

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

Interim       Final

**Date of Interim Audit Report:** Click or tap here to enter text.

**Date of Final Audit Report:** June 10, 2021

## Auditor Information

**Name:** Amanda van Arcken

**Email:** amanda.vanarcken@doc.state.or.us

**Company Name:** Oregon Department of Corrections

**Mailing Address:** 2575 Center Street NE

**City, State, Zip:** Salem, Oregon 97301

**Telephone:** (503) 569-8578

**Date of Facility Visit:** April 26-27, 2021

## Agency Information

**Name of Agency:** Southwest Multi County Correctional Center

**Governing Authority or Parent Agency (If Applicable):** Click or tap here to enter text.

**Physical Address:** 66 Museum Drive West

**City, State, Zip:** Dickinson, ND 58601

**Mailing Address:** Click or tap here to enter text.

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

**The Agency Is:**

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

**Agency Website with PREA Information:** [PREA \(Prison Rape Elimination Act\) - Southwest Multi-County Correction Center \(govoffice3.com\)](http://prea.govoffice3.com)

## Agency Chief Executive Officer

**Name:** Ken Zander, SWMCCC Board President

**Email:** kzander@starkcountynd.gov

**Telephone:** (701) 290-7551

## Agency-Wide PREA Coordinator

**Name:** Lenore Witte, Administrative Captain

**Email:** lwitte@swmccc.com

**Telephone:** (701) 579-5100 ext. 121

**PREA Coordinator Reports to:**

Rachelle Juntunen, Facility Warden

**Number of Compliance Managers who report to the PREA Coordinator:**

One

## Facility Information

**Name of Facility:** Dakota Women's Correctional Rehabilitation Center

**Physical Address:** 440 McKenzie Street

**City, State, Zip:** New England, ND 58650

**Mailing Address (if different from above):**

Click or tap here to enter text.

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

**The Facility Is:**

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

**Facility Type:**

Prison

Jail

**Facility Website with PREA Information:** [https://swmccc.govoffice3.com/index.asp?SEC=BA90C5C1-B491-401B-B994-A4FDF7DF1D1B&Type=B\\_BASIC](https://swmccc.govoffice3.com/index.asp?SEC=BA90C5C1-B491-401B-B994-A4FDF7DF1D1B&Type=B_BASIC)

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

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

ACA

NCCHC

CALEA

Other (please name or describe: Click or tap here to enter text.)

N/A

**If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:**  
North Dakota Department of Corrections and Rehabilitation (DOCR) completed Contract Audit in February 2019

### Warden/Jail Administrator/Sheriff/Director

**Name:** Rachelle Juntunen, Warden

**Email:** [rjuntunen@swmccc.com](mailto:rjuntunen@swmccc.com)

**Telephone:** (701) 579-5100 ext. 102

### Facility PREA Compliance Manager

**Name:** Lenore Witte, Administrative Captain

**Email:** [lwitte@swmccc.com](mailto:lwitte@swmccc.com)

**Telephone:** (701) 579-5100 ext. 121

**Facility Health Service Administrator**  N/A

**Name:** Tyesha Dent

**Email:** [tdent@swmccc.com](mailto:tdent@swmccc.com)

**Telephone:** (701) 579-5100 ext. 126

### Facility Characteristics

**Designated Facility Capacity:**

126

Current Population of Facility:	94	
Average daily population for the past 12 months:	111	
Has the facility been over capacity at any point in the past 12 months?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Which population(s) does the facility hold?	<input checked="" type="checkbox"/> Females <input type="checkbox"/> Males <input type="checkbox"/> Both Females and Males	
Age range of population:	21-68 years old	
Average length of stay or time under supervision:	112.96 days	
Facility security levels/inmate custody levels:	Minimum/Medium/Maximum	
Number of inmates admitted to facility during the past 12 months:	155	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:	0	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:	141	
Does the facility hold youthful inmates?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Number of youthful inmates held in the facility during the past 12 months: (N/A if the facility never holds youthful inmates)	Click or tap here to enter text. <input checked="" type="checkbox"/> N/A	
Does the audited facility hold inmates for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Select all other agencies for which the audited facility holds inmates: Select all that apply (N/A if the audited facility does not hold inmates for any other agency or agencies):	<input type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> U.S. Marshals Service <input type="checkbox"/> U.S. Immigration and Customs Enforcement <input type="checkbox"/> Bureau of Indian Affairs <input type="checkbox"/> U.S. Military branch <input type="checkbox"/> State or Territorial correctional agency <input type="checkbox"/> County correctional or detention agency <input type="checkbox"/> Judicial district correctional or detention facility <input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail) <input type="checkbox"/> Private corrections or detention provider <input type="checkbox"/> Other - please name or describe: Click or tap here to enter text. <input checked="" type="checkbox"/> N/A	
Number of staff currently employed by the facility who may have contact with inmates:	64	
Number of staff hired by the facility during the past 12 months who may have contact with inmates:	14	
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	4	

Number of individual contractors who have contact with inmates, currently authorized to enter the facility:	71
Number of volunteers who have contact with inmates, currently authorized to enter the facility:	62
<b>Physical Plant</b>	
<p>Number of buildings:</p> <p>Auditors should count all buildings that are part of the facility, whether inmates are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house inmates, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.</p>	3
<p>Number of inmate housing units:</p> <p>Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house inmates of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows inmates to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.</p>	2
Number of single cell housing units:	1
Number of multiple occupancy cell housing units:	0
Number of open bay/dorm housing units:	2
Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):	5
In housing units, does the facility maintain sight and sound separation between youthful inmates and adult inmates? (N/A if the facility never holds youthful inmates)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

## Medical and Mental Health Services and Forensic Medical Exams

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

### Investigations

#### Criminal Investigations

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

#### Administrative Investigations

Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?	4
When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply	<input checked="" type="checkbox"/> Facility investigators <input type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> ) <input checked="" type="checkbox"/> N/A

# Audit Findings

## Audit Narrative (including Audit Methodology)

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

Amanda van Arcken, a U.S. Department of Justice (USDOJ) Certified PREA Auditor for Adult Facilities, conducted the Prison Rape Elimination Act (PREA) on-site audit of Dakota Women's Correctional Rehabilitation Center (DWCRC) in New England, North Dakota from April 29-30, 2021. This audit was conducted under a contract between the North Dakota Department of Corrections & Rehabilitation (DOCR) and the Oregon Department of Corrections (ODOC) in conjunction with the Western States PREA Circular Auditing Agreement. The DOCR, ODOC, and nine other agencies (California, Colorado, Hawaii, Los Angeles County, Nevada, New Mexico, Montana, Washington, and Wisconsin) are members of the Western States PREA Circular Auditing Agreement. DOCR contracts with Southwest Multi-County Correction Center (SWMCCC) to house female residents at DWCRC. The audit was conducted with the assistance of one support staff – Jeremy Wagner. Wagner is a USDOJ Certified PREA Auditor for Adult Facilities. The audit team conducted the site review together. Amanda van Arcken conducted the documentation review for staff and residents; informal interviews with random staff and residents; formal interviews with specialized staff and targeted residents; and, authored this report. Jeremy Wagner conducted informal and formal interviews of random staff and specialized staff.

