were compared with the Operational Staffing numbers allocated for each shift.

External contacts were made with two agencies: Family Crisis Center, who provides the advocacy services for LCMHF and Hays Regional Hospital SANE, who provides Sexual Assault Forensic Examinations. Interviews were conducted with representatives from both during the onsite audit phase. No contact was made with external law enforcement agencies. KDOC conducts its own criminal and administrative investigations.

POST-AUDIT
After the onsite portion of the PREA audit, the auditor reviewed all notes and documents from the site review, all interviews and reviewed all documentation obtained during the Pre-Audit phase, reviewing their applicability to each standard to ensure that they addressed each requirement. Work on the audit report began. The auditor maintained contact with the agency by follow-up calls and emails to formulate corrective action milestones and deliverables to include: time frames for the corrective action period, and verification of the efforts.

On June 22, 2018, the audit report was submitted to the PREA Resource Center for review. The interim report was sent to LCMHF on July 20, 2018.

From June 22, 2018 through December 7, 2018, KDOC, LCMHF staff and the auditor worked together to address the eight (8) areas of concern noted in the interim report, developing corrective actions that would allow the agency and facility to become compliant. Six (6) of the eight (8) areas of concern related to policy changes that were on an agency level and involved implementation of the changes at the facility level. The six (6) areas are as follows: §115.17, §115.41, §115.42, §115.73, §115.88 and §115.89. Many of the programs and forms were computer-generated. Two (2) of the areas of concern dealt with physical plant concerns at the facility (§115.15) and with the quality of investigations (§115.71). These compliance efforts are fully addressed under the respective standards.

Timelines for completion of the Corrective Action Plan were fluid to allow time to create/update the computer programs. While efforts were made to change the programs, ultimately the creation of paper forms was utilized to satisfy the requirements under the standards to meet the 180 day time frame for compliance. When the agency/facility was found compliant in each area they were apprised of this fact to allow them to focus on the remaining areas.

On December 11, 2018, the final audit report was submitted to LCMHF.

## Facility Characteristics

*The auditor's description of the audited facility should include details about the facility type, demographics and size of the inmate, resident or detainee population, numbers and type of staff positions, configuration and layout of the facility, numbers of housing units, description of housing units including any special housing units, a description of programs and services, including food service and recreation. The auditor should describe how these details are relevant to PREA implementation and compliance.*

The Larned Correctional Mental Health Facility (LCMHF) 1318 Kansas Highway 264, Larned, Kansas, was built in response to a 1989 federal court order which directed the Kansas Department of Corrections (KDOC) to meet the long-term needs of mentally ill inmates. LCMHF has a total rated capacity of 608 with a population of 588 on day one of the onsite audit. Construction of the 150-bed facility began on the grounds of the Larned State Hospital (LSH) in 1991 and the facility was dedicated in December of that same year. The facility received its first inmates on January 22, 1992. LCMHF employs 188 staff, 47 active volunteers, and 110 contractors (Barton Education, Aramark and Corizon for Medical/Mental Health Services). The 188 staff are further broken down into 43 administrative and 155 custody.

LMCHF houses special management, maximum, high medium, low medium, minimum and work release level inmates. The facility is divided into two compounds: a main-custody compound within the walled portion and a minimum security portion located outside of the walls. Physical plant consists of eleven (11) buildings. Five (5) of the buildings are multiple-occupancy celled housing units. There are 36 beds to house offenders for administrative and disciplinary segregation. Housing units at LCMHF consist of celled housing or dormitory style housing. In the celled housing, two offenders are assigned to a room.

The West Unit is the minimum housing unit at LCMHF is open bay/dorm style housing. The offenders assigned there are on work detail at the facility or the adjacent state hospital. Offenders also work for non-prison based private industry employers, encouraging them to save and prepare for their eventual release. These offenders work throughout the facility and in the community.

The remaining buildings consists of a warehouse, pole barn, physical plant (power), program building utilized by education, a canine training building and administration building.

Until recently, LCMHF housed the most severely and persistently mentally ill adult male (no females) inmates within the Kansas Department of Corrections (KDOC), along with a significant number of inmates with borderline personality disorders or a conduct disorder which made them an unacceptable risk for housing in another facility.

In June of 2017 through the end of the year, LCMHF transitioned to a “Youthful Offender” program. The program is designed to house offenders who are between the ages 18-25. No offenders under the age of 18 are housed at the facility. Emphasis is placed on offenders needing Education (GED) and/or Vocational Education as identified through the Level of Services Inventory-Revised (LSI-R).

As with other facilities under the management of the Secretary of Corrections, education, health services and food services are provided through contracts: Aramark, A’viands, Corizon and Barton.

**Food Service:** While services for medical and education are contracted for through private vendors, the facility's food service is supported by the Larned State Hospital (LSH). However staffing at LCMHF is contractual through Aramark. Meals are prepared at the state hospital kitchen and transported to the LCMHF for serving to the Central Unit inmates. West Unit inmates eat their meals under LCMHF staff supervision at the state hospital cafeteria. A’viands Food Service is the staffing provider at LSH and is not under the control of the KDOC.

**Chaplaincy Services:** The facility provides opportunities for inmates to practice their respective religious faiths. A full-time chaplain is the liaison for religious services and volunteers in the community.

**Education:** Barton Education is a community-based organization that provides educational services at Larned. Programming provided by Barton Community College include: Adult Basic Education/GED, Craft Skills, Carpentry, Welding, Plumbing and Microsoft Office Specialist. Facility-based programs include: T4C, Character First, OWDS, Work Ready, Financial Peace, and Parenting. Once the offender completes the programming they are screened to see if they are appropriate for minimum custody or a transfer to meet programming or housing needs.

**Medical/Mental Health:** Corizon is a private vendor who providing the medical and mental health services to the offenders.

**Re-Entry:** Re-entry services provide programming, such as "Thinking for a Change" courses and support for offenders based on the inmate's specific risk and need areas as defined by screening and offender behavior.

**Private Industries:** Inmate employee positions are available in non-prison based industries programs for minimum-custody West Unit inmates. These programs are designed to help inmates learn and practice the pro-social skills and good work habits required to be self-sufficient, productive citizens ready to practice responsible crime-free behavior.

**Volunteers:** LCMHF

The Corizon contract, valid through June 2019, the Aramark contract, valid since July 1, 2017, and the contract for Barton Education, valid through June 2019, were provided for review. Each contract was amended to require the contractor to comply with all applicable provisions of the Prison Rape Elimination Act of 2003 (42. U.S.C. §§ 15601, et seq.).

## Summary of Audit Findings

*The summary should include the number of standards exceeded, number of standards met, and number of standards not met, **along with a list of each of the standards in each category**. If relevant, provide a summarized description of the corrective action plan, including deficiencies observed, recommendations made, actions taken by the agency, relevant timelines, and methods used by the auditor to reassess compliance.*

***Auditor Note:** No standard should be found to be "Not Applicable" or "NA". A compliance determination must be made for each standard.*

**Number of Standards Exceeded:** 1

115.21: Evidence Protocol and Forensic Medical Examinations - addressed under standard.

**Number of Standards Met:** 42

115.11, 115.12, 115.13, 115.14 (LCMHF does not house youthful offenders), 115.15, 115.16, 115.17, 115.18, 115.22, 115.31, 115.32, 115.33, 115.34, 115.35, 115.41, 115.42, 115.43, 115.51, 115.52, 115.53, 115.54, 115.61, 115.62, 115.63, 115.64, 115.65, 115.66, 115.67, 115.68, 115.71, 115.72,

115.73, 115.76, 115.77, 115.78, 115.81, 115.82, 115.83, 115.86, 115.87, 115.88, 115.89. Auditing Standards 115.401 and 115.403 are also in compliance.

**Number of Standards Not Met:** 0

All standards were met or exceeded.

## Summary of Corrective Action (if any)

Details on the corrective action plan, deficiencies observed, recommendations made, actions taken by the agency, relevant timelines and methods used by the auditor to reassess compliance are addressed under each individual standard.

115.15 (d): The facility implements a policy and practice that enables inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks.

Compliance achieved following completion of corrective action plan.

115.17 (a) and (f): The agency prohibits the hiring or promotion of anyone who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); and/or if the person has been convicted of engaging in sexual activity in the community facilitated for force, the threat of force, or coercion. The agency asks all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions.

The agency prohibits the enlistment of services of any contractor who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution or if the applicant was civilly or administrative adjudicated for engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse. The agency asks all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions.

Compliance achieved following completion of corrective action plan.

115.41 (d): The intake screening shall consider, in assessing inmates for risk of sexual victimization, whether the inmate has prior convictions for sex offenses against an adult or child.

Compliance achieved following completion of corrective action plan.

115.42 (c) and (e): In deciding whether to assign a transgender inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate’s health and safety, and whether the placement would present management or security problems.

A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration.

Compliance achieved following completion of corrective action plan.

115.71 (a), (d) and (f): When the quality of evidence appears to support criminal prosecution, the agency conducts compelled interviews only after consulting with the prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

Administrative investigations should be documented in written reports that include a description of the physical evidence and testimonial evidence, the reasoning behind the credibility assessments, and investigative facts and findings. The administrative investigations should include an effort to determine whether staff actions or failures to act contributed to the abuse.

Compliance achieved following completion of corrective action plan.

115.73 (c) and (d): The agency informs the alleged victim whenever: the agency learns that the staff member or alleged inmate abuser has been convicted on a charge related to sexual abuse within the facility.

Compliance achieved following completion of corrective action plan.

115.88 (a), (b) and (c): The agency reviews data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response to policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility as well as the agency as a whole.

The agency's annual report includes a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse.

The agency's annual report is approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means.

Compliance achieved following completion of corrective action plan.

115.89 (b): The agency makes all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or through other means.

Compliance achieved following completion of corrective action plan.

# PREVENTION PLANNING

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

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

**115.11 (a)**

- Does the agency have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment? ☒ Yes ☐ No

- Does the written policy outline the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment? ☒ Yes ☐ No

**115.11 (b)**

- Has the agency employed or designated an agency-wide PREA Coordinator? ☒ Yes ☐ No

- Is the PREA Coordinator position in the upper-level of the agency hierarchy? ☒ Yes ☐ No

- Does the PREA Coordinator have sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities? ☒ Yes ☐ No

**115.11 (c)**

- If this agency operates more than one facility, has each facility designated a PREA compliance manager? (N/A if agency operates only one facility.) ☒ Yes ☐ No ☐ NA

- Does the PREA compliance manager have sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards? (N/A if agency operates only one facility.) ☒ Yes ☐ No ☐ NA

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.11 (a): LCMHF policies and procedures, namely IMPP 10-103D Coordinated Response to Sexual Abuse and Prevention and GO 01-114 Offender Sexual Assault Prevention/Intervention mandate the agency policy of zero-tolerance toward all forms of sexual abuse and sexual harassment. The facility policy outlines the strategies for the response to sexual abuse and harassment. These strategies include: (1) how it will implement the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment (2) a list of prohibited behaviors regarding sexual abuse and sexual harassment (3) sanctions for those found to have participated in prohibited behaviors and (4) a description of agency strategies and responses to reduce and prevent sexual abuse and sexual harassment of offenders.

Formal interviews of random staff (12 randomly selected from the staffing lists and housing unit lists) and offenders (19 selected from every housing unit) were chosen by the auditor from the lists. Other staff and offenders chosen from every other housing unit and program and service areas, were informally interviewed throughout the site review of the facility and confirm that the agency has a zero-tolerance policy for sexual abuse and sexual harassment. Staff and offenders were able to describe prohibited behaviors and how to make allegations. Observations onsite support that material is posted throughout the facility detailing prohibited behaviors and how to report sexual abuse allegations.

115.11 (b): The State of Kansas Department of Corrections (KDOC) designated an agency-wide PREA Coordinator, Corrections Manager II, who reports to the KDOC Deputy Secretary of Facilities Management. The Deputy Secretary reports directly to the Secretary of Corrections. According to the KDOC Organizational chart, two people are assigned with the PREA Coordinator: one is a PREA Specialist and the other serves as a PREA Advocate Specialist. The PREA Coordinator indicated that the chart is not correct and she currently supervises one person directly, a PREA Specialist. The state has ten (10) facilities, each having one PREA Compliance Manager. When interviewed the PREA Coordinator indicated that they report directly to the Deputy Secretary of Corrections. They PREA Coordinator has ten (10) people who serve as PREA Compliance Managers, one at each facility. In addition, there is an alternate PCM assigned to each facility.

115.11 (c): LCMHF designated a PREA Compliance Manager (PCM), Corrections Manager III/Deputy Warden, who reports to the Warden. The auditor reviewed the listing of PREA Compliance Managers for the state, dated 12/04/17, showing an alternate PCM for the facility. This person currently serves as the Staff Development Director. The Position Description provided shows that the Deputy Warden directly supervises five people to include the Staff Development Director. When interviewed the PREA Compliance Manager indicated they had sufficient time and authority to carry out his responsibilities and that it was made easier due to the staff buy in of PREA. The PCM and PCM Alternate work collaboratively. The small size of the facility allows for effective and efficient communication, organization. The PCM and Warden indicate that staff at the facility meet on a daily basis, and PREA is always on the agenda.

Based upon the evidence discussed: review of policies, random and specialized staff/offender interviews, the facility has demonstrated compliance with this standard.

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

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

**115.12 (a)**

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

**115.12 (b)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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115.12 (a) and (b): The Agency Contract Administrator indicated that KDOC houses some offenders in four (4) county jails, three (3) of those jails have been audited with the fourth scheduled, in this year. Prior audits of all four facilities occurred more than 12 months earlier. All facilities are required to be in compliance with PREA and are visited approximately 1-2 times each month by the administrator. A copy of the audit report for each jail is forwarded to the Agency Contract Administrator. Contracts with each jail were provided to show that they were required to maintain PREA compliance.

LCMHF does not contract with external entities to house its offenders.

## Standard 115.13: Supervision and monitoring

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

**115.13 (a)**

- Does the agency ensure that each facility has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? ☒ Yes ☐ No

- Does the agency ensure that each facility has documented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration the generally accepted detention and correctional practices in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration any judicial findings of inadequacy in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from Federal investigative agencies in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from internal or external oversight bodies in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration all components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated) in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration the composition of the inmate population in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration the number and placement of supervisory staff in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration the institution programs occurring on a particular shift in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No ☐ NA

- Does the agency ensure that each facility's staffing plan takes into consideration any applicable State or local laws, regulations, or standards in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

**115.13 (b)**

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

**115.13 (c)**

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The staffing plan established pursuant to paragraph (a) of this section? ☒ Yes ☐ No

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The facility's deployment of video monitoring systems and other monitoring technologies? ☒ Yes ☐ No

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The resources the facility has available to commit to ensure adherence to the staffing plan? ☒ Yes ☐ No

**115.13 (d)**

- Has the facility/agency implemented a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment? ☒ Yes ☐ No

- Is this policy and practice implemented for night shifts as well as day shifts? ☒ Yes ☐ No

- Does the facility/agency have a policy prohibiting staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility? ☒ Yes ☐ No

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.13 (a): LCMHF submitted IMPP 12-137D Staffing Analysis outlining the agency requirement for each facility to conduct a staffing analysis, reviewing staffing levels, video and technological needs and the resources of the facility to adhere to its operational staffing plan. The eleven criteria listed in the standard are included as part of the requirement. Additionally, the analysis conducted is distributed to the Warden and PREA Coordinator to determine budget, rostering and to ensure that these plans protect the incarcerated offender against sexual abuse. Both the PREA Coordinator and PREA Compliance Manager indicated that they meet on a quarterly basis to discuss issues pertaining to staffing.

A form "Staff Analysis to Ensure Protection Against Sexual Abuse" is to be utilized by each facility to document review of the eleven criteria referenced in the standard. The facility provided the Staff Analysis for 2016-2018 showing that the analysis was completed each year and addressed all eleven criteria required in the standard.

The Operational Staffing Plan for LCMHF provides for the closing of collapsing of posts in the event of staffing needs or availability requires such action. This plans factors in an "allowable leave number" of personnel that may be granted leaved prior to the publication of staff rosters. The allowable leave number shown is based on training days or non-training days for each of the three shifts, with further breakdown for the 6-2 shift. The plan breaks down the numbers of staff into Operational Staffing "the true minimum" and Functional Staffing.

Functional Staffing: Posts that can be closed in the order specified in the plan.
Operational Staffing: Posts that are identified as collapsible.

The collapsible posts are not staffed for a portion of a specific shift when an officer is reassigned to another post.

115.13 (b): Over the past 12 months LCMHF indicates there have been no deviations from the staffing plan. The auditor was provided with Daily shift staffing rosters for each of the three shifts (10-6, 6-2, and 2-10) which contained a breakdown the total staff on each day, the number of overtime staff utilized and if the staffing meets the Operational Staffing Level or Functional Staff Level. This breakdown covered three months of 2015 and 2016. Information on 2017 and 2018 was requested and provided onsite in support of the staffing plan at the Operational or Functional Staff levels. Analysis of the records show no staffing below the Functional staffing level on any of the rosters reviewed.

115.13 (c): The Warden was interviewed and said that the staffing plan for the facility was reviewed on an annual basis by the Warden, Human Resources, the Deputy Warden (PCM) and other executive staff at the facility. The plan is based on the NIC model for staffing. The Warden indicated the goal was to monitor vacancies monthly. Video technology is reviewed to ensure proper coverage and

improve equipment where needed. The Warden indicated that when blind spots were identified staff or video is used to cover. No blind spots were found during the audit. Staffing levels at the facility varied based on security level and may be different at minimum or medium levels. The Warden ensures placement of supervisory staff for facility coverage, closing or collapsing posts where offenders are not located. Deviations from the plan would be sent to the Warden (Operational and Functional levels) and documented in the master roster if they occur. No deviations were noted for the past 12 months.

The PREA Compliance Manager (PCM) indicated they coordinate the efforts at his facility to comply with PREA by ensuring that everything flows through his office, that the agency completes a PREA checklist for all allegations to ensure proper notifications, he chair the Sexual Abuse Incident Review (SAIR) Committee and provides annual statistics for the Department of Justice report. If the PREA Compliance Manager (PCM) identifies a problem, it is discussed as part of the daily briefing, the SAIR, the Population Management Committee (PMC) or as part of the quarterly meeting held with the PREA Coordinator and PREA Compliance Managers throughout the state.

The PREA Coordinator indicated that when an issue or need for change is identified, the Deputy Secretary is notified to get support for the change.

Additional documentation obtained include the Survey of Sexual Violence records and facility documents showing that the eleven (11) criteria are addressed in the staffing plan on an annual basis. The form is a checklist that allows the PREA Compliance Manager to add written information that further addresses the criteria, as needed. This is evident in the staffing plan for the past two years.

115.13 (d): GO 01-114 Offender Sexual Assault Prevention/Intervention covers the requirement for supervisory staff to conduct and document unannounced rounds. The policy further states that staff are prohibited from alerting other staff that the supervisory rounds are occurring “unless such an announcement is related to legitimate operational functions of the facility.” Such a situation would be a safety/security emergency or exigent circumstance.

LCMHF Shift Supervisor and Assistant Shift Supervisor Post Orders require them to make daily checks of all living units, East Tower, and offender activity areas. These checks are documented on the “Supervisor Post Checksheet” with one form covering all three shifts 10-6, 6-2 and 2-10. Post Orders for Living Unit Supervisors make the same requirement for daily checks.

Four (4) Intermediate and higher level staff, whose names were drawn from the staffing rosters, were interviewed. All four (4) indicated that they conducted unannounced rounds and that these rounds were documented in log books and on the checksheet maintained in the custody supervisor office. In order to avoid detection the staff would vary their rounds, use different patterns and times of day. The rounds sheets, and computer logs support that this is occurring, Due to the design of the sheets, an analysis of the patterns used is not possible. Interviews with 13 random staff support that training is conducted prohibiting staff alerting other staff. Staff are informed that they are subject to disciplinary action if they alert other staff that the rounds are taken place. None of the supervisors indicated that they have had any instances where staff alerted others of the rounds.

Additional check sheets were reviewed by the auditors selected at two random housing units. It was learned the facility began using a check sheet that is maintained in the shift supervisor office that lists each area where an offender could be located. These locations are visited during the shift and documented on the check sheet. This check sheet was compared with the housing unit log and shift log and showed that supervisory staff were conducting unannounced rounds on the units. The supervisory staff can enter the housing unit unannounced, once on a housing unit, the offenders and

staff are able to see the supervisor as they make rounds. The control area of the housing units, supports multiple housing areas and maintains one log. Interviews during the site review with staff and offenders and in-depth interviews with staff (13 random), Warden and 4 Intermediate and Higher Level Staff and offenders (19 random) confirm that the rounds were taken place.

Based upon the evidence discussed: review of policies, random and specialized staff and random offender interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.14: Youthful inmates

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

**115.14 (a)**

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

**115.14 (b)**

- In areas outside of housing units does the agency maintain sight and sound separation between youthful inmates and adult inmates? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

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

**115.14 (c)**

- Does the agency make its best efforts to avoid placing youthful inmates in isolation to comply with this provision? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

- Does the agency, while complying with this provision, allow youthful inmates daily large-muscle exercise and legally required special education services, except in exigent circumstances? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

- Do youthful inmates have access to other programs and work opportunities to the extent possible? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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115.14 (a), (b) and (c): IMPP 10-103D covers the placement of offenders and shows that youthful offenders are housed at the Kansas Juvenile Correctional Complex. If housed at an adult facility, "youthful offenders shall have sight and sound separation from other adult offenders or have direct staff supervision." This exception must be well-documented if it occurs. The PREA Compliance Manager, Warden and PREA Coordinator all state that no youthful offenders were housed at LCMHF, and no documentation of any exception was necessary.

Offenders reaching the age of 18 are transferred to RDU as soon as the transportation can be arranged.

In the Staffing Analysis Meeting memo dated November 29, 2017, it reads, "we are transferring mental health program maximum offenders to LCF and EDCF and transitioning to a "youthful offender program" that will house minimum to maximum custody offenders assigned to the program as well as minimum custody offenders at West Unit." This transition has taken place. The criteria for the "youthful offender program" referenced in the memorandum is for offenders who are aged 18-25 and does not include offenders under the age of 18.

LCMHF does not house youthful offenders.

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

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

**115.15 (a)**

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

**115.15 (b)**

- Does the facility always refrain from conducting cross-gender pat-down searches of female inmates in non-exigent circumstances? (N/A here for facilities with less than 50 inmates before August 20, 2017.) ☐ Yes ☐ No ☒ NA

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

**115.15 (c)**

- Does the facility document all cross-gender strip searches and cross-gender visual body cavity searches? ☒ Yes ☐ No

- Does the facility document all cross-gender pat-down searches of female inmates? ☐ Yes ☐ No ☒ NA

**115.15 (d)**

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

- Does the facility require staff of the opposite gender to announce their presence when entering an inmate housing unit? ☒ Yes ☐ No

**115.15 (e)**

- Does the facility always refrain from searching or physically examining transgender or intersex inmates for the sole purpose of determining the inmate's genital status? ☒ Yes ☐ No

- If an inmate's genital status is unknown, does the facility determine genital status during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner? ☒ Yes ☐ No

**115.15 (f)**

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

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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115.15 (a) and (c): Agency policy IMPP 12-103D Offender and Facility Searches addresses the conduct of cross-gender strip searches and requires the employee and any witnesses to the search be the same gender as the offender being searched except in "exigent circumstances". Exigent circumstances are defined as "any set of temporary or unforeseen circumstances that require immediate action in order to combat a threat to the security and institutional order of a facility." The policy also addresses body cavity searches and requires Warden's authorization prior to approval. The body cavity search is performed by appropriate medical personnel with one person of the same gender as the offender present during the search. Agency policy IMPP 12-103D addresses the requirement for staff to document cross-gender pat searches of female offenders as well as any cross-gender visual body cavity searches.

Over the past 12 months, LCMHF reported that zero (0) cross-gender strip or cross-gender visual body cavity searches of inmates were conducted. This would be documented using IMPP 01-113A Incident Reports and Immediately Reportable Incidents if this occurred.

115.15 (b): LCMHF does not house female offenders.

115.15 (d): IMPP 10-103D Coordinated Response to Sexual Abuse and Harassment outlines procedures enabling inmates to shower and perform bodily functions and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing in incidental to routine cell checks, to include viewing via video camera. This same policy outlines the requirement for staff of the opposite gender to announce their presence when entering a housing unit and restroom/shower area where an offender would normally be undressed.

The 19 random inmates interviewed supported that female staff members announce when they are arriving on the units. One inmate indicated that the 2-10 shift was lacking on the announcements. All but and one inmate indicated that female staff person announced prior to entering the shower area. This information was provided to the facility. The auditor observed the cross-gender announcement took place on each housing unit throughout the site review.

115.15 (e): GO 09-108 Searches and Contraband requires that strip searches shall not be conducted on a transgender or intersex offender for the sole purpose of determining the offender's genital status.

Every inmate, for a total of three (3), who identified as transgender was interviewed. None believed that staff conducted any searches of them for the sole purpose of determining their genital status. Two of the offenders were housed in general population and one in segregation due to conduct. None of the offenders expressed any belief that the housing was based on their status as a transgender inmate.

115.15 (f): The Lesson Plan for PREA Pat Searches instructs staff searching LGBTI offenders to be of the same "anatomical gender and to conduct the search in a professional and respectful manner and in the least intrusive manner possible consistent with security needs". Training documents for four staff, one each for 2015-2018, were provided showing that training is provided to staff as part of their basic training. FAQ 12-2-16 lists four options as current practice for conducting searches, updated from three options presented in the FAQ dated 2-7-13. The most recent addition being "searches conducted in accordance with the inmate's gender identity.

The 13 random staff interviewed indicated they received training covering the proper way to search transgender offenders and were able to describe this training showing the auditor how to search the body of the offender to include the breast area. All 13 staff were aware of the facility policy prohibiting staff from physically examining transgender or intersex offenders for the purpose of determining an inmate's genital status. Every staff person indicated that female staff working on the housing units were announced when they arrived for duty and when entering the shower areas. All staff interviewed indicated that inmates were able to dress, shower, and toilet without being viewed by staff of the opposite gender. All showers, with the exception of the one located in the COU Segregation area, allow for inmates to shower without being viewed by staff of the opposite gender. The COU Segregation area shower needs to be modified, with a visual block at the waist level, to ensure that opposite gender staff cannot view the buttocks or genitalia of the offenders.

Throughout the site review of the facility bathroom doors in the Center C Hallway, Supply Warehouse and Barton Education Building need to be modified so that they cannot be locked from the inside.

Corrective Action Needed: 115.15 (d)

1. Repair or replace locking mechanisms for the three (3) offender bathrooms. Add a panel to the segregation shower area to limit viewing by opposite gender staff.
2. Facility will submit photographic and documentary evidence to meet this standard to the auditor.

Verification of Corrective Action:

The Auditor was provided appropriate supplemental documentation to evidence and demonstrate corrective actions taken regarding this standard.

Additional Documentation Reviewed:

On June 20, 2018, The PCM for LCMHF attached pictures taken of the two restrooms in education and the two restrooms in C hallway across from the laundry showing locks on the doors. The PCM added that "these doors are locked at all times and takes a key from a staff member to allow entry for an offender." The photographs clearly demonstrate that the doors do not lock from the inside.

On November 7, 2018, the PCM for LCMHF attached two photographs taken of the COU segregation cell which showed a panel added to the shower area to limit viewing by female staff. In one photo the area was shown without a person inside the shower. In the other photo, a clothed staff person was inside. The panel was of sufficient size to enable inmates to shower and change clothing without nonmedical staff of the opposite gender viewing their buttocks, or genitalia.

On November 16, 2018, The KDOC PREA Coordinator attached two (2) pictures taken of the Supply Unit restroom. The PREA Coordinator indicated that the door is locked at all times and takes a key from a staff member to allow entry for an offender. The photographs clearly demonstrate that the doors do not lock from the inside.

Based upon the evidence discussed: review of policies, random and specialized staff/offender interviews, and observations made onsite, the facility has demonstrated compliance with this standard.

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

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

**115.16 (a)**

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are deaf or hard of hearing? ☒ Yes ☐ No

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are blind or have low vision? ☒ Yes ☐ No

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have intellectual disabilities? ☒ Yes ☐ No

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have psychiatric disabilities? ☒ Yes ☐ No

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have speech disabilities? ☒ Yes ☐ No

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Other (if "other," please explain in overall determination notes)? ☒ Yes ☐ No

- Do such steps include, when necessary, ensuring effective communication with inmates who are deaf or hard of hearing? ☒ Yes ☐ No

- Do such steps include, when necessary, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? ☒ Yes ☐ No

- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have intellectual disabilities? ☒ Yes ☐ No

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

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

**115.16 (b)**

- Does the agency take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient? ☒ Yes ☐ No

- Do these steps include providing interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? ☒ Yes ☐ No

**115.16 (c)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.16 (a), (b) and (c): IMPP 10-103D Coordinated Response to Sexual Abuse and Harassment and IMPP 10-138D, Assistance for Offenders and/or Victims with Limited English Proficiency, address the availability of materials to offenders to are Limited English Proficient, deaf, visually impaired, or otherwise disabled, as well as to offenders who have limited reading skills and the procedures taken to access these services. KDOC authorizes staff to utilize one of two methods for oral interpretation: KDOC bilingual employees or the outside interpreter service contracted with the state.

Brochures in English and Spanish were provided. The brochure provides definitions of inmate-on-inmate sexual abuse/harassment and staff sexual misconduct. Additionally, the brochure covers methods for reporting, rights of the victim, preventative measures and consequences of sexual abuse/harassment for the perpetrator.

For those languages where no written materials exist, LMCHF has a contract in place for translation and interpretation. The contract expired January 21, 2018 and the option to continue for an additional 12 month period, from this date, was exercised. The contract covers LEP and visually-impaired individuals and includes services translation into braille. The contract does not reference services for offenders who are deaf. For deaf offenders staff indicated that the material was provided in writing.

The use of a video with captioning, in English or Spanish, addresses the same material covered in the brochures and is shown to offenders are part of their orientation to the facility.

The Secretary of Corrections confirmed that the agency has established procedures to provide inmates with disabilities and those who are LEP with equal opportunities to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. This is done in part through the use of bilingual staff members and through the contract for language interpretive services.

The 13 random staff interviewed indicated that an interpretive service was available to offenders, who could point at the language they spoke on a poster to get the service over the phone. While no offenders who were deaf were currently at the facility, staff reported that a deaf offender had been there in the past. These three (3) staff indicated that the offender worked in the kitchen and that another offender would often provide translation for him on the job. None of the staff indicated that the other offender provided any educational or investigative interview services for the offender. No verification of this practice was possible as offender records transfer with the offender and staff can only access records for offenders housed at their own facility.

None of the offenders at LCMHF were blind, deaf or physically disabled. No cognitive learning disabilities were evidenced with anyone interviewed, staff support that the material would be read to

them, if needed. Inmates at the facility are young, 18-25 years of age. Most all of the offenders work or attend programs.

Random checks of 20 offender packets showed that the education was received and signed for by each offender. During the site reviews of the facility posters in English and Spanish were observed in housing, programming and other areas.

Based on the evidence discussed: review of policies, random and specialized staff/offender interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.17: Hiring and promotion decisions

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

**115.17 (a)**

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? ☒ Yes ☐ No

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse? ☒ Yes ☐ No

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? ☒ Yes ☐ No

- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? ☒ Yes ☐ No

- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse? ☒ Yes ☐ No

- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? ☒ Yes ☐ No

**115.17 (b)**

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

**115.17 (c)**

- Before hiring new employees, who may have contact with inmates, does the agency: perform a criminal background records check? ☒ Yes ☐ No

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

**115.17 (d)**

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

**115.17 (e)**

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

**115.17 (f)**

- Does the agency ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions? ☒ Yes ☐ No

- Does the agency ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in any interviews or written self-evaluations conducted as part of reviews of current employees? ☒ Yes ☐ No

- Does the agency impose upon employees a continuing affirmative duty to disclose any such misconduct? ☒ Yes ☐ No

**115.17 (g)**

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

**115.17 (h)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.17 (a) and (b): IMPP 02-126D Recruitment and Selection Process indicates the agency shall not hire or promote employees who (1) engaged in sexual abuse of offenders in an institutional setting, (2) been convicted of engaging in sexual activity in the community facilitated for force, the threat of force, or coercion; or (3) been civilly or administratively adjudicated to have engaged in such activity. All incidents of sexual harassment perpetrated by an applicant against offenders shall be considered in making hiring or promotional decisions.

The policy referenced above also addresses the requirement to conduct a fingerprint check on all new hired utilizing the Automated Palm and Fingerprint Identification System (APFIS) or through submission to the Kansas Bureau of Investigations (KBI). Criminal background checks consisting of a name search in the National Crime Index Center (NCIC) information system including Interstate Identification Index (III) and wants/warrants searches as well as state driver's license checks shall be completed on new hires and promotional candidates. Criminal background checks are also required for all current employees on an annual basis. The policy outlines the agency requirement to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation pending investigation of an allegation of sexual abuse.

IMPP 02-126D Attachment C Kansas Department of Corrections Security & Employment Information Form lists the following three questions: (1) Have you ever been investigated for sexual abuse or harassment of an offender; (2) Have you ever resigned from a job during an ongoing investigation for sexual abuse or harassment of an offender; and (3) Have you ever been charged, referred for prosecution, and/or prosecuted for sexual abuse or harassment of an offender? Also stated is an affirmation that the information on the form is true to the best of the applicant's knowledge that "deliberately false statements, material omissions or misrepresentations could be considered grounds for rejection of my application and could be considered cause for dismissal if employed."

The Information KDOC Security & Employment Information form questions utilized by the agency for potential employees and promotional candidates do not fully address (1) if the employee ever engaged in the sexual abuse, even if no investigation was ever initiated; and (2) the outcome of the prosecution, namely any conviction for engaging or attempting to engage in sexual activity in the community facilitated for force, the threat of force, or coercion. The form utilized covers conviction for a felony or misdemeanor in general terms, but not to the level specified by the standard. (3) The application does not address civil or administrative adjudications.

115.17 (c), (d) and (e): The Human Resource Staff person interviewed indicated that criminal background checks are performed by the facility investigators, who inform her if any issues are identified. The staff person indicated that they review the disciplinary history for sexual harassment and contact prior correctional employers. The staff person indicated that staff were asked about their previous misconduct as part of the written application. The Human Resource staff person added that IMPP 02-118D imposes on staff the affirmative duty to disclose such previous misconduct. The Human Resource staff person was also able to confirm that they comply with requests from other institutions regarding substantiated allegations of sexual abuse or sexual harassment that involve former employees.

A review was conducted onsite of 19 background checks for employees, contractors and volunteers. The Auditor was not permitted to copy the material (pursuant to Kansas regulations) The Auditor was allowed to take notes during the process. All the staff at LCMHF had background checks conducted May 21-23, 2018. All the checks show that NCIC Interstate Identification Index and NCIC Wants were checked for each person. According to the investigator who conducted the checks these are done annually, and he just completed those for 2018. Only the current year records are maintained, with prior ones destroyed. No verification of prior year records was possible for this reason.

The investigator was also able to provide documentation to support that background checks are conducted for staff who hire, transfer or promote at the facility. Once the date of birth and social security number were redacted, copies of the background requests were provided to the auditor.

115.17 (f): Contract employees are required to report convictions for any crimes in a court of law or court martial. The Corizon application utilized does not address any prior contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution or if the applicant was civilly or administrative adjudicated for engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse.

Corrective Action Needed: 115.17 (a) and (f) Employees

1. Employment forms used must include the questions outlined in 115.17(a). This form should be used for all new hires, transfers and promotional candidates. Facility will submit either newly created or updated form/addendum to meet this standard to the auditor.
2. The facility shall submit copies of forms completed by new hires, transfers or promotional candidates to support that the new/revised form is being utilized.

Corrective Action Needed: 115.17 (a) and (f) Contractors

1. Employment forms used must include the questions outlined in 115.17 (a). This form should be used for all new hires, transfers and promotional candidates. Facility will submit either newly created or updated form/addendum to meet this standard to the auditor.
2. The facility shall submit copies of forms completed by new hires or promotional candidates to support that the new/revised form is being utilized.

Verification of Corrective Action:

The Auditor was provided appropriate supplemental documentation to evidence and demonstrate corrective actions taken regarding this standard.

Additional Documentation Reviewed:

The Auditor was provided with a copy of a questionnaire “Mandatory Pre-Service PREA Questions” to be used by employees and contractors prior to hiring.

The Auditor reviewed the questions contained on the new form:
1. Have you engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)?
2. Have you been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse?
3. Have you been civilly or administratively adjudicated to have engaged in the activity described in number 1 and 2 above?
4. Have you ever had a substantiated finding of sexual harassment of an offender, resident or student in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)?

Following the questions both employees and contractors are asked to “affirm that the answers I have provided are accurate and truthful. I understand that material omissions regarding such misconduct, or the provision of materially false information, shall results in my dismissal or removal from the facility/program and a permanent gate stop to all KDOC facilities. I also understand I have a continuing affirmative duty to disclose any such misconduct.”

Completed questionnaires for two (2) state employees and three (3) contractors were provided for review. Both employees and contractors used the same form described above, checking if they were “contract employee” or “state employee”. All forms contained a printed name, signature and date. All questions were answered. None of the forms contained any affirmative responses to the PREA questions.

Based on the evidence discussed: review of policies, random and specialized staff interviews, observations, and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.18: Upgrades to facilities and technologies

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

**115.18 (a)**

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

**115.18 (b)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.18 (a) and (b): IMPP 01-123D Authorization for Construction, Renovation or Demolition of Physical Structures outlines the agency/facility requirements to comply with PREA standards. LCMHF was built in 1989, began receiving inmates in 1992 and has not one undergone any substantial expansions or modifications of its existing facility since their latest PREA audit in 2015. A five-year plan of action to make changes to enhance monitoring and supervision was being reviewed at that time.

A review of the Staffing Analysis for November 2017 shows that periodic checks of the system are conducted and documented to show anticipated locations of cameras in the facility. This same document shows plans to add up to 37 cameras.

Interviews with the Agency Head and Warden confirm that the agency utilizes PREA standards when considering modifications. This is evidenced through the use of an architect well-versed with PREA when designing the modifications, and the consideration of video technology while building additional structures. This same approach is being used as the guiding force at the facility at Lansing.

During the onsite review, a new vocational education building under construction was shown. The Warden indicted that the placement of cameras in the new building was planned to ensure the most coverage of the unit to comply with PREA standards.

Based on the evidence discussed: review of policies, interviews with specialized staff, observations of practices, the facility has demonstrated compliance with this standard.

# RESPONSIVE PLANNING

## Standard 115.21: Evidence protocol and forensic medical examinations

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

**115.21 (a)**

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

**115.21 (b)**

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.) ☐ Yes ☐ No ☒ NA

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

**115.21 (c)**

- Does the agency offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate? ☒ Yes ☐ No

- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible? ☒ Yes ☐ No

- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)? ☒ Yes ☐ No

- Has the agency documented its efforts to provide SAFEs or SANEs? ☒ Yes ☐ No

**115.21 (d)**

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

- If a rape crisis center is not available to provide victim advocate services, does the agency make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member? ☒ Yes ☐ No

- Has the agency documented its efforts to secure services from rape crisis centers? ☒ Yes ☐ No

**115.21 (e)**

- As requested by the victim, does the victim advocate, qualified agency staff member, or qualified community-based organization staff member accompany and support the victim through the forensic medical examination process and investigatory interviews? ☒ Yes ☐ No

- As requested by the victim, does this person provide emotional support, crisis intervention, information, and referrals? ☒ Yes ☐ No

**115.21 (f)**

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

**115.21 (g)**

- Auditor is not required to audit this provision.