A Notification of Audit in both English and Spanish were posted in the facility on March 18, 2021. The notification contained information about the upcoming audit and stated that any resident or staff member with pertinent information should send a letter containing this information to the auditor. The auditor instructed the facility to post this notification in all housing units and throughout the facility for the six weeks prior to the onsite review, on a brightly-colored piece of paper that would stand out among other postings in these areas. The notice contained a reminder about the confidential nature of communication with the auditor, and possible exceptions to confidentiality. The auditor verified the posting with dated and time-stamped photographs from the facility PREA Compliance Manager. During the facility tour, the auditor observed the laminated posting in all housing areas and throughout the facility in resident-accessible areas. The notice was observed to be posted in areas only accessible to staff and areas accessible to visitors, providing them with the opportunity to contact the auditor. Due to the COVID-19 pandemic, DWCRC has not had, nor resumed, in-person visiting. Prior to the onsite review, this auditor did not receive any letters from residents at DWCRC.

The Pre-Audit Questionnaire (PAQ) was initiated by the facility and was received by this auditor during the onsite review. The PAQ was formatted on a thumb drive and included all relevant documentation pertaining to the audit, including, but not limited to policies, procedures, memorandum of understanding and training documents. The auditor reviewed the questionnaire and all documentation. This was the third PREA audit conducted at DWCRC. This auditor reviewed the Annual PREA Reports for 2016-2020, which were posted on the agency website. News articles referencing DWCRC were reviewed online. Nothing related to the sexual safety of the facility was located.

Prior to arrival in North Dakota, this auditor sent an email to DWCRC's PREA Compliance Manager (PCM) requesting the following documents prior to the audit team's arrival at the facility:

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

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

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

This auditor conducted outreach to Just Detention International (JDI), and Dickinson Domestic Violence & Rape Crisis Center (DVRCC) to learn about issues of sexual safety at the facility.

- JDI is a health and human rights organization that seeks to end sexual abuse in all forms of detention by advocating for laws and policies that make prisons and jails safe and providing incarcerated survivors with support and resource referrals. JDI advised this auditor that they have not received any correspondence from incarcerated survivors at DWCRC within the last 12 months.
- DVRCC offers supportive services to victims and survivors of violence and homelessness. DVRCC staffs a 24-hour crisis line and offers crisis counseling, personal advocacy, outreach services, community task forces, information and referrals, safety planning, safe shelter for up to 28 women and children, protective orders, legal advocacy, public education on domestic violence, sexual assault, human trafficking, dating violence, teen dating violence and homelessness, and SART responses. All services are provided free of charge. DVRCC has served Southwestern North Dakota for 40 years.

A formal entrance meeting was not requested by facility leadership or members of the agency's central administration. The audit team met with the facility PREA Compliance Manager, who also serves as the agency PREA Coordinator, and began the site review.

The audit team began conducting the physical plant review of DWCRC and was provided access to all areas of the facility. There were no outlying buildings where residents may be assigned to work. This auditor observed the facility configuration, locations of cameras and security mirrors, the level of staff supervision, the housing unit layout (including shower/toilet areas), placement of posters and other PREA informational resources, security monitoring, and search procedures. Toilet and shower areas of the facility allowed for resident privacy while undressing and using facilities. Cross-gender announcements were consistently observed when the audit team entered housing units. The audit notice was visible in all resident areas. Resident phones were tested to ensure the ability to contact the PREA Hotline. Locked boxes were in each housing unit or common areas for residents to deposit grievance and discrimination forms. Unit log books were checked to ensure the completion of unannounced supervisory rounds.

During the physical plant review, the audit team looked for potential blind spots in areas accessible to residents, and areas where cross-gender viewing may occur. The audit team identified the following area of concern for corrective action:

- Cameras placed in two special management unit observation cells required a digital block placed over the toilet area of each cell to prevent cross-gender viewing when monitoring video for security purposes.

Pictures confirming the digital block over the toilet area of the observation cells were provided to this auditor prior to submission of an interim report.

Residents are housed in a dormitory setting within rooms and have access to dayrooms, sleeping areas as well as shower areas with individual showers. The toilets stalls have doors. Unit rules require that residents close shower curtains and toilet doors when in use and residents are required to be clothed upon exit. Residents are prohibited from being in a state of undress while in their dorms or other common areas of the facility.

Cameras were not noted in areas where residents may be using restrooms or showers. One restroom occasionally used for employees had urinals without partitions that could be viewed by a camera. As the restroom is not used by residents, the provisions of the PREA standards do not apply. This auditor suggested the facility post a warning at the entrance to the restroom about the use of video monitoring to permit users the option of using an individual toilet with a door.

The existing camera system has 58 analog and/or digital cameras that monitor the institution with a retention of approximately 71 days. The facility has camera coverage in all hallways in the housing units, most of the common areas outside the dorms, the upper administrative area, all treatment rooms, classrooms, and the kitchen. DWCRC has cameras showing all points of entrance to the facility, complete coverage of the outdoor recreation areas, and coverage outside the fence adjoining the rec areas.

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

DWCRC employs 64 staff who may have contact with residents. Security staff are assigned to four uniformed staff shifts. Shift hours run from 0600-1800 hours (seven staff); 1800-0600 hours (six staff); 0800-2000 hours (one staff); and, 0930-2130 hours (one staff).

The August 2017 edition of the PREA Auditor Handbook requires at least 12 random security staff be interviewed. A total of 13 random interviews were conducted. Interviews with security staff, non-security staff, volunteers, and contractors were selected based on who was working during the site review.

A total of 22 specialized staff interviews were conducted. Interviews were with the following specialized staff:

- Agency head
- Warden
- Agency PREA Coordinator
- Facility PREA Compliance Manager
- Intermediate or higher-level facility staff
- Medical Services staff
- Mental Health Services staff
- Human Resource manager
- Investigative staff
- SANE
- Community-based advocate
- Classification officer



- Staff on the sexual abuse incident review team
- Designated staff member charged with monitoring retaliation
- Mailroom staff
- Food Services staff
- Contractors/volunteers

The PAQ indicated the average daily population for audit period was 111 residents. The resident population on the first day of the onsite review was 94. The August 2017 edition of the PREA Auditor Handbook requires at least eight random resident interviews and at least eight targeted resident interviews for an adult prison population of 51-100 residents. The audit team planned to interview at least one random resident from each housing unit, in addition to any targeted residents. This auditor highlighted targeted inmates on a roster sorted by housing unit and then selected every eighth name in Haven Hall and every ninth name in Horizon Hall for random interviews. The identified resident names were selected for both file reviews and random interviews. A total of 13 random residents were interviewed. One resident declined to be interviewed. Files were reviewed to evaluate screening and intake procedures, documentation of resident education, and medical or mental health referrals when required.

The Dakota Women’s Correctional Rehabilitation Center did not have any residents who were youthful, had hearing or vision impairment or physical disabilities, had cognitive impairments, had limited-English proficiencies, who were placed in segregated housing for high risk of sexual victimization, who identified as transgender, or who had reported sexual abuse at the facility. A total of 18 targeted resident interviews were conducted. Interviews were conducted with the following targeted residents:

- Six residents who identified as gay or bisexual
- Twelve residents who reported sexual victimization during risk screening

There were four residents at DWCRC who were admitted to the facility prior to August 20, 2012. All had received comprehensive PREA education as required by the standards.

DWCRC had not received any allegations for 2021 at the time of the onsite review. There were three allegations of sexual abuse and seven allegations of sexual harassment for the 2020 calendar year:

<b>Allegation Type</b>	<b>Total Number of Allegations</b>	<b>Substantiated</b>	<b>Unsubstantiated</b>	<b>Unfounded</b>	<b>Ongoing Investigation</b>
Resident-on-Resident Sexual Abuse	3	1	0	2	0
Staff-on-Resident Sexual Abuse	0	0	0	0	0
Resident-on-Resident Sexual Harassment	7	2	4	2	0
Staff-on-Resident Sexual Harassment	0	0	0	0	0
<b>Totals</b>	10	3	4	4	0

A formal exit meeting was held in the afternoon of April 30, 2021. The auditor provided a summary of the audit through the on-site phase and provided information on what to expect during the Corrective Action Period (CAP).

DWCRC has nursing staff onsite 24-hours each day and three infirmary beds. The infirmary beds can be used for Special Management Unit beds when available. DWCRC contracts for outside physician

services and hospital services including emergency services, inpatient/outpatient surgery, obstetrics/gynecology, lab, and x-ray services. Mental health staff are generally onsite from 0800-1600 and one person is always on call.

The auditor spoke with a local Sexual Assault Nurse Examiner (SANE) at St. Alexius Hospital, to discuss and confirm the agreement in place with DOCR to provide SANE/SAFE services. She verified that all SANEs receive training that meets the national training standards. She did not recall the last time a resident from DWCRC had been brought to the hospital for a forensic medical exam. She confirmed there is always a SANE available for forensic medical exams.

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

In a move towards humanization and normalization, DWCRC has moved away from the term *inmate* and towards terms like *resident* or *adult in custody*. For consistency, this auditor has used the term *resident* when referring to someone incarcerated at DWCRC. The terms *offender*, *inmate*, and *adult in custody* are used when they are directly quoted from DWCRC documentation.

All corrective action was resolved prior to the issuance of an interim audit report. Therefore, the facility was provided with a final audit report within the interim period showing full compliance with the standards.

## 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 North Dakota Department of Corrections & Rehabilitation (DOCR) operates four adult prisons in the state of North Dakota, incarcerating approximately 1700 adult offenders. The mission statement of DOCR is to enhance public safety, to reduce the risk of future criminal behavior by holding adult and juvenile offenders accountable, and to provide opportunities for change. DOCR contracts with Southwest Multi-County Correction Center (SWMCCC) to incarcerate their female residents at Dakota Women's Correctional Rehab Center (DWCRC). SWMCCC operates DWCRC and Dickinson Adult Detention Center. DWCRC was opened in 2003 in New England, North Dakota in a building that was formerly used as a boarding school.

The mission of DWCRC is to facilitate successful adaptations of offenders into society. This is accomplished through the self-empowerment of staff and offenders to grow emotionally, socially, educationally, spiritually, and culturally. We will focus on consistency, responsibility, and accountability toward the development and modeling of pro-social values through the community.

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

White	54.5%	American Indian	38.9%
Black	.038%	Asian/Pacific Islander	.025%

As the result of information gained from PREA risk screenings, residents can be identified as *potential victims*, *known victims*, *potential aggressors*, *known aggressors*, or *unrestricted*. The risk composition of the facility is as follows –

	Unrestricted	64.9%	
Potential victim	31.1%	Known victim	1.2%
Potential aggressors	1.2%	Known aggressors	1.2%

- Haven Hall is a minimum-security housing unit with 70 beds, consisting of nine dorms, dayroom, and chapel. The nine dorm rooms are along the outer perimeter of a square, with restrooms and showers located in the center of the square. Toilet and shower stalls were individual. Due to the COVID-19 pandemic, this unit operated at a reduced capacity after March 2020.
- Horizon Hall is a higher custody housing unit with 45 beds, consisting of four dorms, dayroom, and gym. Toilet stalls in Horizon are individual with doors; showers are communal, with small shower curtains between each shower head for some degree of privacy.
- The Orientation unit is part of Horizon Hall but is a self-contained unit with 16 beds. Due to the COVID-19 pandemic, this unit operated at half capacity after March 2020.
- The Special Management unit was established in the spring of 2006, with five cells, a dayroom and outside recreation yard. Residents are assigned to this unit for several reasons, to include disciplinary segregation, administrative segregation, investigations, and suicide observation.
- The Administration building is made up of staff offices, treatment rooms, classrooms, Prairie Industries, kitchen, dining room, visitation, and an infirmary.

DWCRC provides treatment and therapeutic groups around trauma, chemical dependency, post-traumatic stress disorder, and conflict resolution. A variety of program services are provided, to include education, employment, medical, religious, personal wellness, and work release. Prairie Industries provides opportunities to qualified residents as part of a "cut and sew" operation as well as off-site contract work.