**115.21 (h)**

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

**Auditor Overall Compliance Determination**

☒ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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115.21 (a) and (f): The investigation unit or EAI, is under the jurisdiction of the EAI Director, who reports to the Secretary of Corrections. This unit conducts investigation into allegations of criminal activity involving offenders, visitors and staff. The unit also conducts administrative investigations of departmental violations by inmates and staff.
115.21 (b) and (c): IMPP 10-103D, IMPP 22-103 and GO 01-114 were reviewed and indicate the victims of sexual abuse are offered off-site forensic medical examinations provided by a Sexual Assault Nurse Examiner (SANE) at no cost to the offender.

Kansas Statutes Chapter 65: Public Health § 65-448 outlines who is qualified to conduct examinations for victims of sexual abuse in the state. The statute requires the person is "specially trained in performing sexual assault evidence collection" and requiring the use of sexual assault evidence kits approved by the Kansas Bureau of Investigation. The examinations are offered to all victims of sexual abuse. Requirements for minors are also stated. The statute does not allow for the hospital to refuse to provide the examination and permits professional and disciplinary action against anyone for refusing this service. Costs for the examinations are paid by the county where the alleged offense occurred without regard to the refusal of the victim to report the offense to law enforcement. A listing of KDOC facilities show which medical centers, SANE/SART providers and Crisis Center Providers are used by each facility. LCMHF utilizes a hospital in Great Bend or Hays, KS for the conduct of forensic medical examinations. LCMHF indicated that no offenders were sent out for Sexual Abuse Forensic Examinations for the past three years.

The SANE Manager at Hays was interviewed and indicated that staff who are SANE-qualified are available on call 24/7. The SANE Manager has been active with the program for approximately 8 years, and indicated that a SANE can be made available if none is at the hospital at the time of the call. The SANE Manager confirmed that all agencies get the services of a SANE professional, consistent with the law in Kansas.

115.21 (d), (e) and (h): The agency does not utilize staff members as victim advocates and has a Memorandum of Understanding (MOU) in place with the Family Crisis Center to provide these services when needed. The MOU specifies that the advocacy services provided are confidential in accordance

with the Violence Against Women Act and that release of information must be authorized when allowed through a written, time-limited consent form with the center. The victim is accompanied and supported through the forensic medical examination and investigatory interviews. The advocates shall provide emotional support, crisis intervention, information and referrals upon request from LCMHF.

Offenders receive information on Sexual Assault Victim and Emotional Support Services as part of their Orientation packet. This packet lists shows the Family Crisis Center's address and phone number providing services to LCMHF.

The PREA Compliance Manager noted that they had an excellent relationship with the local crisis center and that the victim advocate would come into the facility to meet with offenders to provide emotional support services. The advocate would also arrange for the forensic examination at one of the areas hospitals, Great Bend or Hays, and would accompany the victim to the examination by the SANE/SART.

The community-based advocate was interviewed and confirmed the information provided by the Compliance Manager. The advocate indicated that she provided these services and trained investigative staff on trauma-informed response care, not required under the MOU. She indicated that she provided the training because she felt strongly about the need for such services for incarcerated persons.

Thirteen staff interviewed and all were able to state that the EAI (investigators) were responsible for conducting investigations into the allegations of sexual abuse and sexual harassment. All of the staff demonstrated knowledge of the methods used to preserve evidence, both on the person and at the scene.

One (1) offender was interviewed who reported a sexual abuse. The report was made four (4) months after the date of the incident. According to the offender, he reported it twice. A check of the report was made and it was found that the offender told the investigative staff the same thing during their investigation of the allegation. The offender indicated that he was not offered a victim advocate. A check of the investigative report supports that staff were conducting shakedowns due to contraband being found on the offender. The offender admits that he was hiding contraband from staff in the areas they searched.

Based upon the evidence discussed: review of policies, random and specialized staff/offender interviews, interviews with the community-based advocate and SANE professional, observations and documentation obtained onsite, the facility has demonstrated that it exceeds compliance with this standard.

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

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

**115.22 (a)**

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

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

**115.22 (b)**

- Does the agency have a policy and practice in place to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior? ☒ Yes ☐ No

- Has the agency published such policy on its website or, if it does not have one, made the policy available through other means? ☒ Yes ☐ No

- Does the agency document all such referrals? ☒ Yes ☐ No

**115.22 (c)**

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

**115.22 (d)**

- Auditor is not required to audit this provision.

**115.22 (e)**

- Auditor is not required to audit this provision.

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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115.22 (a) and (b): IMPP 10-103D Requires administrative and/or criminal investigations are completed for all allegations of sexual abuse and sexual harassment. The investigation unit or EAI, is under the jurisdiction of the EAI Director, who reports to the Secretary of Corrections. This unit conducts investigation into allegations of criminal activity involving offenders, visitors and staff. The unit also conducts administrative investigations of departmental violations by inmates and staff. This policy can be found on the agency website.

IMPP 22-103 Investigation Procedures addresses the conduct of criminal and administrative investigations.

LCMHF reports that 26 allegations of sexual abuse and sexual harassment were received over the past 12 months. Onsite a request for a listing of all investigations opened since January 2017 was made. The result was 38 investigations: 7 Staff Sexual Misconduct (one was incorrectly identified as Non-consensual Sex), 4 Staff Sexual Harassment, 1 Abusive Sexual Contact and 26 Offender Sexual Harassment. One allegation was not in their jurisdiction and was not investigated.

When interviewed the Secretary of Corrections indicated that policy requires an administrative or criminal investigation is completed for all allegations of sexual abuse or sexual harassment. The EAI is responsible to conduct those investigations. In order to ensure the investigations are completed, the agency utilizes a centralized database to track the investigations.

The requirement to complete investigations into sexual abuse and sexual harassment allegations was echoed by the two investigators assigned to the facility.

115.22 (c)(d)(e) These sections are not applicable to LCMHF.

Based upon the evidence discussed: review of policies, random and specialized staff/offender interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

# TRAINING AND EDUCATION

## Standard 115.31: Employee training

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

**115.31 (a)**

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on inmates' right to be free from sexual abuse and sexual harassment ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on the dynamics of sexual abuse and sexual harassment in confinement? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on the common reactions of sexual abuse and sexual harassment victims? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on how to detect and respond to signs of threatened and actual sexual abuse? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on how to avoid inappropriate relationships with inmates? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities? ☒ Yes ☐ No

**115.31 (b)**

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

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

**115.31 (c)**

- Have all current employees who may have contact with inmates received such training? ☒ Yes ☐ No

- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures? ☒ Yes ☐ No

- In years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies? ☒ Yes ☐ No

**115.31 (d)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.31 (a): IMPP 10-103D Coordinated Response to Sexual Abuse and Harassment, and IMPP 03-014D Minimal Departmental Training Standards outlines the requirement that sexual abuse and harassment training be provided to staff as part of their Orientation/Basic Training and that refresher training be provided annually. Such training shall be tailored to the gender of the offenders at the facility. Included in this training, Course ID# 1000, is a course on "Offender Sexual Assault Prevention/PREA."

After the first year, employees adhere to annual training requirements for adult facilities. Included in this training is a course 3579 "Offender Sexual Assault Prevention/PREA."

IMPP 03-104D shows that "Special Agents certified as corrections officer by the Secretary of Corrections shall be allowed to substitute special agent annual training in lieu of corrections officer annual training their officer certification." Training logs for 2016 and 2017 shows that both investigators completed the PREA refresher training in each of the two years.

In review of the PREA Basic Lesson Plan, the following sections were found for Employee Training: (1) its zero-tolerance policy for sexual abuse and sexual harassment; (2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response procedures; (3) Inmates' rights to be free from sexual abuse and sexual harassment; (4) The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment; (5) The dynamics of sexual abuse and sexual harassment in confinement; (6) The common reactions of sexual abuse and sexual harassment victims; (7) How to detect any respond to signs of threatened and actual sexual abuse; (8) How to avoid inappropriate relationships with inmates; (9) How to communicate effectively and professionally with inmates; and (10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

115.31 (b): IMPP 10-103D Coordinated Response to Sexual Abuse and Harassment outlines the requirement for staff to receive additional training if they are reassigned from a facility that houses only male offenders to a facility that houses only female offenders or vice versa.

A copy of the training/orientation schedule for LCMHF shows a course titled “Gender Specific Relations” is offered as part of the five week Orientation/Basic Schedule.

Documentation to show the training on transfers from facilities housing female offenders and transfers from any facilities, including juvenile takes place. This was supported through documentation of training that staff who previously worked at the juvenile facility received at LCMHF when the facility closed.

115.31 (c) and (d): Documentation of basic and annual training received is maintained using a computer-generated document showing the completion of the courses “LCMHF [YEAR] Basic PREA Training” and “PREA [YEAR] Updates.” A PREA Training Acknowledgement includes their understanding of the training they received.

Prior to the audit, listing of all staff who received training was provided for 2016, 2017 and 2018. The lists were compared to see if all staff had completed the training within two years. A list of names of seven (7) staff were not found to show the training had been completed. This was clarified on arrival when it was found that all seven had arrived at the facility after 2016. One staff person, the Warden, received the training at the other facility and had received an update just prior to the audit. The other six (6) received refresher training at LCMHF when they arrived at the facility from the juvenile facility after it closed.

In addition to the above 12 random files were selected for staff, contractors and volunteers were reviewed and support that the training was received.

When interviewed all 13 random staff indicated that they received PREA training on an annual basis and were able to speak on the topics covered as part of the training throughout the interview process.

Based upon the evidence discussed: review of policies, lesson plans, random and specialized staff interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.32: Volunteer and contractor training

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

**115.32 (a)**

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

**115.32 (b)**

- Have all volunteers and contractors who have contact with inmates been notified of the agency’s zero-tolerance policy regarding sexual abuse and sexual harassment and informed

how to report such incidents (the level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with inmates)? ☒ Yes ☐ No

**115.32 (c)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.32 (a) and (b): IMPP 03-014D Minimal Departmental Training Standards and IMPP 13-101D Volunteers outlines the courses required for volunteers and contractors just starting and annually thereafter. New contractor hires are required to take basic training meeting the requirements for contract staff Included in this training, Course ID# 1000, is a course on "Offender Sexual Assault Prevention/PREA."

Volunteers are required to complete this same training on an annual basis (within 3 months of the anniversary of their training date) to renew a volunteer's active status. Contractors adhere to annual training requirements for facility contract staff. Included in this training is a course 3579 "Offender Sexual Assault Prevention/PREA.

Volunteer and contractor training is based upon the level of services they provide and the level of contact they have with inmates. Once the PREA training is received, Volunteers shall review, sign and date the form, "Mentor/Volunteer Acknowledgement Regarding PREA Training and the KDOC's Sexual Assault Prevention and Intervention Program" confirming that they understood the training that they received.

Two (2) volunteers were interviewed and indicated that they received PREA education in the past year and were able to describe the methods to report and zero-tolerance policy in place at the agency.

115.32 (c): Documentation of basic and annual training received is maintained using a computer-generated document showing the completion of the courses "LCMHF [YEAR] Basic PREA Training,"

and “PREA [YEAR] Updates.” Understanding is shown by their signature on the form “PREA Training Acknowledgement.”

Nineteen random files were selected for staff, contractors and volunteers and the documents show that all had received the PREA basic and refresher training.

Based upon the evidence discussed: review of policies, lesson plans, random and specialized staff interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.33: Inmate education

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

**115.33 (a)**

- During intake, do inmates receive information explaining the agency’s zero-tolerance policy regarding sexual abuse and sexual harassment? ☒ Yes ☐ No

- During intake, do inmates receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment? ☒ Yes ☐ No

**115.33 (b)**

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from sexual abuse and sexual harassment? ☒ Yes ☐ No

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from retaliation for reporting such incidents? ☒ Yes ☐ No

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Agency policies and procedures for responding to such incidents? ☒ Yes ☐ No

**115.33 (c)**

- Have all inmates received such education? ☒ Yes ☐ No

- Do inmates receive education upon transfer to a different facility to the extent that the policies and procedures of the inmate’s new facility differ from those of the previous facility? ☒ Yes ☐ No

**115.33 (d)**

- Does the agency provide inmate education in formats accessible to all inmates including those who are limited English proficient? ☒ Yes ☐ No

- Does the agency provide inmate education in formats accessible to all inmates including those who are deaf? ☒ Yes ☐ No

- Does the agency provide inmate education in formats accessible to all inmates including those who are visually impaired? ☒ Yes ☐ No

- Does the agency provide inmate education in formats accessible to all inmates including those who are otherwise disabled? ☒ Yes ☐ No

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

**115.33 (e)**

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

**115.33 (f)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.33 (a) (b) and (f): IMPP 10-103D Coordinated Response to Sexual Abuse and Harassment outlines the process to provide offender education at intake covering: the agency's zero tolerance policy for sexual abuse and harassment, reporting methods used by offenders for incidents or suspicions of

sexual abuse and harassment. This same policy covers the requirement to provide comprehensive education to the offenders within 30 days, either in person or through video. The topics covered include the rights of inmates to be free from sexual abuse and harassment and to be free from retaliation for reporting such incidents, and regarding the policies and procedures for responding to such incidents. A video “PREA Facing Prison Rape” is shown to the offenders.

In addition to the individual education provided to each offender, the facility provides key information to inmates through the use of posters, inmate handbooks and other written formats. The intake staff and random offenders confirm that this process takes place and that it occurs as follows: Offenders are provided with written orientation materials that they can review on their own. After receiving the materials, the offenders meet face-to-face with intake staff (one staff to one offender) to ensure that they understand the material and answer any questions. Comprehensive education is provided within 30 days. All offender education received is documented as part of the electronic record for the offender.

During the site review the material was observed in every housing unit as part of a bulletin board that all offenders could review.

One (1) intake staff person was interviewed and stated that offenders were provided with information on the agency’s zero-tolerance policy and methods to report incidents or suspicions of sexual abuse or sexual harassment. In addition, each offender receives a packet of information and is shown a video covering the subject.

When interviewed the 19 random offenders support that the video and information are provided. In addition, the offenders are allowed to review the packet prior to meeting one-on-one and go over any questions about the material at that time. The intake staff person indicated that questions are asked to ensure that the offender understands the material they are receiving. The offender hotline #50 (an anonymous hotline) is discussed in addition to other methods for reports at the facility and outside of the facility. Offenders are made aware of their rights at the initial training.

18 of 19 random offenders interviewed indicated they received PREA information the same or next day after their arrival at the facility. The other offender was unable to recall when the training was received. The education included their right to be free from sexual abuse and harassment and methods for reporting sexual abuse and harassment and right to be free from retaliation for making a report.

115.33 (d): IMPP 10-103D Coordinated Response to Sexual Abuse and Harassment and IMPP 10-138D, Assistance for Offenders and/or Victims with Limited English Proficiency, address the availability of materials to offenders to are Limited English Proficient, deaf, visually impaired, or otherwise disabled, as well as to offenders who have limited reading skills and the procedures taken to access these services. KDOC authorizes staff to utilize one of two methods for oral interpretation: KDOC bilingual employees or the outside interpreter service contracted with the state. The PREA Compliance Manager and Warden confirm that the facility did not utilize the service, which charges for each use.

Brochures in English and Spanish were provided which are the main populations housed at the facility. The brochure provides definitions of inmate-on-inmate sexual abuse and sexual harassment and staff sexual abuse and sexual misconduct. There is also a definition provided for Voyeurism. Additionally, the brochure covers methods for reporting, rights of the victim, preventative measures and consequences of sexual abuse/harassment for the perpetrator.

For those languages where no written materials exist, LMCHF has a contract in place for translation and interpretation. The contract expired January 21, 2018 and the option to continue for an additional 12 month period was exercised. The contract covers LEP and visually-impaired individuals and includes services translation into braille. The contract does not reference services for offenders who are deaf. For deaf offenders staff indicate the material is provided in writing.

115.33 (d): Once an offender receives the training, an acknowledgement is completed to show the education was received. This acknowledgement is maintained with a copy imaged in the offender's electronic record.

115.33 (e): Seventeen random file checks for offenders housed at the facility support that each offender received PREA education and the education includes their right to be free from sexual abuse and harassment and their right to be free from retaliation for reporting such incidents. The same files support that additional comprehensive education was received within 30-days.

In addition to the above, offenders interviewed on the site review explained that the hotline (#50) can be used by anyone, that it would not track their information when they placed a call and they could choose to provide their name if they wished to do so. Every offender interviewed on the site review expressed that they felt this was the likeliest method that they would choose to make a report of sexual abuse or sexual harassment. Two offenders on separate housing units demonstrated how to utilize the hotline to make a report. Once connected the check of the hotline was terminated by the auditor. The PREA Coordinator confirmed that all calls to the hotline are tracked to ensure that each one is followed through to completion.

Based upon the evidence discussed: review of policies, offender educational brochures, video, random and specialized staff/offender interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.34: Specialized training: Investigations

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

**115.34 (a)**

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

**115.34 (b)**

- Does this specialized training include techniques for interviewing sexual abuse victims? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA

- Does this specialized training include proper use of Miranda and Garrity warnings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA

- Does this specialized training include sexual abuse evidence collection in confinement settings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA

- Does this specialized training include the criteria and evidence required to substantiate a case for administrative action or prosecution referral? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA

**115.34 (c)**

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

**115.34 (d)**

- Auditor is not required to audit this provision.

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.34 (a): IMPP 03-104 Minimum Departmental Training Standards covers the training requirements for Facility Special Agents working with EAI to complete the facility basic training program for corrections officers in addition to a certified law enforcement basic training course. This course may be

waived based on previous documented law enforcement experience, training, and/or completion of other basic law enforcement academies.

Investigative Staff received investigative training, verified through certificates and training logs:
- EAI Special Agent Training
- NIC "PREA: Investigating Sexual Abuse in a Confinement Setting"
- Trauma Informed Response and Investigations

115.34 (b): Basic training tailored to Facility Special Agents covers: ethics, legal issues, crime scene/evidence collection, offender sexual assault investigations, interviews and interrogation, arrest procedures, transportation of offenders, assembling a case/report writing, preparing for court and drug identification/surveillance techniques. Staff assigned to the EAI are also provided with an Investigations Protocol Manual which outlines evidence collection and storage. The manual also addresses the proper use of Miranda and Garrity Warnings.

The NIC coursework also covers the proper use of Miranda and Garrity Warnings and reinforces the methods for collection of sexual abuse evidence in confinement settings and the criteria used to substantiate a case for administrative action or prosecution referral.

115.34 (c): Training records for the two assigned investigators show that each completed the Special Agent Training, the NIC course, "PREA: Investigating Sexual Abuse in a Confinement Setting" and the Family Crisis Center course, "Trauma-Informed Response and Investigations."

IMPP 03-104D shows that "Special Agents certified as corrections officer by the Secretary of Corrections shall be allowed to substitute special agent annual training in lieu of corrections officer annual training their officer certification." The investigators at LCMHF complete the same PREA training as the other staff on an annual basis. When interviewed the two investigators confirmed the training was received. A check of the training logs support this occurred.

Based upon the evidence discussed: review of policies, lesson plans, specialized staff interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

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

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

**115.35 (a)**

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to detect and assess signs of sexual abuse and sexual harassment? ☒ Yes ☐ No

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to preserve physical evidence of sexual abuse? ☒ Yes ☐ No

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to respond effectively and professionally to victims of sexual abuse and sexual harassment? ☒ Yes ☐ No

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how and to whom to report allegations or suspicions of sexual abuse and sexual harassment? ☒ Yes ☐ No

**115.35 (b)**

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

**115.35 (c)**

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

**115.35 (d)**

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.31? ☒ Yes ☐ No

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.35(a): IMPP 03-014D Minimal Departmental Training Standards outlines the courses required for contractors just starting and annually thereafter. New hires are required to take basic training meeting the requirements for contract staff. Included in this training, Course ID# 1000, is a course on “Offender Sexual Assault Prevention/PREA. Medical and Mental Health Staff utilized at LCMHF are employed through a contract agency. Understanding is shown by their signature on the form “PREA Training Acknowledgement.”