## Summary of Audit Findings

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

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

### Standards Exceeded

**Number of Standards Exceeded:** 1

**List of Standards Exceeded:** [Click or tap here to enter text.](#)

115.41 Screening for Risk of Victimization and Abusiveness

### Standards Met

**Number of Standards Met:** 44

115.11 Zero Tolerance of Sexual Abuse and Sexual Harassment; PREA Coordinator  
115.12 Contracting with Other Entities for the Confinement of Inmates  
115.13 Supervision and Monitoring  
115.14 Youthful Inmates  
115.15 Limits to Cross-Gender Viewing and Searches  
115.16 Inmates with Disabilities and Inmates who are Limited English Proficient  
115.17 Hiring and Promotion Decisions  
115.18 Upgrades to Facilities and Technologies  
115.21 Evidence Protocol and Forensic Medical Examinations  
115.22 Policies to Ensure Referrals of Allegations for Investigations  
115.31 Employee Training  
115.32 Volunteer and Contractor Training  
115.33 Inmate Education  
115.34 Specialized Training: Investigations  
115.35 Specialized Training: Medical and Mental Health Care  
115.42 Use of Screening Information  
115.43 Protective Custody  
115.51 Inmate Reporting  
115.52 Exhaustion of Administrative Remedies  
115.53 Inmate Access to Outside Confidential Support Services  
115.54 Third-Party Reporting  
115.61 Staff and Agency Reporting Duties  
115.62 Agency Protection Duties  
115.63 Reporting to Other Confinement Facilities  
115.64 Staff First Responder Duties  
115.65 Coordinated Response  
115.66 Preservation of Ability to Protect Inmates from Contact with Abusers  
115.67 Agency Protection against Retaliation  
115.68 Post-allegation Protective Custody  
115.71 Criminal and Administrative Agency Investigations  
115.72 Evidentiary Standards for Administrative Investigations  
115.73 Reporting to Inmates  
115.76 Disciplinary Sanctions for Staff  
115.77 Corrective Action for Contractors and Volunteers

- 115.78 Disciplinary Sanctions for Inmates
- 115.82 Access to Emergency Medical and Mental Health Services
- 115.81 Medical and Mental Health Screenings; History of Sexual Abuse
- 115.83 Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers
- 115.86 Sexual Abuse Incident Reviews
- 115.87 Data Collection
- 115.88 Data Review for Corrective Action
- 115.89 Data Storage, Publication, and Destruction
- 115.401 Frequency and Scope of Audits
- 115.403 Audit Contents and Findings

## Standards Not Met

**Number of Standards Not Met:** 0

**List of Standards Not Met:** [Click or tap here to enter text.](#)

## PREVENTION PLANNING

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

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

#### 115.11 (a)

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

#### 115.11 (b)

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

#### 115.11 (c)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- DWCRC Organizational chart
- Interview with the PREA Coordinator
- Interview with the PREA Compliance Manager

(a) DWCRC Policy & Procedures 3C-4 states on page five, "*The DWCRC has a zero tolerance toward all forms of sexual abuse and sexual harassment within its facilities.*" This policy outlines the agency's comprehensive approach to preventing, detecting and responding to sexual abuse and sexual harassment, including definitions of prohibited behaviors and consequences for those found to have participated in prohibited behaviors.

(b) DWCRC employs an upper-level, agency-wide PREA Coordinator, with oversight of one facility PREA Compliance Manager. The PREA Coordinator reports to the facility warden. This position is reflected in agency organizational charts. When interviewed, the PREA Coordinator indicated that she has the time, resources, and authority required to manage her responsibilities. The PREA Coordinator also serves as the facility PREA Compliance Manager.

(c) DWCRC has designated an Administrative Captain as the facility PREA Compliance Manager. The PCM reports directly to the warden. When interviewed, the facility PCM indicated that she has the time to manage all her PREA-related responsibilities.

Conclusion:

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

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

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

### 115.12 (a)

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

### 115.12 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- Written memorandum from agency PREA Coordinator

(a-b) The agency PREA Coordinator provided this auditor with a written memorandum indicating DWCRC does not contract with other entities for the confinement of female residents.

Conclusion:

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



## Standard 115.13: Supervision and monitoring

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

#### 115.13 (a)

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

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any other relevant factors?  Yes  No

#### 115.13 (b)

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

#### 115.13 (c)

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

#### 115.13 (d)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- DWCRC Policy & Procedures 1C-5
- 2020 Staffing Plan for DWCRC
- Interview with the warden
- Interview with the PREA Coordinator
- Interview with the PREA Compliance Manager
- Interview with intermediate or higher-level facility staff
- Daily Information Reports for 2020
- Staff duty rosters
- Observation of facility operations while onsite

(a, c) DWCRC Policy & Procedures 3C-4 states on page seven, *“DWCRC will develop, document, and make the best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring to protect adults in custody against sexual abuse.”*

DWCRC Policy & Procedures 1C-5 states on page one, *“Each department shall regularly evaluate, and revise staffing assignments as needed to meet existing and changing program requirements. These requirements shall include: The staffing requirements for all categories of personnel area determined on an ongoing basis to ensure that inmates have access to staff, programs, and services.”*

At least once per year the facility warden or designee, in collaboration with the agency PREA Coordinator, will review the staffing plan, the deployment of monitoring technology and the allocation of resources to commit to the staffing plan to ensure compliance. Any adjustments are documented. This auditor reviewed documentation from the most recent staffing plan meeting, held on February 10, 2021. The overall staffing plan remained unchanged with the primary method of inmate supervision remaining direct staff supervision, augmented using surveillance equipment. The institution has prepared plans to effectively and efficiently respond when there is not enough staff to cover all posts. If a staffing shortage occurs during normal business hours, the facility has prioritized the positions that must be filled. If a staffing shortage occurs after normal business hours and the use of other employees is not possible, resident programming and activities will be delayed, rescheduled, or cancelled.

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

DWCRC allocates resources to ensure the staffing plan is maintained, to include an Administrative Captain, Shift Captain, Deputy Warden/Chief of Security, and Warden. These resources ensure compliance in the following manner:

*“The Deputy Warden/Chief of Security ensures that all potential applicants are clear of any behaviors that may affect employment eligibility under PREA guidelines. Monitors and advices*

*administrative staff on disciplinary action that may involve PREA related issues. Monitors the shift supervisors/administrative captain to ensure the overall staffing plan numbers and the facility security measures are being met. Adjusts staffing allocations to ensure identified coverage numbers are maintained.*

*The Administrative Captain ensures that open positions on the shift are covered by monitoring annual leave and determining how many staff may be authorized to take time off with minimal impact on the shift.*

*The Shift Captain ensures that any security staff members who may call in as a result of last-minute personal issues or illness are covered and the shift maintain staffing numbers to ensure the overall safety and security of the facility.*

*The Warden monitors and addresses systemic issues and monitor the overall inmate well-being through either programs or operations. The Deputy Wardens identify risks/needs and deploy resources to minimize risk or fulfill needs. These resources may be in the form of additional security equipment or staffing allocations. The Warden reviews requests or patterns identified by the aforementioned staff and makes overall facility decisions based on recommendations. These decisions may be addressed through directives, policy and procedure changes or staffing requests.”*

(b) DWCR Policy & Procedures 3C-4 states on page seven, *“Each time the staffing plan is not complied with, the facility documents and justifies all deviations from the staffing plan. The security Captains will update the shift schedules to ensure staff are assigned to each fixed post. It is the responsibility of the security Captain to keep the shift schedule updated. There will be written justification for all deviations from the staffing plan.”*

North Dakota Century Code (NDCC) does not specify or require the number of staff required to operate the DWCR.