After the first year, contracted medical personnel adhere to annual training requirements for facility contract staff. Included in this training is a course 3579 “Offender Sexual Assault Prevention/PREA.

In addition to meeting the same requirements as employees at the facility, additional requirements for medical personnel in the following areas is obtained: (1) How to detect and assess signs of sexual abuse and sexual harassment; (2) How to preserve physical evidence of sexual abuse; (3) How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and (4) How to and whom to report allegations or suspicions of sexual abuse and sexual harassment. A Power Point presentation utilized to provide that information was reviewed by the auditor.

115.35 (b): Medical staff employed at LCMHF do not conduct medical forensic examinations. Those examinations are conducted at a hospital off-site. Kansas Statutes Chapter 65: Public Health § 65-448 outlines who is qualified to conduct examinations for victims of sexual abuse in the state.

Two Medical and Mental Health staff were interviewed and confirmed that forensic examinations are not conducted at the facility. The staff confirmed that they received specialized training in the four (4) areas covered under this standard, and were able to describe the training received.

115.35 (c): Documentation of training received is maintained using a computer-generated document showing the completion of the courses “PREA [YEAR] Updates” and “PREA – Specialized Training for Medical/MHP.” Understanding is shown by their signature on the form “PREA Training Acknowledgement.”

A random sampling of three (3) PREA training certificates for medical personnel were provided supporting that all but one medical staff person completed the required specialized training. This specialized training was completed prior to the conclusion of the onsite audit. All three (3) medical staff completed the same training that non-medical staff received.

115.35 (d): IMPP 10-103D, Coordinated Response to Sexual Abuse and Sexual Harassment, indicates that Medical and behavioral health practitioners shall also receive the same training mandated for staff members. These requirements are outlined in IMPP 03-104D and show that the Basic and Annual training requirements for the medical and mental health care practitioners is the same training mandated for employees under § 115.31 or for contractors and volunteers under § 115.32.

Two Medical and Mental Health staff were interviewed and confirmed that forensic examinations are not conducted at the facility. The staff confirmed that they received specialized training in the four (4) areas covered under this standard, and were able to describe the training received.

Based upon the evidence discussed: review of policies, specialized staff interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

# SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

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

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

**115.41 (a)**

- Are all inmates assessed during an intake screening for their risk of being sexually abused by other inmates or sexually abusive toward other inmates? ☒ Yes ☐ No

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

**115.41 (b)**

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

**115.41 (c)**

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

**115.41 (d)**

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) whether the inmate has a mental, physical, or developmental disability? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) the age of the inmate? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) the physical build of the inmate? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) whether the inmate has previously been incarcerated? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) whether the inmate's criminal history is exclusively nonviolent? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) whether the inmate has prior convictions for sex offenses against an adult or child? ☒ Yes ☐ No

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

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) whether the inmate has previously experienced sexual victimization? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) the inmate's own perception of vulnerability? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) whether the inmate is detained solely for civil immigration purposes? ☒ Yes ☐ No

**115.41 (e)**

- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: prior acts of sexual abuse? ☒ Yes ☐ No

- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: prior convictions for violent offenses? ☒ Yes ☐ No

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

**115.41 (f)**

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

**115.41 (g)**

- Does the facility reassess an inmate's risk level when warranted due to a: Referral? ☒ Yes ☐ No

- Does the facility reassess an inmate's risk level when warranted due to a: Request? ☒ Yes ☐ No

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

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

**115.41 (h)**

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

**115.41 (i)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.41 (a), (b), (f), (g) and (h): IMPP 10-139D Screening for Sexual Victimization and Abusiveness was reviewed pursuant to this section regarding the usage of a standardized assessment screening tool for the risk of being sexually abused and the risk of being sexually abusive within 72 hours of arrival and reassessed within 30 days of arrival. This policy requires that screening is to take place for all intakes and transfers. Inmates can also be reassessed when warranted due to a triggering event or circumstances indicate the need.

In the PREA Application Manual event driven is defined as: "Reassessments should also be completed when the facility's PCM notified the counselor that a triggering event, such as a substantiated PREA-related incident has occurred or when the offender self-discloses an act of sexual predation or victimization." Furthermore, the manual ensures that inmates are not disciplined for refusing to answer or for not disclosing complete information in response to the screening questions.

GO 01-114 Offender Sexual Assault Prevention/Intervention supports that the Unit Team Counselor is the person assigned to review the Sexual Victimization Assessment of offenders that transfer to LCMHF with 72 hours and make that documentation in the Total Offender Activity Documentation System (TOADS).

115.41 (c): PREA screening is completed electronically using a system called Total Access PREA System (TAPS) and is assigned a score by the instrument; Known Aggressor (KA), Aggressor Potential (AP), Victim Incarcerated (VI), Victim Potential (VP) or Unrestricted (UN). The scores and information obtained are utilized to make determinations regarding housing, bed, work, education, and program assignments. The system allows for an option to override the score once the score is received. Any request for an override of the score is approved or denied by the PREA Application Administrator. The PREA Coordinator confirmed that they served as the PREA Application Administrator, adding that they have full rights to the application but all development and application changes have to be made by Information Technology (IT) programmers/developers.

115.41 (d): The PREA application manual outlines Vulnerability Factors to be considered, as follows: (1) Does the inmate have a history of being the victim of predatory or aggressive sexual actions in an institutional setting; (2) Is the offender under age 23 or age 65 or over; (3) Is the offender small in stature (5'6 and/or 140 lbs. or less for males); (4) Does the inmate have a medical health condition (level 5 or above) or were they receiving SSDI for a disability immediately prior to incarceration, includes physical limitations; (5) Does the offender identify or is perceived to be heterosexual, gay, bisexual, transgender or intersex; (6) Does the inmate see themselves as being vulnerable (regarding aggressive actions or sexual victimization; (7) Is it the inmates first time in prison (not jail); (8) is the inmate's criminal history exclusively non-violent. In the PREA application manual it reads, "The KDOC does not house offenders detained solely for civil immigration purposes."

Not asked under the Vulnerability Factors is (1) whether the inmate has prior convictions for sex offenses against and adult or child; and (2) whether the offender is gender non-conforming (where the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI).

The facility utilizes two (2) staff to perform screening for risk of victimization and abusiveness. The staff persons divide the tasks, with one completing the assessment and the second meeting with the offender to go over the form. Staff indicated that the process of splitting up the assessments has created some confusion and that the process is being changed back to the old method, where the assessments were not split between two staff persons to allow for continuity.

The Case Manager who conducted the second phase of the process confirmed that the risk screenings do not consider whether the offender is perceived to be gender non-conforming. The staff completing assessments use a computer-based program to complete the assessments 72 hours, 30-days and as needed due to referrals, requests, incidents of sexual abuse, or receipt of additional information. No offender is disciplined if they refuse to responds or disclose information as part of the screening process.

Nineteen random offenders were interviewed and asked if they could recall if they had been asked questions pursuant to the risk screening. Sixteen of 19 recalled being asked those questions at their orientation. These same three could also not recall ever being asked those questions after their arrival. Of the remaining 16 offenders, two (2) could not recall if they were asked those questions again and five (5) indicated that they were not asked again. Nine (9) offenders stated that they were asked those questions again approximately one month after their arrival at the facility.

While onsite it was found that prior to December of 2017, the 72-hour screenings were being conducted prior to transferring the offender to the facility and would not be in compliance with this standard. This was corrected in December of 2017. Due to this, only screenings conducted after that time frame were reviewed for this audit.

Random checks of 17 offender files supports that the offenders were assessed using the above criteria within 72 hours of their arrival and the reassessments occurred within 30 days utilizing the above instrument. An electronic data base showing the date of each assessment is maintained. These records were copied and reviewed. Two of the 17 files reviewed, show that the 30-day assessments were completed past 30 days. These random checks of the offender files support that assessments could be made for other reasons, such as event-based occurrences.

115.41 (e): The PREA application manual outlines the Aggressive Factors to be considered, as follows: (1) Does the inmate have any history of institutional sexual predatory behavior; (2) Does the inmate have any history of non-sexual predatory behavior; (3) Does the inmate have disciplinary history for fighting, threatening or intimidating any person or sexual activity, sodomy, aggravated sodomy, assault or battery; (4) Does the inmate have a current or prior conviction for an offense scored “GREATEST” in the Custody Classification Manual Offense Severity Level Table in the past 15 years; (5) The inmate has prior convictions for sex offenses against a child or an adult; (6) Does the inmate have a Central Monitor Note (CM) against another inmate(s) in which the inmate is identified as the aggressor; (7) Is the inmate a validated member of a security threat group (STG); (8) Does the offender have a history of institutionalized sexual activity.

Scoring rules for this section indicate that if the answer is “Yes” for Offenders who are identified as having prior convictions for sex offenses against a child or adult, the offender is not to be housed with “anyone who would be considered vulnerable based on age, physical size [and] type of conviction.” As noted in 115.41(d), the intake screening for risk of victimization shall consider whether the inmate has prior convictions for sex offenses against a child or adult.

115.41 (i): IMPP 05-101D Utilization, Confidentiality, Privacy, Security and Dissemination of Information Contained within Agency Records outlines how information contained in agency records is safeguarded from unauthorized access and improper disclosure. This is a “need to know” basis only to the extent that such access is necessary for the performance of their assigned duties.

The PREA Application Manual allows for the control of access to the TAPS site. In order to access permissions must be created. The PREA Coordinator and PREA Compliance Manager have permissions that allow for overrides, if warranted. Each section of the site allows different access based on the role of the staff person. For example, in FORMS, staff access includes previously entered SVAs, and the ability to create new SVAs.

The PCM indicated that access to screening records is controlled and limited to staff in order to protect the information from disclosure to unauthorized personnel or offenders. The statement was echoed by the PREA Coordinator.

Corrective Action Needed: 115.41 (d)

1. Criteria for Vulnerability Factors must consider all factors outlined in 115.41(d): prior convictions for sex offenses against a child or adult, and gender non-conforming. This criteria should be used when screening for sexual victimization on all offender intake and transfers. Facility will submit either newly created or updated material to meet this standard to the auditor.

   Criteria for Aggressor Factors Scoring rules indicate that if the answer is "Yes" for Offenders who are identified as having prior convictions for sex offenses against a child or adult, the offender is not to be housed with "anyone who would be considered vulnerable based on age, physical size [and] type of conviction." Facility will submit either newly created or updated material to meet this standard to the auditor.

2. The facility shall submit copies of how these changes were implemented to support that the new/revised screening criteria is being utilized.

Verification of Corrective Action:

The Auditor was provided appropriate supplemental documentation to evidence and demonstrate corrective actions taken regarding this standard.

Additional Documentation Reviewed:

October 30, 2018, The PREA Coordinator sent draft copies of the proposed PREA Application User Manual and Internal Classification Checklist that KDOC would utilize to screen offenders for vulnerability or aggression pending the update to the computerized system. These draft copies did not address the deficiencies noted in the Corrective Action Plan. On October 31, 2018, a revision was requested to each, noting the section of the interim report where the concern was addressed.

The PREA Application Manual, was updated November 1, 2018. Criteria for Vulnerability Factors were revised to include, "Offenders who are identified as having prior convictions for sex offenses against a child or adult." The housing and job considerations were modified to require that staff do not house the offender with anyone who would be considered aggressive."

On November 19, 2018, a revised Internal Classification Checklist was received. This checklist addressed the following Vulnerability Factors as required in 115.41 (d): (1) Whether the inmate has a mental, physical or developmental disability; (2) The age of the inmate; (3) The physical build of the inmate; (4) Whether the inmate has previously been incarcerated; (5) Whether the inmate's criminal history is exclusively non-violent; (6) Whether the inmate has prior convictions for sex offenses against an adult or child; (7) Whether the inmate is perceived to be gay, lesbian, bisexual, transgender or intersex, or gender nonconforming; (8) Whether the inmate has previously experienced sexual victimization; and, (9) The inmate's own perception of vulnerability.

The auditor requested Internal Classification Checklists completed at LCMHF from November 26, 2018 through December 7, 2018. The auditor received 51 reviews, accompanied by an alphabetical spreadsheet breaking down the reviews by date and type: 15 of the 72-hour reviews, 15 of the 30-day

reviews and 21 annual reviews, to include one (1) bi-annual review of an offender who identified as transgender. All screenings were completed utilizing the updated Internal Classification Checklist and scored as follows: Known Aggressor (KA), Aggressor Potential (AP), Victim Incarcerated (VI), Victim Potential (VP) or Unrestricted (UN).

Based upon the evidence discussed: a review of policies, random and specialized staff/offender interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.42: Use of screening information

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

**115.42 (a)**

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

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

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

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

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

**115.42 (b)**

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

**115.42 (c)**

- When deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems (NOTE: if an agency by policy or practice assigns inmates to a male or

female facility on the basis of anatomy alone, that agency is not in compliance with this standard)? ☒ Yes ☐ No

- When making housing or other program assignments for transgender or intersex inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems? ☒ Yes ☐ No

**115.42 (d)**

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

**115.42 (e)**

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

**115.42 (f)**

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

**115.42 (g)**

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

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

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.42 (a): PREA screening is completed electronically using a system called Total Access PREA System (TAPS) and is assigned a score by the instrument; Known Aggressor (KA), Aggressor Potential (AP), Victim Incarcerated (VI), Victim Potential (VP) or Unrestricted (UN). The scores and information obtained are utilized to make determinations regarding housing, bed, work, education, and program assignments.

IMPP 10-139D Screening for Sexual Victimization and Abusiveness indicates that offenders with an internal classification of VI and VP can only be housed with other offender classified as the same or those classified as UN. Offenders classified as KA or AP can only be housed with offenders classified as the same as those classified or those classified as UN.

GO 01-114 Offender Sexual Assault Prevention/Intervention outlines the placement of classified offenders further, indicating that VI and VP shall not be assigned to any work detail along with a KA or AP offender. Housing units are divided, showing how each offender is identified VI, VP, UN, KA or AP. No offenders were found to be housed in units that differed from their identified designation.

Central Unit offender housing has units divided as follows:
1. Houses segregation offenders;
2. Houses specialized offenders; and
3. Houses only VI, VP or UN offenders; and
4. House only KA, AP or UN offenders.

West Unit offender housing has units divided as follows:
1. Houses only VI, VP or UN; and
2. Houses only KA, AP or UN

115.42 (b): Individual determinations about how to ensure the safety of the inmates are possible. As stated in 115.41 the system allows for an option to override the score once the score is received. Any request for an override of the score is approved or denied by the PREA Application Administrator.

115.42 (c) and (e): IMPP 11-106 Case Management addresses initial housing for all offenders in the state. LCMHF is not an intake facility. KDOC offenders are initially assigned to the Reception and Diagnostic Unit (RDU) where they are assessed using a risk/needs assessment called the Level of Services Inventory – Revised (LSI-R). GO-17-101 Offender Admission and Orientation Program

indicates that when offenders are admitted to a facility the Unit Team Manager/designee has the responsibility, with regard to the offender's internal PREA classification status and type of admission.

Two offenders who identify as gay indicated that they were not placed in any housing based on this fact. One stated that they wanted to be housed with another gay offender. Both were asked if they felt safe and if staff would respond to a report of sexual abuse, and they indicated affirmatively to both questions.

Following the onsite audit, GHSPP Guidelines for Identification, Treatment and Correctional Management of Inmates Diagnosed with Gender Dysphoria was provided to the auditor. The guidelines cover diagnosis and treatment plans, to include hormone therapy and quarterly reviews of the offender submitted to the Director of Health Care Services, the Secretary of Corrections and the Deputy Secretary of Corrections.

In the section covering management and placement it reads, "An inmate who is committed to the KDOC shall be placed in an institution according to the inmate's biological gender presentation and appearance. This shall include the inmate's intact, external genitalia and secondary sex characteristics. Specific cases with partial completion of sex reassignment surgery, removal or augmentation of breasts, removal of testicles, etc. shall be evaluated on a case-by-case basis."

KDOC policy places offenders in facilities based on biological gender and appearance. The transgender or intersex offender's own views with respect to his or her own safety are not considered. DOJ interpretive guidance provided though Frequently Asked Questions (FAQ) for March 24, 2016 supports that placement in the facility based solely on the external genital anatomy violates the standard for sections (c) and (e).

115.42 (d)(f) and (g): IMPP 10-139D Screening for Sexual Victimization and Abusiveness addresses the requirements to assess the placement of transgender or intersex offenders at least twice per year to assess any threats to safety experienced by the offender. The policy also addresses the need to give serious consideration to a transgender or intersex offender's own views with respect to his or her own safety, the opportunities for transgender or intersex offenders to shower separately from other offenders and that lesbian, gay, bisexual, transgender or intersex offenders will not be placed in dedication facilities or wings solely on the basis of such identification or status, unless such placement is in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such offenders.

The PREA Compliance Manager interviewed on this subject indicate that housing and job assignments are determined based on risk-screenings and follow-up visits with mental health. The frequency of screenings is determined based on need and there are at least two screenings a year for offenders who are identified as a transgender inmate. The facility is not under a consent decree. There is no wing dedicated the housing offenders who are lesbian, gay, bisexual, transgender or intersex inmates. This was repeated by the PREA Coordinator, when interviewed. The PREA Compliance Manager indicated that the decisions on housing are based on the inmate's health and safety and if placement would present problems for management or security. The PCM added, in the State of Kansas, if they offender has male parts they are housed in male facilities. At LCMHF offenders are able to shower alone if they want, and 2 of the 3 offenders have chosen this option.

The housing reviews obtained onsite showed that three (3) transgender offenders had arrived at the facility in the weeks prior to the audit. All three offenders indicated that they had not been placed into any housing restricted to transgender or intersex inmates. All three indicate that they were asked about

how they felt regarding their safety and none indicated they did not feel safe. Each person was asked if they wished to shower alone. One offender indicated that the 3rd shift did not release them to shower so they took it upon themselves to shower with the other offenders. One other offender indicated that when they decided to shower with the other offenders, they got in trouble for showering with the normal line after count.

The staff person who conducted risk screenings at the facility indicated that risk screenings are used to place the offenders in appropriate housing and programming at the facility. The screener indicated that the transgender offenders recently transferred to the facility. No transgender offenders were housed at the facility prior to this time. None of the transgender offenders have been housed at the facility long enough for the six month reassessment to occur. The staff person who conducted risk screenings was aware of the requirement to conduct the reassessment. The staff person indicated that transgender inmates who expressed fear for their safety would be seen by the investigators and confirmed that transgender inmates are given the opportunity to shower separately from other offenders.

Corrective Action Needed: 115.42 (c) and (e)

1. Policy should be modified to require that facility, housing, and programming assignments be made on a "case-by-case basis" and not solely on the basis of biological gender presentation. This criteria should include serious consideration of the transgender or intersex offenders own views with respect to his or her own safety. Facility will submit either newly created or updated material to meet this standard to the auditor.
2. The facility shall submit copies of how these changes were implemented to support that the new/revised criteria are being utilized.

Verification of Corrective Action:

The Auditor was provided appropriate supplemental documentation to evidence and demonstrate corrective actions taken regarding this standard.

Additional Documentation Reviewed:

IMPP 10-139D Screening for Sexual Victimization and Abusiveness was modified, effective 10-25-2018, to include the following language in the section for Transgender/Intersex Offenders:

1. *Housing and programming considerations for transgender or intersex offenders who are committed to the KDOC shall include, but not be limited to:*
   a. *The general programming needs;*
   b. *The offenders health and safety; and*
   c. *Whether the placements in a facility for male or female offenders would present management or security concerns;*
2. *A transgender or intersex offender own views with respect to his or her own safety shall be elicited and factored into the decision-making process.*

The above-referenced document was distributed to all staff as Policy Memorandum Issuance #18-10-002.