During 2020, there was one deviation to the staffing plan during an emergency medical transport on night shift for a brief period while administrative staff arrived at the facility. The deviation was resolved within 52 minutes.

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

(d) DWCR Policy & Procedures 3C-4 states on page seven, *“Intermediate or higher-level supervisors will conduct unannounced rounds of the facility to identify and deter staff sexual abuse and sexual harassment. The unannounced rounds are documented on the daily shift report. Unannounced supervisor rounds will be conducted at least one time per shift by the Captain. Staff will not alert other staff members when a Captain is conducting these unannounced rounds unless such announcement is related to the legitimate operational functions of the facility.”*

The facility PREA Compliance Manager provided this auditor with all the Daily Information Reports for 2020. Unannounced rounds occurred on day, swing, and night shifts. Interviews with intermediate or higher-level staff indicated they conduct unannounced rounds on all shifts to detect and deter any staff misconduct, including staff sexual abuse and sexual harassment.

Conclusion:

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

## Standard 115.14: Youthful inmates

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

#### 115.14 (a)

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

#### 115.14 (b)

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

#### 115.14 (c)

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

### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- North Dakota Century Code section 12-46-13
- Interview with the PREA Compliance Manager
- Interviews with random staff and random residents

(a-c) DWCRC Policy & Procedures 3C-4 states on page eight, "*Adjudicated delinquent youths charged with offenses and youth convicted of a crime in adult court are not housed at DWCRC.*"

North Dakota Century Code Section 12-46-13 was amended at the request of the DOCR in March 2019 to reflect that offenders under eighteen years of age will be committed to a North Dakota Youth Correctional Center. DOCR may allow an offender who is between eighteen and twenty years of age to remain at the North Dakota Youth Correctional Center if the department determines that it is in the best interest of the department and the offender and it is not contrary to safety interests of the other residents or the general public.

No interviews of staff or residents indicated a youthful resident may have been housed at DWCRC.

Conclusion:

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

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

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

#### 115.15 (a)

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

#### 115.15 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female inmates, except in exigent circumstances? (N/A if the facility does not have female inmates.)  
 Yes  No  NA
- Does the facility always refrain from restricting female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision? (N/A if the facility does not have female inmates.)  Yes  No  NA

#### 115.15 (c)

- Does the facility document all cross-gender strip searches and cross-gender visual body cavity searches?  Yes  No
- Does the facility document all cross-gender pat-down searches of female inmates? (N/A if the facility does not have female inmates.)  Yes  No  NA

#### 115.15 (d)

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

#### 115.15 (e)

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

## 115.15 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3A-6
- DWCRC Policy & Procedures 3A-12
- DWCRC Policy & Procedures 3C-4
- Lesson Plan for *Clothed & Unclothed Body Searches*
- *Exigent Circumstance Logs*
- *Inmate Handbook*
- *Housing Unit Rules*
- Interviews with random staff and random residents
- Observation of facility operations while onsite

(a) Frequent, unannounced searches of residents, their living quarters and other areas of the facility are necessary to maintain the safety, security, and orderly operations of prisons. DWCRC Policy & Procedures 3A-6 states on page five, "*Dakota Women's Correctional and Rehab Center employees will not conduct cross-gender strip searches or cross-gender visual body cavity searches (anal or genital opening) except in exigent circumstances or when performed by medical practitioners. Efforts will be made in exigent circumstances to obtain warden's prior approval.*"



DWCRC Policy & Procedures 3C-4 states on page eight, *“DWCRC employees will not conduct cross-gender strip searches or cross-gender visual body cavity searches (anal or genital opening) except in exigent circumstances or when performed by medical practitioners.”*

This auditor reviewed the DWCRC lesson plan and training curriculum for Body Searches. Page 17 of the training power point reinforces that male staff searching female residents must occur only in exigent circumstances with a need that can be articulated. Page 14 of the training presentation guide states, *“Male staff members are not permitted to conduct clothed body searches on female inmates absent exigent circumstances. PREA defines ‘exigent circumstances’ to mean ‘any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.’”* There is a test after this training that includes a question about when a male staff member is permitted to search a female resident.

(b) Please see standard discussion for 115.15 (a). DWCRC Policy & Procedures 3A-6 states on page eight, *“DWCRC will not restrict female adults’ in custody access to regularly available programming or other out-of-cell opportunities in order to comply with this provision.”*

In an interview, the facility PCM indicated she did not recall a time that access to regularly available programming or other out-of-cell opportunities were restricted due to a lack of female staff on duty. No residents indicated they had been restricted from programming or other out-of-cell opportunities due to a lack of female staff.

(c-d) DWCRC Policy & Procedures 3A-6 states on page eight, *“Employees log all cross-gender strip searches and cross-gender pat down searches of female adults in custody and cross-gender camera viewing of adults in custody in suicide watch cells in the exigent circumstance log in Control.”*

This auditor reviewed the DWCRC lesson plan and training curriculum for Body Searches. Page five of the presentation guide states, *“Exigent Circumstance Cross Gender Search - Whenever possible, seek guidance and approval from your supervisor or department head prior to conducting the search. They may have information regarding additional staff, possible same gender staff availability, or have other alternatives. These searches are always conducted in a private area to afford the inmate the utmost in privacy possible. There should always be two staff present when conducting an opposite gender search. Preferably a supervisory staff. Always document the, who, what, when, where, and why the search needed to be conducted by a member of the opposite sex.”*

The importance of allowing dignity, to the extent it is possible, conducting searches in a professional manner and remaining courteous and respectful is emphasized at multiple points in the training. Page 10 of the presentation guide states, *“Exhibit a professional demeanor, never say or do anything that could be construed as unprofessional. Never make inappropriate or demeaning comments.”*

During the physical plant review, the audit team looked for potential blind spots in areas accessible to residents, and areas where cross-gender viewing may occur. The audit team identified the following area of concern for corrective action:

- Cameras placed in two special management unit observation cells required a digital block placed over the toilet area of each cell to prevent cross-gender viewing when monitoring video for security purposes.

DWCRC Policy & Procedures 3A-12 states on page four, *“Posts with camera access that may allow facility staff to view adults in custody in a state of undress, showering, performing a bodily function will be limited to same gender staff except in exigent circumstances in compliance with policy 3C-4 (PREA) Prison Rape Elimination Act.”*

While residents are on observation status, camera monitoring can be used when recommended and available for the resident in crisis. The camera monitors are viewed by both control room personnel and captains and logged each day the resident is in crisis and camera remain operational. There is a two-step process to access the video feed – when the officer clicks on the requested camera, a second screen pops up, indicating there is a privacy block. The officer clicks on the privacy block and is permitted to view the camera feed. Any time an officer clicks on a privacy block, it is documented in an *Exigent Circumstance Log*. While reviewing the camera feed onsite, it was discovered the privacy block had been errantly removed from one of the two cells, and neither cell had a digital block placed over the toilet area of the cell. This was immediately addressed by the facility PREA Compliance Manager. Pictures verifying the digital block were provided to this auditor for confirmation prior to the submission of the interim audit report.

This auditor reviewed the current Exigent Circumstance Log while onsite, as well as all logs from May 2019 through February 24, 2021.

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

DWCRC Policy & Procedures 3A-6 states on page two, *“Adults in custody will be allowed to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell/dorm checks. Adults in custody are provided access to changing areas to prevent a state undress in open areas where male staff may be doing rounds.”*

Page three of the *Housing Unit Rules* at DWCRC states, *“You must be fully clothed or you must wear a robe when going to and from the shower and when using the restroom after 9:15 p.m. Inmates will not be in a state of undress at any time, in the dorms of the housing units. Each housing unit has available dressing areas (Horizon Hall – 3 dressing stalls located in the Horizon Hall bathroom, Haven Hall – the first section of each shower stall, Orientation - bathroom stalls).”* All residents interviewed indicated they have enough privacy to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing them. Most residents stated this provision of the rules is taken seriously by staff and there are consequences for being undressed outside of the specified dressing areas.

DWCRC Policy & Procedures 3A-6 states on pages eight and nine, *“Male staff will announce ‘Male on the floor’ when their shift begins in the adult in custody housing unit where adults in custody may be seen using the shower, toilet, or different stages of undress. This announcement will be documented as an electronic log entry in ELITE, for each security shift daily. The entry will be logged as ‘Cross-Gender Supervision’. Non-uniformed Male staff will announce ‘male staff’ prior to entering an adult in custody housing unit where an adult in custody may be seen using the shower, toilet, or different stages of undress. Signage will be posted in conspicuous areas for those adults in custody who may have been absent from the housing unit when the announcement was made.”*

Cross-gender announcements were consistently observed when the audit team entered housing units. Interviews with random staff confirmed they were aware of the duty to announce. Interviews with random residents indicated the announcements take place as required.

(e) DWCRC Policy & Procedures 3A-6 states on page nine, *“Staff will not search or physically examine a transgender or intersex adult in custody for the sole purpose of determining the genital status of the adult in custody. If the genital status of an adult in custody is unknown, it may be determined through*

*conversation with the adult in custody, 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.”*

This auditor reviewed the DWCRC lesson plan and training curriculum for Body Searches. Pages 15 and 16 of the presentation guide reminds staff of the prohibition to search or physically examine a transgender or intersex resident for the sole purpose of determining genital status. Interviews with random staff indicated they are aware that searches to determine genital status are prohibited by standard and agency policy. There were no residents who identified as transgender or intersex at DWCRC at the time of the onsite review.

(f) DWCRC Policy & Procedures 3A-6 states on page five, *“During the initial interview with a transgender or intersex adult in custody, staff will ask the adult in custody if they prefer to be searched by a male or female officer. This information will be recorded in ELITE.”*

This auditor reviewed the DWCRC lesson plan and training curriculum for Body Searches. Page five of the presentation guide states, *“Pronoun usage is extremely important when talking to transgender or intersex residents. For example, a person who is born biologically male and identifies as a female would be referred to as her or she. Overall, professional communication is going to be key to any search, whether clothed or unclothed or if the resident identifies as transgender or intersex.”* Page 22 of the presentation guide states, *“When conducting an unclothed search of a transgender resident, trained staff of the gender requested by the resident will conduct the search. This information authorizing the cross-gender search will be documented in ELITE.”*

There were no residents who identified as transgender or intersex at DWCRC at the time of the onsite review.

Conclusion:

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

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

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

### **115.16 (a)**

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

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

#### 115.16 (b)

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

## 115.16 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- DWCRC Contract with Language Link and Voiance Language Services, LLC
- Interview with the PREA Coordinator
- Interview with the PREA Compliance Manager
- Interviews with random staff and random residents
- Interviews with residents with disabilities
- Email from agency PREA Coordinator dated June 10, 2021

(a-b) DWCRC Policy & Procedures 3C-4 states on pages nine, *"The following services have been established to provide disabled and limited English proficient adults in custody 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. All adult in custody education materials will be in formats accessible to all adults in custody in accordance with Title II of the Americans with Disabilities Act, 28 CFR 35.164."* The policy lists the interpreter services for the deaf, blind, or hard of hearing residents, and those with limited-English proficiency. (This auditor has omitted the information from this report as it contains the contact information and account number for the agency.) The contract with Language Link and Voiance Language Services, LLC includes on-demand remote interpreting and document translation. All staff have access to the instructions for utilizing this service.

The facility PREA Compliance Manager provided a written memorandum indicating that facility Behavioral Health staff members are utilized to assist resident with disabilities or limited reading skills.

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

(c) DWCRRC Policy & Procedures 3C-4 states on page 11, "DWCRRC will not rely on adult in custody interpreters, adult in custody readers, or other types of adult in custody assistants except in limited circumstances, and it must be fully documented when an extended delay in obtaining an effective interpreter could compromise: The safety of the adult in custody; the performance of first responder duties under §115.64; or the investigation of allegations by the adult in custody."

The facility did not have any residents with limited-English proficiencies, limitations with vision or hearing, or with cognitive impairments at the time of the onsite review.

Interviews with random staff indicated they were unclear about the use of resident interpreters. As corrective action, this auditor requested the agency PREA Coordinator send clarification to staff. On June 11, 2021, she sent an email to all staff and attached directions for use. Captains were instructed to conduct a test call to become more familiar with the process.

Conclusion:

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

## Standard 115.17: Hiring and promotion decisions

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

### 115.17 (a)

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

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

#### 115.17 (b)

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

#### 115.17 (c)

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

#### 115.17 (d)

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

#### 115.17 (e)

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

#### 115.17 (f)

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

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

#### 115.17 (g)

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

#### 115.17 (h)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- North Dakota Century Code 12-60-24
- DWCRC Policy & Procedures 3C-4
- DWCRC Policy & Procedures 1C-9
- DWCRC Policy & Procedures 1C-11
- Employee/contractor/volunteer file reviews
- Interview with the warden
- Interview with Human Resource staff
- Interview with agency PREA Coordinator

(a) DWCRC Policy & Procedures 3C-4 states on page 10, "DWCRC will not hire or promote anyone who may have contact with adults in custody, and will not enlist the services of any contractor or volunteer who may have contact with adults in custody 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); has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by



*force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or has been civilly or administratively adjudicated to have engaged in the activity described in paragraph a. or b. of this section.”*

The same policy statement is on page two of DWCRC Policy & Procedures 1C-9 and page three of DWCRC Policy & Procedures 1C-11. Correctional officer applicants are asked the questions about misconduct during the interview process. This auditor reviewed two employee files of staff who were promoted during the audit period and 25 other employee files for confirmation of the process.