GHSPP Guidelines for Identification, Treatment and Correctional Management of Inmates Diagnosed with Gender Dysphoria was modified, effective 10-30-2018, to show the following:

1. Language concerning placement of offenders in housing based on genital status was removed.
2. "Determination regarding housing placement is the responsibility of the KDOC and the facility Wardens . . . specific cases shall be evaluated on a case-by-case basis by the Regional Medical Director" was added.

The PREA Coordinator advised that two (2) of the three (3) offenders housed at LCMHF at the time of the site review were released from custody prior to their six month reviews. The one (1) six month review, dated November 28, 2018, included criteria in the internal classification checklist and also considered offender programming, housing, and if placement in a male or female facility would present management or security concerns. The offender's own views with respect to their own safety was elicited.

The PREA Coordinator indicated that no additional offenders who identify as transgender were housed at LCMHF.

Based upon the evidence discussed: review of policies, random and specialized staff/offender interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.43: Protective Custody

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

**115.43 (a)**

- Does the facility always refrain from placing inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers? ☒ Yes ☐ No

- If a facility cannot conduct such an assessment immediately, does the facility hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment? ☒ Yes ☐ No

**115.43 (b)**

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible? ☒ Yes ☐ No

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Privileges to the extent possible? ☒ Yes ☐ No

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Education to the extent possible? ☒ Yes ☐ No

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible? ☒ Yes ☐ No

- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The opportunities that have been limited? ☒ Yes ☐ No

- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The duration of the limitation? ☒ Yes ☐ No

- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The reasons for such limitations? ☒ Yes ☐ No

**115.43 (c)**

- Does the facility assign inmates at high risk of sexual victimization to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged? ☒ Yes ☐ No

- Does such an assignment not ordinarily exceed a period of 30 days? ☒ Yes ☐ No

**115.43 (d)**

- If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, does the facility clearly document: The basis for the facility's concern for the inmate's safety? ☒ Yes ☐ No

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

**115.43 (e)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does*

*not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

115.43 (a) and (b): IMPP 10-139D Screening for Sexual Victimization and Abusiveness concerns the placement of offenders who are identified as high risk for sexual victimization on involuntary segregated housing. Offenders who are placed on involuntary segregation, are held there less than 24 hours so that an assessment can be completed. Placement on the unit would not normally exceed 30 days.

If an offender were placed on involuntary segregation, the IMPP 20-105 outlines the requirement to assess if access to programs, privileges, education, or work opportunities have been restricted. If limited, the facility shall document: (1) the opportunities that have been limited, (2) the duration of the limitation, (3) the reason for such limitation.

Interview with the Warden confirms that offenders at high risk for sexual victimization are only placed on the unit after an assessment of all available alternative placements has been made, with the offender being placed on another housing unit. The Warden added that he has not utilized placement on segregation for any offender who has alleged risk of sexual abuse or victimization.

Two staff who supervise offenders in segregated housing were interviewed and indicated that opportunities on the segregation units are limited compared with general population. On the segregation units, mental health staff make frequent rounds, as does an Activities/Recreation staff person, who brings games and puzzles to the offenders. The Chaplain visits the offenders on the unit and the offenders go to recreation five (5) days of the week for an hour. Neither person was aware of any offenders being housed on the unit for longer than 30 days and stated that it was usually short-term. Housing on the unit was reviewed by a committee 1-2 times a week. Both persons indicated that they were not aware of any offenders being placed on involuntary segregated housing to separate them from likely abusers.

115.43 (c), (d) and (e): IMPP 20-105 Basis Operations of Administrative Segregation concerns placement of an individual on involuntary segregation. The facility uses an “Administrative Segregation Report” to document (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.

IMPP 20-106 Administrative Segregation Review Board reads, “The administrative segregation review board shall review the status of each inmate confined in administrative segregation once per week for the first 30 days, and once per month thereafter.”

LCMHF provided two PREA Checklists. These checklists have a section for a recommendation on housing placement. In one report the offender reporting the allegation was not moved. In the other report, the recommendation was made to place the suspected perpetrator on “Ad Seg PI”. LCMHF reports that no offenders at high risk for sexual victimization were placed on involuntary segregated housing in the 12 months preceding the audit.

Additional documentation obtained onsite as part of a review of the investigative case files confirm that in none of the 12 cases and checklists reviewed were the offenders placed in involuntary segregated housing after alleging to have suffered sexual abuse.

Based upon the evidence discussed: review of policies, random and specialized staff/offender interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

# REPORTING

## Standard 115.51: Inmate reporting

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

**115.51 (a)**

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

**115.51 (b)**

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

**115.51 (c)**

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

**115.51 (d)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.51 (a), (b), (c) and (d): IMPP 10-103D Coordinated Response to Sexual Abuse and Harassment, lists the multiple internal ways available to inmates to report sexual abuse and harassment or retaliation by other inmates/staff which include: verbal reports to any staff member, in writing using a Form 9 "Offender Request to Staff", using the KDOC Sexual Assault Helpline accessible by dialing #50 from any offender phone free of charge.

The offender brochures includes two anonymous reporting methods: (1) Family or friends can call 1-888-317-8204, (2) The offender can also contact Legal Services for Prisoners by calling 785-296-8887 or writing at the address provided. IMPP 10-103D adds the requirement for the Sexual Assault Hotline to be publicized in all KDOC adult facilities "through the use of posters, general orders, notices, etc."

An MOU for Legal Services for Prisoners and the Kansas Department of Correction, dated October 2015 and renewed January 2018 establishes the mechanism for offenders to report an incident of sexual abuse or sexual harassment to an entity that is not part of the agency and that is able to receive and immediately forward inmates reports of sexual abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request.

In the PREA application manual it reads, "The KDOC does not house offenders detained solely for civil immigration purposes."

Staff are required to report allegations of sexual abuse harassment, and can make the report to their supervisor, Appointing Authority, or EAI by the end of their shift. Staff can also make the report using the anonymous reporting number used by inmates' family or friends. Staff can also use the same hotline used by the offenders.

The PREA Compliance Manager indicated that the hotline calls go to the PREA Coordinator, who emails the specific facility and investigations office where the incident was alleged to have occurred.

The other methods available for reporting are an 800 number that friends and family can call and the Legal Services for Prisoners by phone or mail. The auditors observed information on the methods, to include the one for Legal Services, posted throughout the facility in bulletin boards on the offender housing units.

The 13 random staff interviewed and 19 random offenders housed at the facility regarding the various methods available for reporting. All staff and 16 of the offenders were able to provide multiple methods for reporting (verbal, written, 3rd party and anonymous) and knew that they could make the reports privately without other staff or offenders present. Five offenders of the 19 were unsure if they could make a report without providing their name. The offenders were asked if they would be able to make a report for another offender and if someone else could make a report on their behalf without providing the name of the offender and 18 of 19 indicated that this was the case.

Every staff person interviewed indicated that they would document any verbal report made to them as part of an incident report, completed before the end of the shift. A review of the investigative file shows written reports from staff were made and copies of these reports were retained in the investigative files for review. Two (2) staff persons would write an immediate report. Three (3) staff persons would write the report after making notifications to the Shift Supervisor. No one reported that they would document the report any later than the end of their shift.

In addition to the above, offenders interviewed on the site review explained that the hotline (#50) can be used by anyone, that it would not track their information when they placed a call and they could choose to provide their name if they wished to do so. Every offender interviewed on the site review expressed that they felt this was the likeliest method that they would choose to make a report of sexual abuse or sexual harassment. Two offenders on separate housing units demonstrated how to utilize the hotline to make a report. Once connected the check of the hotline was terminated by the auditor. The PREA Coordinator confirmed that all calls to the hotline are tracked to ensure that each one is followed through to completion.

Based on the evidence discussed: review of policies, brochures, random and specialized staff/offender interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.52: Exhaustion of administrative remedies

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

**115.52 (a)**

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

**115.52 (b)**

- Does the agency permit inmates to submit a grievance regarding an allegation of sexual abuse without any type of time limits? (The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.) (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- Does the agency always refrain from requiring an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

**115.52 (c)**

- Does the agency ensure that: An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- Does the agency ensure that: Such grievance is not referred to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

**115.52 (d)**

- Does the agency issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance? (Computation of the 90-day time period does not include time consumed by inmates in preparing any administrative appeal.) (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- If the agency claims the maximum allowable extension of time to respond of up to 70 days per 115.52(d)(3) when the normal time period for response is insufficient to make an appropriate decision, does the agency notify the inmate in writing of any such extension and provide a date by which a decision will be made? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, may an inmate consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

**115.52 (e)**

- Are third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- Are those third parties also permitted to file such requests on behalf of inmates? (If a third-party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.) (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- If the inmate declines to have the request processed on his or her behalf, does the agency document the inmate's decision? (N/A if agency is exempt from this standard.)
  ☒ Yes ☐ No ☐ NA

**115.52 (f)**

- Has the agency established procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.).
  ☒ Yes ☐ No ☐ NA

- After receiving an emergency grievance described above, does the agency provide an initial response within 48 hours? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)
  ☒ Yes ☐ No ☐ NA

- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

**115.52 (g)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.52 (a) through (g): Kansas Administrative Regulations (KAR) Article 15-204 outlines the grievance procedure for inmates. The policy covers the criteria as follows: (1) The agency shall not impose a time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse (2) The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse. (3) 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. (4) Nothing in this section shall restrict the agency's ability to defend against an inmate lawsuit on the ground that the applicable statute of limitation has expired.

The regulations do not require an offender to utilize the grievance process or otherwise attempt to resolve with staff, any alleged incident of sexual abuse. Furthermore it reads that (1) the inmate alleging sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the compliant, and (2) the grievance shall not be referred to a staff member who is the subject of the complaint. The policy allows for third parties, including fellow inmates, staff members, family members, attorneys and outside advocates, to assist any inmate in filing requests for administrative remedies relating to allegations of sexual abuse and shall be permitted to file these requests on behalf of any inmate. The inmate can decline to have the request processed on their behalf. The facility shall document the inmate's decision.

KAR Article 15-204 requires that a decisions on the merits of any grievance alleging sexual abuse be made within 90 days of the filing of the grievance. Article 15-204 also addresses the filing of emergency grievances where the inmate is at substantial risk of imminent sexual abuse, requiring an initial response within 48 hours and a final decision within 5 days.

The last section of the article covers an inmate who files a grievance in bad faith. In those instances, the inmate may be disciplined for filing a grievance related to alleged sexual abuse only if it can be shown that the inmate filed the grievance in bad faith. Two charges are possible, 44-12-303 - Lying and 44-12-317 - Falsifying Documents.

In the past 12 months, LCMHF reports there have been zero (0) instances where: an offender alleged sexual abuse and declined 3rd party assistance; an offender filed an emergency grievance alleging imminent risk of sexual abuse; or, an offender was disciplined for filing a grievance in bad faith.

In the past 12 months, LCMHF reported that one (1) grievance alleging sexual abuse was filed. Provided for review: a grievance was forwarded to the EAI and an investigation into the allegation was made. The date of the grievance was January 10, 2017 and the response was January 12, 2017. The allegation made in the grievance was investigated as part of a prior complaint.

One offender at the facility who reported sexual abuse by staff was interviewed and indicated that they were apprised of the results of the investigation, in writing, after making their report. The offender was

not aware of the facility requirement to notify them of the decision within 90 days. The offender indicated that the report was made June of 2017 with the notification being made in November of 2017. The investigative file was reviewed and it showed the report was received September 11, 2017, completed October 18, 2017 and the notification made on November 15, 2017.

Based upon the evidence discussed: review of policies/administrative regulations, random and specialized staff/offender interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

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

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

**115.53 (a)**

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations? ☒ Yes ☐ No

- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies? ☐ Yes ☒ No

- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible? ☒ Yes ☐ No

**115.53 (b)**

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

**115.53 (c)**

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

- Does the agency maintain copies of agreements or documentation showing attempts to enter into such agreements? ☒ Yes ☐ No

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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115.53 (a), (b) and (c): IMPP 10-103D Coordinated Response to Sexual Abuse and Harassment, outlines the responsibility to provide outside victim advocacy for emotional support. KDOC provides these services from an area crisis center and give inmates mail and phone information for the agency as part of their orientation packet. Family Crisis Center at PO Box 1543 Great Bend, KS 66048 at (620) 792-1885 and (866) 792-1885 is the advocacy service listed for LCMHF. In the PREA application manual it reads, "The KDOC does not house offenders detained solely for civil immigration purposes."

LCMHF maintains a Memorandum of Understanding (MOU) with the Family Crisis Center, with an address of 1924 Broadway, Great Bend, KS 67530. In this document, the community-based organization agrees to respond to notifications by 24-hour crisis line (the numbers provided to the offenders, email or in person at no cost to the offender or to LCMHF. The MOU outlines that LCMHF must contact the Family Crisis Center for response to sexual abuse allegations. The advocacy work provided by the center is confidentiality in accord with the confidentiality regulations under the Violence Against Women Act. The Family Crisis Center can only release information when allowed through a written, time-limited consent form with the Family Crisis Center. The MOU is subject to annual review. The current MOU is dated March 28, 2018. The next annual review will occur in 2019.

The auditor contacted Family Crisis Center listed in the offender brochure and met with the advocate in person at the facility. When the advocate arrived for the interview at the facility, it was observed that several offenders knew her by name. The advocate confirmed that LCMHF and the Family Crisis Center have an MOU for the provision of services and maintains contact with the PREA Compliance Manager and his alternate at least once a month. The arrangement has been in place since April of 2014. The advocate indicated that they reached out to the facility after providing these services to the community.

As part of the collaboration, the advocate has trained new and existing staff and has presented information to offenders housed at the facility. The advocate responded several times, and each time has been provided space to meet with the offender to provide advocacy services. The advocate has no knowledge if any other organizations provide services to the facility. They added that the inmates can remain anonymous if they make a report and they do not report back to the facility unless the offender requests it. LCMHF and the Family Crisis Center support each other's efforts in this area. If a forensic exam is needed, LCMHF provides the transportation to either Great Bend or Hays. Included in the services provided by the Family Crisis Center are:

- Accompaniment during forensic medical exam
- Accompaniment during investigatory interviews and court proceedings

- Emotional support services
- Crisis intervention
- Information
- Relevant referrals

The Family Crisis Center advocate indicated that there were zero (0) instances where advocacy services for inmate reports of sexual abuse, or forensic exams were required in the past 12 months. For offenders at LCMHF are provided in the following manners:

- Over the phone
- Via mail
- Onsite at LCMHF
- Onsite at Great Bend or Hays Hospitals

Six of 19 offenders interviewed knew of the Advocacy Services available to them, two did not recall and rest did not express any interest. While on the site review, it was observed the information on the service was posted in all housing units. Posted on these same units are notifications that all offender calls are subject to monitoring.

Based upon the evidence discussed: review of policies, brochures, interviews with offenders and the agency providing advocacy services, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.54: Third-party reporting

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

**115.54 (a)**

- Has the agency established a method to receive third-party reports of sexual abuse and sexual harassment? ☒ Yes ☐ No

- Has the agency distributed publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate? ☒ Yes ☐ No

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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**Instructions for Overall Compliance Determination Narrative**

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115.54 (a): IMPP 10-103D Coordinated Response to Sexual Abuse and Harassment, reads, "Staff, offender family members or others may report incidents or suspected incidents of sexual abuse by calling a toll free third-party hotline: 1-888-317-8204. This information is provided to the offenders as part of the orientation information packet. Also listed on the offender brochure is the information for Legal Services for Prisoners at PO Box 12438 Overland Park, KS 66282 or by calling (785) 296-8887. The information is forwarded to the PREA Coordinator who indicates it is forwarded to the affected facility.

Methods to report sexual abuse and harassment are made available to the public on the KDOC website under Facilities/PREA/Reporting Incidents. The site provides a phone number (785) 296-0200 and an email link to Nat Parisi, who is listed as the Enforcement, Apprehension and Investigations Director on the KDOC Central Office contact page. The PREA Coordinator indicated that the affected facility is informed if an investigation is needed.

The 13 random staff and 19 random offenders interviewed during the site review and in-depth were aware of the reporting mechanisms, to include 3rd party. Postings outlining this method were observed by the auditors on all offender housing units during the onsite visit.

Based upon the evidence discussed: review of policies, random staff/offender interviews, observations made onsite, the facility has demonstrated compliance with this standard.

# OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

## Standard 115.61: Staff and agency reporting duties

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

**115.61 (a)**

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency? ☐ Yes ☐ No

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding retaliation against inmates or staff who reported an incident of sexual abuse or sexual harassment? ☒ Yes ☐ No

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding any staff neglect or violation of responsibilities

that may have contributed to an incident of sexual abuse or sexual harassment or retaliation? ☒ Yes ☐ No

**115.61 (b)**

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

**115.61 (c)**

- Unless otherwise precluded by Federal, State, or local law, are medical and mental health practitioners required to report sexual abuse pursuant to paragraph (a) of this section? ☒ Yes ☐ No

- Are medical and mental health practitioners required to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services? ☒ Yes ☐ No

**115.61 (d)**

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

**115.61 (e)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

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☐ **Does Not Meet Standard** (*Requires Corrective Action*)

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115.61 (a): GHSPP P-B-04.00 Federal Sexual Abuse Regulations – Corizon, requires the medical and behavioral health practitioners to report sexual abuse that occurred within the facility as well as staff neglect or violation of responsibilities that may have contributed to an incident, and/or retaliation. Staff shall inform offenders of the practitioner's duty to report, along with the limitations of confidentiality at the initiation of services.

The EAI Investigations Protocol Manual cites an important aspect of investigations into sexual abuse allegations is a determination if any staff negligence or collusion may have played a role in facilitating or causing the sexual abuse.

IMPP 10-103D Coordinated Response to Sexual Abuse and Harassment, requires all staff to report immediately any knowledge, suspicion or information regarding an incident of sexual abuse or harassment. Incidents of retaliation directed against offenders or staff are also prohibited and reporting of each is required. The policy is further elaborated to include reporting of incidents or sexual abuse or sexual harassment that occurred in facility, whether or not it is a part of the agency.

Reporting instances of staff neglect of violations that may contributed to an incident or retaliation is not addressed in this policy but is part of training received. The 13 random staff interviewed on this subject were well-versed and aware of this requirement, citing the Code of Ethics for the agency.

All 13 of the random staff interviewed knew of the requirement to report any knowledge, suspicious or information regarding incidents of sexual abuse that occurred in facility and any retaliation against staff or offenders who reported such incidents.

115.61 (b): IMPP 10-103D addresses the provision that staff do not reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security management decisions, apart from designated supervisors or officials.

115.61 (c) and (d): If the victim is aged 17 or younger, IMPP 10-103D requires the immediate completion of the Suspected Child Abuse in State Institutions form (SISI) and an immediate report to the Kansas Protection Report Center at a number provided. Vulnerable adults are addressed by Kansas Statute 21-5505 Sexual Battery; Aggravated Sexual Battery, defining three circumstances where an individual could be unable to consent: (1) when the victim is overcome by force or fear; (2) when the victim is unconscious or physically powerless; or (3) when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug, or other substance, which condition was known by, or was reasonably apparent to, the offender.

The PREA Coordinator and Warden stated that the Kansas Division of Aging is contacted for vulnerable adults. The Warden also indicated that all allegations of sexual abuse and harassment (to include 3rd party and anonymous sources) were reported to the facility investigators.

Two Medical and Mental Health practitioners were interviewed and both indicated that the offenders are notified on intake of the limits of confidentiality and duty to report. Where required to report, both staff persons indicated that the report would be made to the Shift Supervisor. The Medical professional indicated that they have made reports in the past. With the Mental Health professional, the reports were usually received by them in order to provide services to the offender.

LCMHF does not house juvenile offenders. The PREA Coordinator indicated anyone who was a juvenile would be referred to the Division of Children and Families.

115.61 (e): Attachment A, IMPP 10-103D Coordinated Response, reads, “All PREA allegations, including third party and anonymous, must be investigated.” A copy of a PREA Checklist was provided. The PREA Checklist used at the facility contains information on the date and time an allegation is received, and when notifications are made to facility staff, including the investigator.

The PREA Checklists were reviewed onsite, the checklists were reviewed for 12 random investigations and it was found that notifications were made in each instance to the Warden, PREA Compliance Manager, EAI, Medical, Behavioral Health and the Duty Officer/Major.

Based upon the evidence discussed: review of policies, random and specialized staff interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.62: Agency protection duties

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

**115.62 (a)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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115.62 (a): When an agency or facility learns that an inmate is subject to substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate is addressed by the following policies: GO 01-114, IMPP 10-103D, IMPP 20-104, IMPP 20-105, and IMPP 20-108. The Shift Supervisor shall ensure that the perpetrator and victim are immediately separated: (1) by a different living unit within

Central Unit or a different wing at West Unit, (2) by different cells within the living unit, (3) if no other alternative, by segregation, or (4) by a transfer to a different facility.

Prior to the audit information was provided that no offenders were identified as being subject to substantial risk of imminent sexual abuse. If such an action were necessitated, the PREA Checklist contains a narrative section that allows for documentation actions taken to protect the inmate by the Shift Supervisor.

The Agency Head indicated that offenders who are at risk of imminent sexual abuse would be separated so that that an investigation could substantiate if there was a viable risk. The Warden indicated that the offender could be moved to another housing unit or transferred to another facility. No offenders at the facility had been placed on involuntary segregation over the past year and the Warden indicated that the use of involuntary segregation would be a last resort.

All 13 of the random staff interviewed would report sexual abuse or sexual harassment to their Shift Supervisor. The staff were able to describe how to protect inmates from risk of imminent sexual abuse until further assistance could be obtained. For victims of sexual abuse, the staff were able to describe steps they would take to ensure that evidence (on person and the scene) was preserved. All staff interviewed strongly expressed that no one who did not have a need to know would be informed of the sexual abuse or sexual harassment allegations.

The PREA Checklists were reviewed onsite, the checklists were reviewed for 12 random investigations and no instances of offenders being placed into involuntary segregated housing were found.

Based on the evidence discussed: review of policies, random and specialized staff interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.63: Reporting to other confinement facilities

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

**115.63 (a)**

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

**115.63 (b)**

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

**115.63 (c)**

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

**115.63 (d)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

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☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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115.63 (a), (b) and (c): IMPP 10-103D Coordinated Response to Sexual Abuse and Harassment, addresses the notification requirements for facilities who receive allegations of sexual abuse at their facility and when the abuse occurred at another facility. These notifications must be made as soon as possible but "no later than 72 hours of receiving the report" and are documented using a memorandum authored by the reporting facility Warden and addressed to the Warden of the receiving facility.

The Agency Head indicated that the Wardens, PCM's, and EAI staff are notified of all allegations and make these notifications to the Wardens of other facilities. LCMHF reported over the past 12 months, zero (0) reports were made by inmates at LCMHF regarding assaults that occurred at other facilities.

115.63 (d): IMPP 22-103 Investigative Procedures, requires that all allegations of sexual abuse, sexual harassment or nonconsensual sexual acts shall have an agent assigned to investigate. This investigation is to be initiated immediately and shall follow the uniform evidence protocol set forth in the EAI manual.

On March 12, 2017, the Warden at Lansing Correctional Facility sent a memorandum to the Warden at LCMHF, regarding an inmate's report earlier that same day that he had been sexually abused in 2015. This case was not investigated at LCMHF when it was found that the allegation was not for any correctional facility.

Based upon the evidence discussed: review of policies, interviews with the Warden and other specialized staff, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.64: Staff first responder duties

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

**115.64 (a)**

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Separate the alleged victim and abuser? ☒ Yes ☐ No

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence? ☒ Yes ☐ No

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence? ☒ Yes ☐ No

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence? ☒ Yes ☐ No

**115.64 (b)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.64 (a) and (b): GO 01-114 Offender Sexual Assault Prevention/Intervention, covers the criteria in this standard to include (1) separation of victim and abuser, (2) preservation of crime scene and collection of evidence, (3) ensuring that the victim and suspect not take actions that could destroy physical evidence if it occurred within a time frame that allows for the collection. LCMHF follows a time frame of 96 hours.

LCMHF reports that one (1) allegation of sexual abuse was made in the past 12 months and that the First Responder, a non-security member, took steps to (1) request that the alleged victim not take any actions that could destroy physical evidence; and /or (2) notified security staff. The allegation reported by LCMHF was investigated. No physical evidence was collected in the case as the offender victim did not cooperate in the investigation.

One (1) security staff person who is assigned as a First Responder, and one (1) non-security staff who have acted in this same capacity were interviewed. The Security Staff person did not have any instances where an offender had been sexually abused but was able to describe all the steps to take if such an event took place. The non-security staff person indicated that in eight years he received two allegations of sexual abuse, one was an event that took place two years prior to the allegation and did not warrant the collection of physical evidence, the other case did allow for the collection of physical evidence. In the second case, the responder notified the Shift Supervisor and ensured the offender was alone and not performing hygiene functions until the staff could arrive to process the offender and scene.

All 13 of the random staff interviewed would report sexual abuse or sexual harassment to their Shift Supervisor. The staff were able to describe how to protect inmates from risk of imminent sexual abuse until further assistance could be obtained. For victims of sexual abuse, the staff were able to describe steps they would take to ensure that evidence (on person and the scene) was preserved.

One offender at the facility who reported sexual abuse by staff (touching his genitalia) was interviewed and indicated that he had a 3rd party call to have the allegation investigated, claiming he made multiple reports of the incident prior. The investigative file was reviewed and it showed the report was received September 11, 2017, completed October 18, 2017 and the notification made on November 15, 2017. The case was not substantiated.

Based upon the evidence discussed: review of policies, random and specialized staff interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.65: Coordinated response

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

**115.65 (a)**

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

**Auditor Overall Compliance Determination**

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

**Instructions for Overall Compliance Determination Narrative**

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

115.65 (a): General Orders for LCMHF: GO 01-114 Offender Sexual Assault Prevention/Intervention, is the institutional plan to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators, and facility leadership. The facility plan follows the procedures set out in IMPP 10-103D, Coordinated Response to Sexual Abuse and Harassment and adds elements that are specific to LCMHF.

The Warden was interviewed and indicated that staff utilize a checklist to ensure that they covering everything for an investigation. This checklist was reviewed by the auditor and it covers medical, mental health and facility leadership notifications, as well as the need for outside forensic care. This is used in conjunction with GO 01-114.

The PREA Checklists were reviewed onsite, completed checklists were found for all of the 12 random investigations reviewed.

Based upon the evidence discussed: review of policies, specialized staff interviews and documentation obtained onsite, the facility has demonstrated compliance with this standard.

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

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

**115.66 (a)**

- Are both the agency and any other governmental entities responsible for collective bargaining on the agency's behalf prohibited from entering into or renewing any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual

abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted? ☒ Yes ☐ No

**115.66 (b)**

- Auditor is not required to audit this provision.

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.66 (a): The Memorandum of Agreement (MOA) between the State of Kansas and the Kansas Organization of State Employees covering 7/1/2010 to 6/30/13 (with automatic annual renewals outlined in Article 24 – Duration), supports that the agency is not limited in its ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or a determination of whether and to what extent discipline is warranted.

The MOA does not restrict the conduct of the disciplinary process and whether a "no-contact" assignment imposed during the investigation is expunged from or retained in the staff member's personnel file.

The Agency Head verified that the agreement entered into with the Kansas Organization of State Employees permits the agency to remove alleged staff abusers from contact with any inmate pending an investigation or a determination of whether and to what extent discipline is warranted.

Random checks of PREA checklists support that the offender remains in the housing unit and staff are moved, as warranted.

Based upon the evidence discussed: review of labor agreement, interview with the Agency Head, documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.67: Agency protection against retaliation

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

**115.67 (a)**

- Has the agency established a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff? ☒ Yes ☐ No

- Has the agency designated which staff members or departments are charged with monitoring retaliation? ☒ Yes ☐ No

**115.67 (b)**

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

**115.67 (c)**

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of residents or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff? ☒ Yes ☐ No

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

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation? ☒ Yes ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any inmate disciplinary reports? ☒ Yes ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate housing changes? ☒ Yes ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes? ☒ Yes ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff? ☒ Yes ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff? ☒ Yes ☐ No

- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need? ☒ Yes ☐ No

**115.67 (d)**

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

**115.67 (e)**

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

**115.67 (f)**

- Auditor is not required to audit this provision.

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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115.67 (a), (b), (c), (d) and (e): IMPP 10-103D Coordinated Response to Sexual Abuse and Harassment, is the agency policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff, and shall designate which staff members are charged with monitoring for

retaliation. This policy further outlines multiple protection measures, such as housing changes or transfers of victims or abusers, removal of alleged staff or offender abusers from contact with victims, and emotional support services for offenders or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. If an individual who cooperates in an investigation expresses fear of retaliation, the agency shall take appropriate measures to protect the individual against retaliation.

IMPP 10-103D also address the requirement to monitor the conduct and treatment of inmates and staff who reported the sexual abuse and of inmates who were reported to have suffered sexual abuse to see if there are any changes that may suggest possible retaliation by inmates or staff, and shall act promptly to remedy any such retaliation. Items monitored include for offenders include: (1) inmate disciplinary reports, (2) housing, (3) program changes. In the case of inmates, the monitoring includes periodic status checks. For staff items monitored include (1) negative performance reviews or (2) reassignments. The monitoring shall continue for at least 90 days unless a continuing need is shown. The agency's obligation to monitor is terminated if the allegation is unfounded.

GO 01-114 Offender Sexual Abuse and Prevention/Intervention requires that the Unit Team Counselor monitor offenders who reported sexual abuse or those offenders who reported that they suffered sexual abuse. GO-114 Attachment A is utilized to document the monitoring. The form outlines an initial face-to-face meeting with the offender and spaces for three (3) several follow-up meetings and information to be reviewed which includes: reviews of disciplinary reports, housing changes, program changes and anything else that would suggest possible retaliation by offenders or staff. At the end of the 90-day period staff check if monitoring beyond 90-days is needed and will continue.

Prior to the audit, three completed monitoring forms were provided for offender monitoring. Two of the forms covered a 90-day period and that follow-up meetings and reviews took place at one-month intervals. At the end of each review, the staff would check if they reviewed the disciplinary reports, housing changes, and program changes. Additionally, following the conversation with the offender, staff would check if anything was found to suggest possible retaliation by offenders or staff. The third form provided showed that the investigation was unfounded and provided a date of notification one month after the monitoring was initiated.

The Agency Head was asked about methods used to protect offender and staff from retaliation for sexual abuse or sexual harassment allegations. He indicated that policy prohibits retaliation that measures, such as housing changes, facility transfers, separation of accusers and staff and behavioral health intervention can be taken. For individuals who cooperate in investigations, the General Orders allow for 90-day monitoring, or more if needed. If retaliation is suspected, an investigation would be initiated.

When interviewed, the Warden echoed the comments made by the Agency Head, adding they have not had any instances where monitoring continued beyond the 90-days.

An interview was conducted with the staff who monitored offenders for retaliation. The person holds the position as Classification Director at the facility. He has the oversight, while the members of the unit teams do the specific monitoring of the offenders, who are on the caseloads. At LCMHF the offender retains the same case worker or case manager throughout their stay at the facility. Monitoring is tracked using a computer-based system. There were no instances where monitoring was necessitated beyond the 90-days. If retaliation would be shown, a referral to investigative staff would be made. Staff meet with the offenders for a face-to-face contact at least once every 30 days and ensure that disciplinary and housing moves are followed, as well. He does not monitor staff for

retaliation. No instances of staff requesting monitoring have been made, but would be addressed by staff in the investigative unit, should that occur.

One (1) offender was interviewed who reported a sexual abuse by staff. The offender in the case complained that the officer still worked at the facility. A check of the investigative report supports that staff were conducting shakedowns due to contraband being found on the offender in the past. The offender confirmed that he was hiding contraband from staff in the areas of his body the staff person searched. The case was not substantiated and the officer was not removed. The offender was asked if he felt safe at the facility and he indicated that he did and had been around that same officer without any problems.

GO 01-114 Offender Sexual Abuse and Prevention/Intervention requires that the EAI monitor the conduct and treatment of staff who report sexual abuse. GO 01-114 Attachment B is utilized to document this monitoring. The form outlines that the EAI's advises staff to immediately report any instance of retaliation directed at them concerning their participation in the investigation and allows for one additional meeting during the 90-day time frame.

Onsite, as part of the review of investigations, 12 additional monitoring forms were reviewed and all but one (1) showed that monitoring was completed. The Classification Director indicated that the monitoring on that case was not done due to a change in the computer system. He was removed from the mailing list. This was not discovered until later and corrections were made to ensure that this did not repeat. After the change was made, all monitoring for retaliation was handled correctly.

Based upon the evidence discussed: review of policies, specialized staff and offender interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.68: Post-allegation protective custody

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

**115.68 (a)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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115.68 (a): IMPP 10-139D Screening for Sexual Victimization and Abusiveness concerns the placement of offenders who are identified as high risk for sexual victimization on involuntary segregated housing. Offenders who are placed on involuntary segregation, are held there less than 24 hours so that an assessment can be completed. Placement on the unit would not normally exceed 30 days.

IMPP 20-105 Basis Operations of Administrative Segregation concerns placement of an individual on involuntary segregation. The facility uses an "Administrative Segregation Report" to document (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.

If an offender were placed on involuntary segregation, the IMPP 20-105 outlines the requirement to assess if access to programs, privileges, education, or work opportunities have been restricted. If limited, the facility shall document: (1) the opportunities that have been limited, (2) the duration of the limitation, (3) the reason for such limitation.

IMPP 20-106 Administrative Segregation Review Board reads, "The administrative segregation review board shall review the status of each inmate confined in administrative segregation once per week for the first 30 days, and once per month thereafter."

LCMHF provided two PREA Checklists. These checklists have a section for a recommendation on housing placement. In one report the offender reporting the allegation was not moved. In the other report, the recommendation was made to place the suspected perpetrator on "Ad Seg PI". LCMHF reports that no offenders at high risk for sexual victimization were placed on involuntary segregated housing in the 12 months preceding the audit. In the review of 12 investigations, one of which involved an allegation of sexual abuse, no offender was placed on involuntary segregated housing. The Warden added that he has not utilized placement on segregation for any offender who has alleged risk of sexual abuse or victimization.

Two staff who supervise offenders in segregated housing were interviewed and indicated that opportunities on the segregation units are limited compared with general population. On the segregation units, mental health staff make frequent rounds, as does an Activities/Recreation staff person, who brings games and puzzles to the offenders. The Chaplain visits the offenders on the unit and the offenders go to recreation five (5) days of the week for an hour. Neither person was aware of any offenders being housed on the unit for longer than 30 days and stated that it was usually short-term. Housing on the unit was reviewed by a committee 1-2 times a week. Both persons indicated that they were not aware of any offenders being placed on involuntary segregated housing to separate them from likely abusers.

LCMHF provided two PREA Checklists. These checklists have a section for a recommendation on housing placement. In one report the offender reporting the allegation was not moved. In the other report, the recommendation was made to place the suspected perpetrator on "Ad Seg PI". LCMHF reports that no offenders at high risk for sexual victimization were placed on involuntary segregated

housing in the 12 months preceding the audit. Interview with the Warden confirms that offenders at high risk for sexual victimization are only placed on the unit after an assessment of all available alternative placements has been made, with the offender being placed on another housing unit. The Warden added that he has not utilized placement on segregation for any offender who has alleged risk of sexual abuse or victimization.

Additional documentation obtained onsite as part of a review of the investigative case files confirm that in none of the 12 cases and checklists reviewed were the offenders placed in involuntary segregated housing after alleging to have suffered sexual abuse.

Based upon the evidence discussed: a review of policies, offender and specialized staff interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

# INVESTIGATIONS

## Standard 115.71: Criminal and administrative agency investigations

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

**115.71 (a)**

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

- Does the agency conduct such investigations for all allegations, including third party and anonymous reports? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA

**115.71 (b)**

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

**115.71 (c)**

- Do investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data? ☒ Yes ☐ No

- Do investigators interview alleged victims, suspected perpetrators, and witnesses? ☒ Yes ☐ No

- Do investigators review prior reports and complaints of sexual abuse involving the suspected perpetrator? ☒ Yes ☐ No

**115.71 (d)**

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

**115.71 (e)**

- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as inmate or staff? ☒ Yes ☐ No

- Does the agency investigate allegations of sexual abuse without requiring an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding? ☒ Yes ☐ No

**115.71 (f)**

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse? ☒ Yes ☐ No

- Are administrative investigations documented in written reports that include a description of the physical evidence and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings? ☒ Yes ☐ No

**115.71 (g)**

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

**115.71 (h)**

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

**115.71 (i)**

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

**115.71 (j)**

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

**115.71 (k)**

- Auditor is not required to audit this provision.

**115.71 (l)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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115.71 (a): KDOC utilizes its own investigators to conduct criminal and administrative investigations. IMPP 22-103 Investigative Procedures, addresses the investigative requirements to be prompt, thorough and objective for all allegations, including third party and anonymous reports.

LCMHF reports that 26 allegations of sexual abuse and sexual harassment were received over the past 12 months. Onsite a request for a listing of all investigations opened since January 2017 was made. The result was 38 investigations: 7 Staff Sexual Misconduct (one was incorrectly identified as Non-consensual Sex), 4 Staff Sexual Harassment, 1 Abusive Sexual Contact and 26 Offender Sexual Harassment. One allegation did not occur in any correctional facility and was not investigated. Reviewed onsite were 5 Staff Sexual Misconduct, 1 Abusive Sexual Contact, 2 Staff Sexual Harassment and 4 Offender Sexual Harassment. There was only one case that was criminal and that was reviewed for staff sexual misconduct, it was declined for prosecution. All investigations were randomly chosen by the auditor by type to ensure that each type of case was reviewed. The sexual misconduct case that was incorrectly listed as non-consensual sex was one of the cases chosen for review.

The PREA Coordinator, Warden and PREA Compliance Manager confirmed that the agency uses their own investigators and not an outside agency.

Both investigators indicated that investigations (to include 3rd party) are immediately initiated into all allegations of sexual abuse and sexual harassment and that they utilize a checklist to ensure that they

cover all the steps. Each investigator is able to describe a thorough investigative process that includes, crime scene protocols, evidence collection, interview techniques, testimonial and documentary evidence.

The 12 investigations reviewed showed that two (2) different formats were being utilized to document administrative investigations, one (1) format having greater detail than the other and matching the one used in the criminal investigations. The other format is limited to computerized case notes, which lacked detailed descriptions of physical and testimonial evidence, reasoning behind credibility assessments and the investigative facts and findings. The administrative investigations reviewed did not address if staff actions or failures contributed to the abuse.

115.71 (b): IMPP 22-103, indicates that EAI staff assigned to investigate allegations of sexual abuse, sexual harassment or nonconsensual acts, shall have completed training in investigation of sexual assault cases prior to being assigned to the case.

Basic training tailored to Facility Special Agents covers: ethics, legal issues, crime scene/evidence collection, offender sexual assault investigations, interviews and interrogation, arrest procedures, transportation of offenders, assembling a case/report writing, preparing for court and drug identification/surveillance techniques. Staff assigned to the EAI are also provided with an Investigations Protocol Manual which outlines the proper use of Miranda and Garrity Warnings.

Training records for the two assigned investigators show that each completed the NIC course, “PREA: Investigating Sexual Abuse in a Confinement Setting” and the Family Crisis Center course, “Trauma-Informed Response and Investigations.”

115.71 (c): IMPP 22-103, address the responsibilities for investigators to: (1) gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; and (2) interview alleged victims, suspected perpetrators, and witnesses. IMPP 10-103D addresses the need to (3) review prior complaints and reports of sexual abuse involving the suspected perpetrator.