(b) DWCRC Policy & Procedures 3C-4 states on page nine, *“DWCRC shall 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 adults in custody.”*

Interviews with the warden and Human Resource staff indicated the policy is implemented in practice. The warden indicated she would not enlist the services of a contractor who had any allegations of sexually harassing residents. This auditor reviewed two employee files of staff who were promoted during the audit period and 25 other employee files for confirmation of the process.

(c) DWCRC Policy & Procedures 3C-4 states on pages ten and 11, *“Before hiring new employees who may have contact with adults in custody, DWCRC will: Perform a criminal record check; and consistent with federal, state and local law, make the 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.”*

Background checks are provided to the agency by the Bureau of Criminal Investigation, as directed in North Dakota Century Code 12-60-24. Human Resource staff are tasked with obtaining information about prior institutional employers and contacting them for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse. File reviews indicated criminal record checks are completed for all new employees.

DWCRC utilizes a standardized form to solicit information about substantiated adjudications or criminal referrals for sexual abuse or sexual harassment reports from prior institutional employers. This auditor reviewed two examples of completed solicitations that occurred during the audit period.

(d) DWCRC Policy & Procedures 3C-4 states on page 11, *“DWCRC will conduct criminal record checks before enlisting the service of any contractor or volunteer who may have contact with adults in custody.”* File reviews for 15 contractors and nine volunteers indicated criminal record checks are completed for all contractors and volunteers.

(e) DWCRC Policy & Procedures 3C-4 states on page 11, *“Criminal record checks will be conducted by NCIC trained staff at least every five years on all current employees, volunteers, and contractors who may have contact with residents.”* Interviews with Human Resource staff and the agency PREA Coordinator indicated these checks take place as required.

(f) DWCRC contractor applicants are required to fill out the same forms as employees. The form requires applicants to answer questions related to the misconduct in paragraph (a) of this section.

Employees of DWCRC do not conduct self-evaluations. Employee performance reviews are conducted annually, based on the job-related requirements and performance for the previous year. Performance reviews are completed by the employee’s supervisor and approved by the supervisor’s manager.

(g) DWCRC Policy & Procedures 3C-4 states on page 11, "Material omissions regarding such misconduct or the provision of materially false information shall be grounds for termination of employment." An interview with Human Resource staff indicated disciplinary action, including termination, is taken when material omissions are discovered.

(h) DWCRC Policy & Procedures 3C-4 states on page 11, "Unless prohibited by law, DWCRC shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer with whom the employee has applied to work." When a facility requests information pertaining to a former DWCRC employee, human resource staff will contact the agency PREA Coordinator to determine if there are allegations associated with the former employee. The agency PREA Coordinator did not receive any requests for such information during the audit period.

Conclusion:

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

## Standard 115.18: Upgrades to facilities and technologies

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

#### 115.18 (a)

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

#### 115.18 (b)

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

### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- Interview with agency head/designee
- Interview with agency PREA Coordinator
- Interview with the warden
- Interview with the PREA Compliance Manager
- Observation of facility operations while onsite

(a) DWCRC Policy & Procedures 3C-4 states on page 11, *“DWCRC will consider the effect of the design, acquisition, expansion, or modification in reference to the agency’s ability to protect adults in custody from sexual abuse during any planned expansions, modifications, or video equipment updates to the facility.”* Interviews with the agency head/designee, agency PREA Coordinator, warden, and facility PREA Compliance Manager confirmed the agency has not designed or acquired any new facilities, nor planned a substantial expansion or modification of DWCRC. During the site review, the audit team did not observe any areas that appeared to be under construction for a substantial expansion or modification.

(b) DWCRC Policy & Procedures 3C-4 states on page 11 and 12, *“Prior to installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the Deputy Warden or designee will conduct an assessment to determine technology capabilities to further protect adults in custody from sexual abuse. When conducting an assessment, the Deputy Warden or designee will give consideration to cost, functionality, findings of inadequacy from judicial or federal investigative agencies, blind spots throughout the facility, and the prevalence of sexual abuse.”*

Interviews with the warden and facility PREA Compliance Manager confirmed that the prevention of sexual abuse and sexual harassment was a factor in determining camera placement. Cameras can be moved or augmented upon request by the facility PCM/agency PREA Coordinator. There have not been any substantial upgrades or expansions to the facility. The last substantial upgrade occurred prior to the implementation of the PREA standards when security was increased to create the Special Management Unit.

Conclusion:

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

## RESPONSIVE PLANNING

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

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

#### 115.21 (a)

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

#### 115.21 (b)

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

#### 115.21 (c)

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

#### 115.21 (d)

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

- If a rape crisis center is not available to provide victim advocate services, does the agency make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member? (N/A if the agency *always* makes a victim advocate from a rape crisis center available to victims.)  Yes  No  NA
- Has the agency documented its efforts to secure services from rape crisis centers?  Yes  No

#### 115.21 (e)

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

#### 115.21 (f)

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

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- North Dakota Century Code 12.1-34-07
- MOU between DWCRC and Hettinger County Sheriff's Department
- MOU between DWCRC and Dickinson Domestic Violence & Rape Crisis Center
- DWCRC Policy & Procedures 3A-12
- DWCRC Policy & Procedures 3C-4
- Interview with the PREA Compliance Manager
- Interview with SAFE/SANE
- Interviews with medical staff
- Interviews with random staff and random residents

(a, f) DWCRC Policy & Procedures 3C-4 states on page 12, *"DWCRC is responsible for conducting administrative investigations into allegations of sexual abuse. Hettinger County Sheriff's Department conducts criminal investigations of sexual abuse for DWCRC."*

DWCRC and the Hettinger County Sheriff's Department (HCSD) entered into a written memorandum of understanding (MOU) on October 10, 2016, that states HCSD will request assistance from the North Dakota Bureau of Criminal Investigations (BCI) on all referrals from DWCRC regarding sexual abuse; coordinate the criminal investigations as determined between HCSD and BI; and, follow the protocols, including collection of evidence, as established by local law enforcement standards and the DWCRC policy on conducting investigations. Upon completion of an investigation, HCSD will forward the closed investigation file to DWCRC for retention. The MOU is good through October 10, 2021.