115.71 (d): IMPP 10-103D address the standard when the quality of evidence appears to support criminal prosecution, requiring that investigators shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle to subsequent criminal prosecution. The EAI Investigations Protocol Manual also outlines the steps in preparing for an investigation which include identifying the goals of the investigation to include: administrative and criminal actions.

In one case provided for review prior to the onsite audit, the Investigator had credible information that a staff person had engaged in sexual activity with an offender prior to conducting an interview with the staff person. No attempt to interview the victim was made prior to interviewing the suspect. When the interview was conducted with the suspect it was done as an administrative interview (Garrity). Once the suspect staff person was advised of the fact that nothing in the administrative interview could be used against them in court, they admitted to engaging in the criminal sexual activity. After this admission that the staff person was advised of their Miranda Rights. This case was the only case reported by LCMHF for the audit year where an offender was sexually abused. See §115.64 (a).

When interviewed both investigators were aware of the need to consult the prosecutor before conducting compelled interviews. The investigator who completed the above investigation indicated that he chose to conduct the compelled interview for fear that using a Miranda Warning would hamper

the investigation and make it likely that the suspect would not cooperate. No consultation with the Prosecutor was made prior to conducting the administrative interview. The investigator added that he chose to speak to the suspect prior to speaking with the victim for the same reasons.

115.71 (e): IMPP 10-103D reads, “KDOC staff shall not make judgments or assumptions about the credibility of a victim, suspect or witness of sexual abuse.” In the same policy under EAI investigations, it reads, “The credibility of a victim, suspect or witness shall be assessed on an individual basis and shall not be determined by the person’s status as offender or staff.”

IMPP 22-103 addresses the use of polygraph examinations, prohibiting the administration of a polygraph examination to alleged victims of sexual abuse in connection with the alleged offenses involved. The PREA Coordinator advised that that no other truth-telling devices were used by the KDOC.

The offender who reported the sexual abuse by staff confirmed that he was not asked to submit to a polygraph test as a condition for proceeding with the sexual abuse investigation.

115.71 (f) and (g): The EAI Investigations Protocol Manual details the content of investigative reports to include all documents and evidence obtained with a summary of interviews and corroborating materials. A conclusion based on what the evidence substantiates also should be in the report.

The Investigators indicated that all investigations: administrative and criminal are documented in written reports containing the basis for the findings, with physical evidence, interview reports and other evidence reviewed (testimonial and documentary) in the investigation. Both investigators indicted that they make efforts to administrative investigations to determine if staff actions or failures contributed to the sexual abuse.

The 12 investigations reviewed showed that two (2) different formats were being utilized to document administrative investigations, one (1) format having greater detail than the other and matching the one used in the criminal investigations. The other format is limited to computerized case notes, which lacked detailed descriptions of physical and testimonial evidence, reasoning behind credibility assessments and the investigative facts and findings. The administrative investigations reviewed did not address if staff actions or failures contributed to the abuse.

115.71 (h): IMPP 10-103D covers the requirement that substantiated allegations of conduct that appear to be criminal shall be referred for prosecution.

The case referenced above in 115.71 (d) was referred for prosecution and subsequently declined.

115.71 (i): IMPP 22-103 concerns the records retention schedule established by the State Records Board. In GO 01-114 Offender Sexual Abuse Prevention/Intervention, it reads, “data collected pursuant to 115.87 shall be securely maintained for at least ten (10) years after the date of initial collection.” Investigators maintain an electronic storage system in conjunction with paper files. The auditor was able to view both storage systems to show that records are being maintained.

115.71 (j): The EAI Investigations Protocol Manual ensures that an investigation continues “even if the alleged staff perpetrator transfers, resigns or retires or if an alleged inmate perpetrator or victim is transferred or released from custody during an investigation.”

Both investigators indicated that they have followed through in cases where employees terminated employment prior to the completion of the investigation. They both indicated that the follow through with victims if the person leaves the facility prior to the completion of the investigation, as well.

115.71 (k) and (l): are not applicable to LCMHF.

Corrective Action Needed: 115.71 (d)

1. Re-train investigative staff on the differences in the conduct of administrative and criminal investigations and the use of Miranda and Garrity Warnings, specifically how to recognize these differences from the onset of the investigation. Further this training shall cover the order of interviews: victim, witness and then suspects.
2. The facility shall submit copies of how the training was conducted and submit any additional sexual abuse investigations conducted during the review period to support that the training was implemented.

Corrective Action Needed: 115.71 (a) and (f)

1. Administrative investigations should be complete and thoroughly documented. The reports should also address if staff actions or failures to act contributed to the abuse.
2. The facility shall submit copies any additional administrative sexual abuse investigations conducted during the review period to support that the cases are being thoroughly documented and staff actions or failures to act are being examined.

Verification of Corrective Action:

The Auditor was provided appropriate supplemental documentation to evidence and demonstrate corrective actions taken regarding this standard.

Additional Documentation Reviewed:

LCMHF submitted training records and agenda for re-training that their investigative staff attended to meet the criteria outlined in 115.71(a), (d) and (f). This in-person training was completed August 21-22, 2018. This training included the areas of concern listed above: the conduct of criminal investigations and the use of Miranda and Garrity Warnings and the order of investigative interviews: victim, witness and suspect. Training also addressed documentation if staff actions or failures to act contributed to the abuse. In addition, the formatting of the reports was addressed, as well as the content. Source information for the training included the PREA Standards, The EAI Manual and LCMHF's Coordinated Response Policy.

In Standard 115.71(d) when the quality of evidence appears to support criminal prosecution, does the agency conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution? LCMHF submitted one (1) criminal case and conducted no compelled interviews as part of that investigation. That case did not involve any staff, contractor or volunteer. The inmate who was suspect in that investigation, was advised of his rights under Miranda. The case will be forwarded to the local prosecutor's office for consideration. No other criminal investigations were conducted during this time frame.

1 Non-Consensual Sex 1 reviewed
1 – Substantiated

2 Abusive Sexual Contact 2 reviewed
1 – Unfounded 1 - Unsubstantiated

1 Offender Sexual Harassment 1 reviewed
1 – Substantiated

The administrative investigations utilized the same format as the criminal investigations and included all criteria outlined in 115.71 (a) and (f). Two (2) investigations concerned allegations of abusive sexual contact. The third allegation concerned inmate-on-inmate sexual harassment. This allegation was substantiated. Each administrative investigation was thorough and detailed and addressed if staff actions or failures to act contributed to the abuse. Interviews in the administrative and criminal investigations were ordered by victim, witness and suspect.

The KDOC PREA Coordinator reported no additional cases occurred at LCMHF during this time frame.

Based upon the evidence discussed: review of policies, specialized staff interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.72: Evidentiary standard for administrative investigations

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

**115.72 (a)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.72 (a): IMPP 22-103 Investigative Procedures supports that the investigations use the preponderance of evidence standard in determining whether allegations of sexual abuse or sexual harassment are substantiated. This standard is used for all investigations, to include criminal.

The facility investigators were interviewed and stated that that “preponderance of evidence” was the standard they used to substantiate allegations of sexual abuse or sexual harassment. When asked, each investigator was able to delineate the difference between the “preponderance of evidence” and “beyond a reasonable doubt” standards.

Based upon the evidence discussed: review of policies, specialized staff interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.73: Reporting to inmates

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

**115.73 (a)**

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

**115.73 (b)**

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

**115.73 (c)**

- Following an inmate’s allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The staff member is no longer posted within the inmate’s unit? ☒ Yes ☐ No

- Following an inmate’s allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The staff member is no longer employed at the facility? ☒ Yes ☐ No

- Following an inmate’s allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The agency learns that the staff member has been indicted on a charge related to sexual abuse in the facility? ☒ Yes ☐ No

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

**115.73 (d)**

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

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

**115.73 (e)**

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

**115.73 (f)**

- Auditor is not required to audit this provision.

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.73 (a): IMPP 10-103D Coordinated Response to Sexual Abuse and Harassment, outlines the agency responsibility to inform the inmate whether the allegation has been determined to be substantiated, unsubstantiated or unfounded.

The Warden and both Investigators indicated that the facility makes notifications to inmates who makes allegations of sexual abuse when the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation. The Warden added that the notification was provided in writing.

115.73 (b): is not applicable to LCMHF. No outside agency conducted investigations of alleged sexual abuse at the facility in the past 12 months.

115.73 (c): With substantiated and unsubstantiated allegations, the standard requires notification to an inmate who alleged that a staff member committed sexual abuse against the inmate, 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 of a charge related to sexual abuse within the facility.

Agency policy IMPP 10-103D addresses the first two points. The second point could be clarified by matching the language in the standard. The remaining point, concerning conviction for a charge related to sexual abuse within the facility is not addressed in the policy. In the "Notification of Investigation Status" forms provided for review, the last item concerning the conviction is also not addressed.

The offender who reported the sexual abuse by staff did not respond when asked if he was notified of the outcome of the investigation. A check of the investigative files provided a notification form relative to this case, which showed the outcome of the investigation. The form was signed by the offender and the investigator.

115.73 (d): With substantiated and unsubstantiated allegations, the standard requires notification to an inmate who alleged sexual abuse by another inmate, 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.

Agency policy IMPP 10-103D addresses the first point which could be clarified by matching the language in the standard. The remaining point, concerning conviction for a charge related to sexual abuse within the facility is not addressed in the policy. In the "Notification of Investigation Status" forms provided for review, the last item concerning the conviction is also not addressed.

115.73 (e): The facility utilizes a form "Notification of Investigation Status" to document that required notifications are made to offenders.

A review of 12 investigative files, showed that notifications to offenders were made pursuant to each investigation.

115.73 (f): IMPP 10-103D supports that the agency's obligation to report under this standard is terminated if the offender is released from agency's custody.

Corrective Action Needed: 115.73 (c) and (d)

1. Policy and Notification of Investigative Status forms must include all criteria outlined in 115.73 (c) and (d). The policy and form should be revised for all subsequent notifications to offenders.

2. The facility shall submit copies of how the policy and notification changes were implemented. The facility shall provide copies of completed notifications made to offenders which show the added criteria.

Verification of Corrective Action:

The Auditor was provided appropriate supplemental documentation to evidence and demonstrate corrective actions taken regarding this standard.

Additional Documentation Reviewed:

LCMHF submitted a revised Notification of Status form that included all criteria outlined in 115.73 (c). With substantiated and unsubstantiated allegations, the standard requires notification to an inmate who alleged that a staff member committed sexual abuse against the inmate, 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 of a charge related to sexual abuse within the facility.

LCMHF completed four (4) investigations and submitted four (4) notifications pursuant to this standard, updating the form after the first notification was received, to ensure all elements were covered.

LCMHF revised the Notification of Status form to include all criteria outlined in 115.73 (d). With substantiated and unsubstantiated allegations, the standard requires notification to an inmate who alleged sexual abuse by another inmate, 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.

The final three (3) Notification of Status forms submitted by LCMHF support that the revised version was implemented at the facility. In addition, each written notification was signed and dated by the offender and staff person making the notification.

Based upon the evidence discussed: review of policies, random and specialized staff interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

# DISCIPLINE

## Standard 115.76: Disciplinary sanctions for staff

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

**115.76 (a)**

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

**115.76 (b)**

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

**115.76 (c)**

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

**115.76 (d)**

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

- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Relevant licensing bodies? ☒ Yes ☐ No

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.76 (a) and (b): IMPP 10-103D Coordinated Response to Sexual Abuse and Harassment, indicates that termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.

IMPP 02-118D Employee and Volunteer Rules of Conduct and Undue Familiarity Attachment B, "Kansas Department of Corrections Acknowledgements" Under Rules of Conduct for Employees, Contract Personnel and Volunteers…acknowledge that they have read and understand IMPP 10-103D, including engaging in sexual abuse or sexual harassment of an offender, shall be grounds for

disciplinary action, up to an including dismissal. It is also understood that termination shall be the presumptive disciplinary sanction for employees who engage in sexual abuse of an offender. Staff sign, date and a witness signs and dates the form under this section.

LCMHF reported that no staff person was terminated for violating agency sexual abuse or sexual harassment policies.

115.76 (c): IMPP 02-120D Employee Disciplinary Procedures and Informal/Formal Actions, addresses staff discipline, including the severity of the offense, the staff member's disciplinary history and sanctions taken for other employees under similar circumstances.

LCMHF reported that two staff persons were disciplined, short of termination, for violation of agency sexual abuse or sexual harassment policies and provided one letter related to a staff person's discipline.

In the case reviewed, the staff person made comments that were sexually harassing toward an offender. The discipline meted out was a written reprimand and was consistent with that given to a Correctional Officer and Counselor three years earlier for sexually harassing comments they made to offenders. In each instance staff were advised that future violations would result in more severe disciplinary actions, up to and including dismissal.

115.76 (d): GO 01-114 Offender Sexual Assault Prevention/Interventions, reads, "all terminations of violations of sexual abuse or sexual harassment policies or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies if found to be criminal, and to any relevant licensing bodies."

LCMHF reported that zero staff were reported to law enforcement or licensing boards following their termination (or resignations prior to termination) for violating agency sexual abuse or sexual harassment policies.

Based upon the evidence discussed: review of policies, and the documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.77: Corrective action for contractors and volunteers

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

**115.77 (a)**

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with inmates? ☒ Yes ☐ No
- Is any contractor or volunteer who engages in sexual abuse reported to: Law enforcement agencies (unless the activity was clearly not criminal)? ☒ Yes ☐ No
- Is any contractor or volunteer who engages in sexual abuse reported to: Relevant licensing bodies? ☒ Yes ☐ No

**115.77 (b)**

- In the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, does the facility take appropriate remedial measures, and consider whether to prohibit further contact with inmates? ☒ Yes ☐ No

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.77 (a) and (b): IMPP 10-103D Coordinated Response to Sexual Abuse and Harassment, indicates that termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.

IMPP 02-118D Employee and Volunteer Rules of Conduct and Undue Familiarity Attachment B, "Kansas Department of Corrections Acknowledgements" Under Rules of Conduct for Employees, Contract Personnel and Volunteers…acknowledge that they have read and understand IMPP 10-103D, including engaging in sexual abuse or sexual harassment of an offender, shall be grounds for disciplinary action, up to an including dismissal. It is also understood that termination shall be the presumptive disciplinary sanction for employees who engage in sexual abuse of an offender. Staff sign, date and a witness signs and dates the form under this section.

GO 01-114 Offender Sexual Assault Prevention/Intervention, reads, "any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with offenders and be reported to law enforcement agencies if found to be criminal, and to relevant licensing bodies."

LCMHF reports in the past 12 months that no contractors or volunteers were reported to law enforcement and/or relevant licensing bodies for engaging in sexual abuse of inmates.

When interviewed the Warden indicated that if a contractor or volunteer was found to have committed sexual abuse or harassment he would bar them from entry into the facility.

A check of the investigative files shows two staff persons were removed. In one case, the person admitted to kissing the offender and trafficking with the offender. The act of kissing did not meet the

criminal code for prosecution. In the second case, the staff person admitted to engaging in sexual intercourse with the offender. However, after discussion of the case with the prosecutor the investigator did not refer the case. Neither person was subject to reporting to relevant licensing bodies.

Based upon the evidence discussed: review of policies, specialized staff interviews, and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.78: Disciplinary sanctions for inmates

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

**115.78 (a)**

- Following an administrative finding that an inmate engaged in inmate-on-inmate sexual abuse, or following a criminal finding of guilt for inmate-on-inmate sexual abuse, are inmates subject to disciplinary sanctions pursuant to a formal disciplinary process? ☒ Yes ☐ No

**115.78 (b)**

- Are sanctions commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories? ☒ Yes ☐ No

**115.78 (c)**

- When determining what types of sanction, if any, should be imposed, does the disciplinary process consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior? ☒ Yes ☐ No

**115.78 (d)**

- If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, does the facility consider whether to require the offending inmate to participate in such interventions as a condition of access to programming and other benefits? ☒ Yes ☐ No

**115.78 (e)**

- Does the agency discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact? ☒ Yes ☐ No

**115.78 (f)**

- For the purpose of disciplinary action does a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred NOT constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation? ☒ Yes ☐ No

**115.78 (g)**

- Does the agency always refrain from considering non-coercive sexual activity between inmates to be sexual abuse? (N/A if the agency does not prohibit all sexual activity between inmates.)
  ☒ Yes ☐ No ☐ NA

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.78 (a): KAR 44-13-201 – KAR-13-405 is the KDOC disciplinary procedure that is used when inmates are subject to disciplinary sanctions following an administrative finding that the inmate engaged in in-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse.

In the past twelve months there were no findings of guilt for administrative or criminal findings for inmate-on-inmate sexual abuse that occurred at the facility.

115.78 (b) and (c): KAR 44-13-406 covers the disposition of charges and administration of sanctions. The sanctions are commensurate with the nature and circumstance of the abuse committed and fall within a range of applicable sanctions based on the nature of the offense, the offender's prior disciplinary history and ensures that the sanction is commensurate with other sanctions imposed on offenders. The "Disposition and Hearing Record" used at LCMHF supports that the disciplinary process considers whether an inmate's mental disabilities or mental illness contributed to their behavior before determining what type of sanction, if any, should be imposed.

The Warden indicated that offenders are subject to disciplinary sanctions for violations and that the sanctions imposed are commensurate in accordance with other offenders and the offender's own history. He added that mental illness or disabilities are taken into consideration when determining sanctions.

115.78 (d): IMPP 11-107 Offender Program Plans, outlines the procedures utilized to assign offenders to SOTP. If an offender refuses to participate in the program, this is reflected in the case plan and shall result in the "withholding of good time consistent with KAR 44-6-115a."

The Mental health staff person interviewed indicated that the facility offers individual and group therapy and counseling to both the victims and perpetrators of sexual abuse. Participation in the services is not required to access other programming.

115.78 (e): KAR 44-12-314 supports that the agency disciplines offenders for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

115.78 (f) and (g): IMPP 10-103D, deals with good faith and holds offenders accountable only if it can be shown that the report of sexual abuse or sexual harassment was made in bad faith. Further, the policy prohibits all sexual activity between inmates and disciplines inmates for such activity. The agency does not deem such activity to constitute sexual abuse if the determination is made that the activity was consensual.

Based upon the evidence discussed: review of policies, specialized staff interviews, documentation obtained onsite, the facility has demonstrated compliance with this standard.

# MEDICAL AND MENTAL CARE

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

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

**115.81 (a)**

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

**115.81 (b)**

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

**115.81 (c)**

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

**115.81 (d)**

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

**115.81 (e)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.81 (a),(b) and (c): IMPP 10-139D Screening for Sexual Victimization and Abusiveness, addresses the disclosure of sexual victimization or the perpetration of sexual abuse under § 115.41 that occurred in an institutional setting or in the community ensuring that the offender is offered a follow-up meeting with a medical or mental health practitioner within 14 calendar days of the intake screening.

Prior to the onsite visit, the auditor was provided with emails showing referrals to three persons who were verified onsite to be mental health practitioners. Three (3) additional files reviewed onsite support that the referral and follow-up meetings took place within 14 days of the intake screening.

LCMHF reports that less than one percent of the offenders disclosed prior sexual victimization (.96) or perpetrating sexual abuse (.55) during their intake screenings.

The staff person who performed screening for risk of victimization and abusiveness indicated that offenders who experienced prior victimization or were perpetrators of sexual abuse were referred to Mental Health staff using the email system. This referral was made immediately after the assessment was done.

Two (2) offenders who disclosed sexual victimization during risk screening were interviewed and both indicated that they were seen by Mental Health within two weeks of their arrival. Neither person expressed any desire to see the Mental Health staff again. Both offenders indicated that they were offered follow-up visits. Each offender indicated that they felt safe at the facility.

A check of the offender files for the above offenders shows the initial assessment using the SVA and the notes for Mental Health used to document the follow-up visit. Each of the visits occurred within two weeks of the assessment and disclosure.

115.81 (d): IMPP 10-139D and GHSPP P-B-05.00 Response to Sexual Abuse, both outline the requirement to any information related to sexual victimization or abusiveness that occurred in an institutional setting is strictly limited to medical and mental health practitioners and other staff, as necessary, to 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.

The two (2) Medical/Mental Health staff interviewed confirmed the limitation of information to those who need to make treatment, investigation and other security and management decisions and the onsite visit supports that medical records are maintained in a secure location without offender access. Medical/Mental Health staff indicated they obtained informed consent from inmates prior to reporting sexual victimization that did not occur in an institutional setting.

115.81 (e): IMPP 10-103D Coordinated Response to Sexual Abuse and Harassment, requires informed consent to be obtained from offenders before reporting information about prior sexual victimization that did not occur in an institutional setting.

LCMHF does not house offenders under the age of 18.

Based upon the evidence discussed: review of policies, specialized staff/offender interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.82: Access to emergency medical and mental health services

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

**115.82 (a)**

- Do inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment?
  ☒ Yes ☐ No

**115.82 (b)**

- If no qualified medical or mental health practitioners are on duty at the time a report of recent sexual abuse is made, do security staff first responders take preliminary steps to protect the victim pursuant to § 115.62? ☒ Yes ☐ No

- Do security staff first responders immediately notify the appropriate medical and mental health practitioners? ☒ Yes ☐ No

**115.82 (c)**

- Are inmate victims of sexual abuse offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate? ☒ Yes ☐ No

**115.82 (d)**

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident? ☒ Yes ☐ No

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.82 (a): IMPP 10-103D and GO 01-114 both concern inmate victims of sexual abuse and the receipt of timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.

One (1) security staff person who is assigned as a First Responder, and one (1) non-security staff who have acted in this same capacity were interviewed. The Security Staff person did not have any instances where an offender had been sexually abused but was able to describe all the steps to take if such an event took place. The non-security staff person indicated that in eight years he received two allegations of sexual abuse, one was an event that took place two years prior to the allegation and did not warrant the collection of physical evidence, the other case did allow for the collection of physical evidence. In the second case, the responder notified the Shift Supervisor and ensured the offender was alone and not performing hygiene functions until the staff could arrive to process the offender and scene.

The two (2) Medical and Mental Health staff interviewed indicated that inmate victims of sexual abuse receive timely and unimpeded access to emergency medical treatment and crisis intervention services. The one person indicated that medical staff were put on call and expected to respond to the facility within 30 minutes. With the mental health staff, the person would be seen the same day. If the incident occurred outside of business hours and was not physical, the person would be seen the next day. If the allegation involved a physical component, the person would respond within one hour. In four years the mental health professional reports that they were only called on one time and that was during the day.

Both Medical and Mental Health practitioners indicated that the nature and scope of services they provide were determined according to their professional judgment, stating they “are allowed to treat their patients” and act within the scope of their license. They confirmed that offenders are offered timely access to sexually transmitted disease prophylaxis.

The offender who reported the sexual abuse allegation against staff indicated that he was not allowed to see medical or mental health staff in a timely manner after reporting the sexual abuse. Files obtained onsite show that he was seen by both medical and mental health staff on the same day as making the report to staff.

115.82 (b): In furtherance of the above, Kansas Statutes Chapter 65: Public Health § 65-448 outlines who is qualified to conduct examinations for victims of sexual abuse in the state. The statute requires the person is “specially trained in performing sexual assault evidence collection” and requiring the use of sexual assault evidence kits approved by the Kansas Bureau of Investigation. The examinations are offered to all victims of sexual abuse. Requirements for minors are also stated. The statute does not allow for the hospital to refuse to provide the examination and permits professional and disciplinary action against anyone for refusing this service. Costs for the examinations are paid by the county where the alleged offense occurred without regard to the refusal of the victim to report the offense to law enforcement. LCMHF utilizes a hospital in Great Bend, KS for the conduct of forensic medical examinations.

Preliminary steps the agency takes to protect victims of recent abuse are addressed by the following policies: GO 01-114, IMPP 10-103D, IMPP 20-104, IMPP 20-105, and IMPP 20-108. The Shift Supervisor shall ensure that the perpetrator and victim are immediately separated: (1) by a different living unit within Central Unit or a different wing at West Unit, (2) by different cells within the living unit, (3) if no other alternative, by segregation, or (4) by a transfer to a different facility.

115.82 (c): IMPP 10-103D and GHSPP P-B-05.00 address the requirement that inmate victims of sexual abuse while incarcerated are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. Testing for sexually transmitted diseases is done by the outside hospital as part of the care received.

The PREA Checklist is used to document the notifications are received by the following personnel: Warden/Superintendent, PREA Compliance Manager, EAI, Medical, Behavioral Health, and Duty Officer/Major. The name of each person is noted along with the date and time of the notification.

115.82 (d): Kansas Statutes Chapter 65: Public Health § 65-448 and Kansas Administrative Regulations 44-5-115 both concern the access to treatment services, supporting that the inmate is not

charged regardless of the offenders willingness to name the abuser or to cooperate in the investigation arising out of the incident.

Based upon the evidence discussed: review of policies, Kansas statutes and regulations, specialized staff interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

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

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

**115.83 (a)**

- Does the facility offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility? ☒ Yes ☐ No

**115.83 (b)**

- Does the evaluation and treatment of such victims include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody? ☒ Yes ☐ No

**115.83 (c)**

- Does the facility provide such victims with medical and mental health services consistent with the community level of care? ☒ Yes ☐ No

**115.83 (d)**

- Are inmate victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if all-male facility.) ☒ Yes ☐ No ☒ NA

**115.83 (e)**

- If pregnancy results from the conduct described in paragraph § 115.83(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if all-male facility.) ☐ Yes ☐ No ☒ NA

**115.83 (f)**

- Are inmate victims of sexual abuse while incarcerated offered tests for sexually transmitted infections as medically appropriate? ☒ Yes ☐ No

**115.83 (g)**

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?
  ☒ Yes ☐ No

**115.83 (h)**

- If the facility is a prison, does it attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners? (NA if the facility is a jail.)
  ☒ Yes ☐ No ☐ NA

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.83 (a), (b) and (c): Kansas Administrative Regulations 44-5-115, IMPP 10-103D and GHSPP P-B-05.00 address the access to medical and mental health evaluation and treatment services for victims of sexual abuse. The evaluation and treatment includes: follow-up services, treatment plans, and when necessary referral for continued care following their transfer to, or placement in, other facilities, or their release from custody.

IMPP 10-103D and GHSPP P-B-05.00 address the requirement that inmate victims of sexual abuse while incarcerated are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. IMPP 10-103D, also requires that clinic staff address any recommendations for care which is consistent with the level of care the offender would receive in the community.

115.83 (d) and (e): are not applicable to LCMHF as the facility does not house female offenders.

115.83 (f): The agency test does not test for sexually transmitted diseases. This is done at the hospital.

115.83 (g): Kansas Statutes Chapter 65: Public Health § 65-448 and Kansas Administrative Regulations 44-5-115 support that the inmate is not charged for treatment services regardless of the offenders willingness to name the abuser or to cooperate in the investigation arising out of the incident.

115.83 (h): IMPP 10-103D requires the facility to attempt to conduct a behavioral health evaluation of known inmate-on-inmate abusers within 60 days of learning if such abuse history.

The one (1) offender who reported the sexual abuse allegation against staff denied ever seeing anyone from medical or mental health and indicated that no follow-up treatment services were offered to him. Files obtained onsite show that he was seen by both medical and mental health staff on the same day as making the report to staff.

The two Medical and Mental Health staff interviewed both stated that the level of services provided was consistent with the level of services provided in the community. Initial care for medical and mental health concerns is provided within 24-hours, with follow-up care at 30, 60 and 90-day intervals for mental health, more as needed.

Based upon the evidence discussed: review of policies, Kansas statutes and regulations, specialized staff interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

# DATA COLLECTION AND REVIEW

## Standard 115.86: Sexual abuse incident reviews

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

**115.86 (a)**

- Does the facility conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded? ☒ Yes ☐ No

**115.86 (b)**

- Does such review ordinarily occur within 30 days of the conclusion of the investigation? ☒ Yes ☐ No

**115.86 (c)**

- Does the review team include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners? ☒ Yes ☐ No

**115.86 (d)**

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse? ☒ Yes ☐ No

- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility? ☒ Yes ☐ No

- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse? ☒ Yes ☐ No

- Does the review team: Assess the adequacy of staffing levels in that area during different shifts? ☒ Yes ☐ No

- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff? ☒ Yes ☐ No

- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager? ☒ Yes ☐ No

**115.86 (e)**

- Does the facility implement the recommendations for improvement, or document its reasons for not doing so? ☐ Yes ☐ No

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.86 (a), (b), (c), (d) and (e): IMPP 12-118D, Serious Incident Review Board, requires each facility to conduct a sexual abuse incident review within 30 days of the conclusion of every sexual abuse investigation. LCMHF uses a "Sexual Abuse Incident Review Format" to cover the six (6) criteria outlined in this standard for every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.

The PCM, Corrections Specialist II or above, EAI, Medical/Mental Health, Warden/Superintendent, Assistant PCM and other are staff that are listed as part of the Sexual Abuse Incident Review (SAIR) team.

No SAIR reports were provided to the auditor prior to the onsite audit. Documentation was obtained onsite for the 12 investigations reviewed and showed that the reports were being completed in all but one instance. In that case the investigator did not forward the case in a timely manner.

The PREA Compliance Manager indicated that corrections were taken to ensure that no SAIR's were missed following the above instance. This is supported as future reviews were completed as required. He added that if any ideas for change or improvements are made he can submit a work order. He also forwards any recommendations to the PREA Coordinator, and investigators. These recommendations are also made part of the annual review for the facility.

The Warden confirmed use of the team described above to conduct the incident reviews and that all of the criteria were followed during the review process. If there are a high number of incidents or allegations they may look to increase staffing in the area.

Two (2) members of the Incident Review team were interviewed and confirmed the above information. In addition one member reported that the team physically goes out to the site as a group to examine the area. One member described a new process being implemented at the facility called body alarms that staff wear. The alarm goes off if it moved from a vertical position.

Based upon the evidence discussed: review of policies, specialized staff interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.87: Data collection

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

**115.87 (a)**

- Does the agency collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions? ☒ Yes ☐ No

**115.87 (b)**

- Does the agency aggregate the incident-based sexual abuse data at least annually? ☒ Yes ☐ No

**115.87 (c)**

- Does the incident-based data include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice? ☒ Yes ☐ No

**115.87 (d)**

- Does the agency maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews?
  ☒ Yes ☐ No

**115.87 (e)**

- Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates? (N/A if agency does not contract for the confinement of its inmates.) ☒ Yes ☐ No ☐ NA

**115.87 (f)**

- Does the agency, upon request, provide all such data from the previous calendar year to the Department of Justice no later than June 30? (N/A if DOJ has not requested agency data.)
  ☒ Yes ☐ No ☐ NA

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

IMPP 10-103D Coordinated Response outlines the requirements for the EAI to maintain information on each PREA-related case. The KDOC PREA Coordinator is required to review the facility submissions annually to ensure compliance with PREA standards and to improve the effectiveness of the sexual abuse prevention and intervention program.

Prior to the audit, a copy of the Survey for Sexual Victimization of the most recent submission for Kansas covering 2016 was provided.

The PREA Coordinator was interviewed and stated that the data for the survey is collected and this data is used in their efforts to prevent, detect and respond and make changes to their policies and training, accordingly. The Total Access PREA System (TAPS) is used for PREA Screening, PREA Checklists and Sexual Abuse Incident Reviews (SAIR) data. Investigations are tracked using a different program and that data is collected by the EAI and PREA Coordinator using the EAI case log.

Based upon the evidence discussed: review of policies, specialized staff interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.88: Data review for corrective action

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

**115.88 (a)**

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas? ☒ Yes ☐ No

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis? ☒ Yes ☐ No

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole? ☒ Yes ☐ No

**115.88 (b)**

- Does the agency's annual report include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse ☒ Yes ☐ No

**115.88 (c)**

- Is the agency's annual report approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means? ☒ Yes ☐ No

**115.88 (d)**

- Does the agency indicate the nature of the material redacted where it redacts specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility? ☒ Yes ☐ No

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.87 (a), (b) and (c): The auditor went to the KDOC webpage for updated reports pursuant to this section and found an Annual Report dated October 25, 2016 that covered information through CY 2015. The formatting of this report covers all the criteria found in the standard. However, information covering CY 2016-2017 was missing.

A statistical update for 2017 was provided prior to the audit, covering CY 2012 – CY 2016. Only statistical data collected as part of the Survey of Sexual Violence was contained as part of an agency-wide report. This report did not include any corrective actions taken from prior years or an assessment of the agency's progress in addressing sexual abuse.

The PREA Compliance Manager indicated that the PCM for each facility meet with the PREA Coordinator on a quarterly basis and the data collected pursuant to 115.87 is reviewed to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, and training.

The Agency Head indicated that he would approve annual reports submitted indicating the last one was October 2016.

The PREA Coordinator confirmed that no annual reports had been completed for the prior two years and was working on them. The Coordinator added that the agency does not provide personal identifying information in the annual reports.

Corrective Action Needed: 115.88 (a), (b) and (c)

Agency should prepare an annual report of findings and corrective actions for each facility and the agency as a whole that covers CY 2016 and CY 2017. This report should include an assessment of the agency's progress in addressing sexual abuse pursuant to 115.87. This updated report should be posted on the agency website.

Verification of Corrective Action:

The Auditor was provided appropriate supplemental documentation to evidence and demonstrate corrective actions taken regarding this standard.

Additional Documentation Reviewed:

The Auditor was provided with a copy of annual report covering CY 2014 through CY 2017 and a link to the posting on the agency's website. The updated report was posted to the agency website. The

Auditor was able to open the report from the website. The Auditor took a screen shot of the website July 25, 2018.

The Auditor reviewed the report, which covered an assessment of the agency's progress in addressing sexual abuse pursuant to 115.87. The report included uniform data collected from the facilities under the control of the KDOC, aggregated over the years 2014 to 2017 and contains information that is sufficient to answer all questions under the Survey of Sexual Violence conducted by the Department of Justice. The report includes a comparison of the current year's data with those of prior years, corrective actions taken, and provides an assessment of the agency's progress in addressing sexual abuse.

Based upon the evidence discussed: review of policies, random and specialized staff interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

## Standard 115.89: Data storage, publication, and destruction

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

**115.89 (a)**

- Does the agency ensure that data collected pursuant to § 115.87 are securely retained? ☒ Yes ☐ No

**115.89 (b)**

- Does the agency make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means? ☒ Yes ☐ No

**115.89 (c)**

- Does the agency remove all personal identifiers before making aggregated sexual abuse data publicly available? ☒ Yes ☐ No

**115.89 (d)**

- Does the agency maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise? ☒ Yes ☐ No

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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

115.89 (a) and (b): IMPP 10-103D Coordinated Response to Sexual Abuse and Harassment, addresses the requirements for the EAI to maintain information on each PREA-related case. The KDOC PREA Coordinator is required to review the facility submissions annually to ensure compliance with PREA standards and to improve the effectiveness of the sexual abuse prevention and intervention program. This information is maintained in an electronic case file.

The auditor went to the KDOC webpage for updated reports pursuant to this section and found an Annual Report dated October 25, 2016 that covered information through CY 2015. Reports covering CY 2016-2017 are not posted. KDOC contracts with four public county jails for the confinement of its inmates. The Contract Administrator receives copies of the PREA audit reports from those jails.

The PREA Coordinator was confirmed that no annual reports had been completed for the prior two years and was working on them.

115.89 (c): The Coordinator added that the agency does not provide personal identifying information in the annual reports.

The information provided in the 2015 annual report and 2016 and 2017 year statistical reports that were posted on the website did not include personal identifiers.

115.89 (d): GO 01-114 Offender Sexual Abuse Prevention/Intervention, reads, "data collected pursuant to 115.87 shall be securely maintained for at least ten (10) years after the date of initial collection."

Corrective Action Needed: 115.89 (b)

Agency should prepare an annual report of findings and corrective actions for each facility and the agency as a whole that covers CY 2016 and CY 2017. This report should include an assessment of the agency's progress in addressing sexual abuse. This updated report should be posted on the agency website.

Verification of Corrective Action:

The Auditor was provided appropriate supplemental documentation to evidence and demonstrate corrective actions taken regarding this standard.

Additional Documentation Reviewed:

The Auditor was provided with a copy of annual report covering CY 2014 through CY 2017 and a link to the posting on the agency's website. The updated report was posted to the agency website. The Auditor was able to open the report from the website. The Auditor took a screen shot of the website July 25, 2018.

The Auditor reviewed the report, which covered an assessment of the agency's progress in addressing sexual abuse pursuant to 115.87. The report included uniform data collected from the facilities under the control of the KDOC, aggregated over the years 2014 to 2017 and contains information that is sufficient to answer all questions under the Survey of Sexual Violence conducted by the Department of Justice. The report includes a comparison of the current year's data with those of prior years, corrective actions taken, and provides an assessment of the agency's progress in addressing sexual abuse.

Based upon the evidence discussed: review of policies, random and specialized staff interviews, observations and documentation obtained onsite, the facility has demonstrated compliance with this standard.

# AUDITING AND CORRECTIVE ACTION

## Standard 115.401: Frequency and scope of audits

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

**115.401 (a)**

- During the three-year period starting on August 20, 2013, and during each three-year period thereafter, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (N/A before August 20, 2016.) ☒ Yes ☐ No ☐ NA

**115.401 (b)**

- During each one-year period starting on August 20, 2013, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited? ☒ Yes ☐ No

**115.401 (h)**

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

**115.401 (i)**

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

**115.401 (m)**

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

**115.401 (n)**

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

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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The agency publishes the name of each facility and location. This list was compared with the posting of audits from 2014 through the present. The audits show that each facility listed was audited at least once from 2014 – 2017. Two facilities, Topeka and Winfield were audited in 2014 and again in 2017.

- In 2014 – four audits were conducted. These audits included one facility Larned Juvenile Correctional Facility that is in the process of closing. Two facilities, Topeka and Winfield, audited in 2014, were audited again in 2017.

- In 2015 – four audits were conducted. One facility, Larned Correctional Mental Health Facility, is currently being audited, with audits scheduled for Ellsworth and El Dorado also scheduled in 2018.

- In 2016 – Two facilities were audited.

The Agency Contract Administrator indicated that KDOC houses some offenders in four (4) county jails, three (3) of those jails have been audited with the fourth scheduled, in this year. Prior audits of all four facilities occurred more than 12 months earlier. All facilities are required to be in compliance with PREA and are visited approximately 1-2 times each month by the administrator. A copy of the audit report for each jail is forwarded to the Agency Contract Administrator. Contracts with each jail were provided to show that they were required to maintain PREA compliance.

The auditors were able to conduct a site review of the entire facility, to include housing, programming and service areas. A review was conducted onsite of 19 background checks for employees, contractors and volunteers. The Auditor was not permitted to copy the material (pursuant to Kansas regulations). The Auditor was allowed to take notes during the process.

The Auditor was provided documentation to support that background checks are conducted for staff who hire, transfer or promote at the facility. Once the date of birth and social security number were redacted, copies of the background requests were provided to the auditor.

Agency and facility staff took steps to ensure that interviews with staff and offenders at the facility were conducted in private.

The auditor did not receive any correspondence from offenders housed at LCMHF.

## Standard 115.403: Audit contents and findings

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

**115.403 (f)**

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. In the case of single facility agencies, the auditor shall ensure that the facility's last audit report was published. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.) ☒ Yes ☐ No ☐ NA

**Auditor Overall Compliance Determination**

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

**Instructions for Overall Compliance Determination Narrative**

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The agency publishes the name of each facility and location. This list was compared with the posting of audits from 2014 through the present. The audits show that each facility listed was audited at least once from 2014 – 2017. Two facilities, Topeka and Winfield were audited in 2014 and again in 2017.

# AUDITOR CERTIFICATION

I certify that:

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

## Auditor Instructions:

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

**Auditor Signature** **Date**

Rhonda Brennan December 11, 2018

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

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