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

(c) DWCRC Policy & Procedures 3C-4 states on page 12, *"All victims of sexual abuse will be offered access to forensic medical examinations. Forensic medical examinations will be offered without financial cost to the victim. Forensic examinations will be conducted at St. Alexius Hospital (Dickinson). Forensic medical exams are conducted by a SAFE or SANE within 120 hours of the incident. When a SAFE or SANE is not available, the examination may be performed by other qualified medical practitioners. The DWCRC medical staff will document its efforts to provide a SAFE or SANE."*

North Dakota Century Code 12.1-34-07, *Medical screening and acute forensic medical examinations costs – Reimbursement by attorney general – Use of evidence*, states, *"An acute forensic medical examination is an examination performed on an alleged victim of criminal sexual conduct for the purpose of gathering evidence of an alleged crime and is performed within ninety-six hours after the alleged crime unless good cause is shown for the delay in performing the examination. When an acute forensic medical examination is performed, the costs incurred by a health care facility or health care professional for*

*performing the acute forensic medical examination or any preliminary medical screening examination may not be charged, either directly or through a third-party payer, to the alleged victim.”*

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

(d) DWCRC Policy & Procedures 3C-4 states on pages 12, *“The PREA Coordinator will attempt to make a victim advocate from a rape crisis center available to the victim in person or by other means. The PREA Coordinator will attempt to make a victim advocate from a rape crisis center available to the victim in person or by other means. (The Captain at the time of an assault will request assistance from the advocate as noted on page 31 of this policy) The PREA Coordinator will attempt to establish a Memorandum of Understanding with a rape crisis center. The PREA Coordinator will document MOU’s or efforts to obtain them. If or when a rape crisis center is not available to provide victim advocate services, the facility provides a qualified agency staff member or qualified community-based organization staff member.”*

DWCRC has a written and signed Memorandum of Understanding (MOU) with the Dickinson Domestic Violence & Rape Crisis Center (DVRCC) that was executed on October 24, 2016. The term of the MOU is for five years from the date of signature. Through the agreement, DVRCC provides sexual assault advocacy services to sexual assault victims who are incarcerated in DWCRC, to include access to a SANE, and a forensic medical exam.

If a victim requests to use a staff member as an advocate and/or community-based advocacy is not available, DWCRC utilizes Behavioral Health staff to provide counseling and support.

(e) DWCRC Policy & Procedures 3C-4 states on page 12 and 13, *“If requested by the victim, a victim advocate, qualified agency staff member, or qualified community-based organization staff member will accompany and support the victim through the forensic medical examination process and investigatory interviews and provides emotional support, crisis intervention, information, and referrals.”*

DVRCC provides access to advocates via phone, mail, and in-person when resources and staff availability permit.

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

(h) If a confidential, community-based advocate is not available, the facility utilizes a staff member from Behavior Health to provide counseling and support. All BH staff are appropriate to serve in this role and have received education concerning sexual assault and forensic examination issues in general.

Conclusion:

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

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

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

### 115.22 (a)

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

### 115.22 (b)

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

### 115.22 (c)

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

### 115.22 (d)

- Auditor is not required to audit this provision.

### 115.22 (e)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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



## Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- SWMCCC Webpage
- Interview with agency head/designee
- Interviews with investigative staff

*(a-c) DWCRC Policy & Procedures 3C-4 states on page 14, "DWCRC will ensure an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. The DWCRC will ensure criminal allegations of sexual abuse or sexual harassment are referred to Hettinger County Sheriff's Department unless the allegation does not involve potentially criminal behavior. The PREA Coordinator will document all referrals to the Hettinger County Sheriff's Department in the investigative report."*

The DWCRC PREA policy is available on the SWMCCC website at [PREA \(Prison Rape Elimination Act\) - Southwest Multi-County Correction Center \(govoffice3.com\)](#) It reiterates the agency's zero-tolerance policy and outlines the process for investigations and referrals.

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

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

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

Conclusion:

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

# TRAINING AND EDUCATION

## Standard 115.31: Employee training

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

### 115.31 (a)

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

### 115.31 (b)

- Is such training tailored to the gender of the inmates at the employee's facility?  Yes  No
- Have employees received additional training if reassigned from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa?  Yes  No

### 115.31 (c)

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

### 115.31 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- DWCRC Staff Training curriculum
- Staff training reports/acknowledgement forms
- Interviews with random staff

(a) DWCRC Policy & Procedures 3C-4 states on pages 13 and 14, "The DWCRC trains all employees during orientation and every two years thereafter, on the following matters: zero-tolerance policy for sexual abuse and sexual harassment; how to fulfill employee responsibilities under DOCR sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures; residents' right to be free from sexual abuse and sexual harassment; the right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment; the dynamics of sexual abuse and sexual harassment in confinement; the common reactions of sexual abuse and sexual harassment victims; how to detect and respond to signs of threatened and actual sexual abuse; how to avoid

*inappropriate relationships with adults in custody; how to communicate effectively and professionally with adults in custody, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents; and, how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.”*

A minimum of 120 training hours is provided to all new correctional officers. The plan is reviewed periodically and adjusted based on institutional needs. Training consists of a combination of web-based, classroom, Field Training Officer (FTO) training, and on-the-job training. Annual training is mandated for all staff. Staff supervisors may designate additional mandatory training for any staff member under their supervision.

This auditor reviewed all curriculum to ensure a comprehensive training program that provides detailed information on all ten required elements. A roster documenting attendance for all employees was provided for the 2020 calendar year.

(b) DWCRC is a women’s facility. DWCRC’s training is tailored to the gender of the residents at the facility. If a staff member transfers from a male facility, they receive all the training at DWCRC as if they were a new hire to the agency.

(c) DWCRC Policy & Procedures 3C-4 states on page 14, *“Employees are provided with information about current policies regarding sexual abuse and sexual harassment through: DWCRC PREA training, coordinated response posters, PREA materials posted throughout the facility and annual performance reviews.”*

(d) DWCRC Policy & Procedures 3C-4 states on page 15, *“The DWCRC documents that employees understand the training they have received through employee signature of electronic verification.”* Staff who attend classroom based PREA training must pass a written test with ten questions.

Interviews with random staff indicated they received and understood training.

Conclusion:

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

## Standard 115.32: Volunteer and contractor training

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

#### 115.32 (a)

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

#### 115.32 (b)

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

#### 115.32 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- *Refresher Training for SWMCCC Facility Volunteers, Contractors, and Service Providers*
- *PREA Handbook for Contractors, Volunteers, and Service Providers*
- Volunteer and Contractor training records
- Interview with warden
- Interviews with volunteers and contractors

(a-c) DWCRC Policy & Procedures 3C-4 states on pages 14-15, *“The PREA Coordinator will ensure all volunteers and contractors who have contact with adults in custody will be trained on their responsibilities regarding sexual abuse and sexual harassment with adults in custody. The type and level of training is based on the services they provide and the level of contact they have with adults in custody.*

*a) Unescorted or unsupervised contractors or volunteers will receive either online or classroom training on PREA.*

*b) Escorted or supervised contractors will review and acknowledge understanding of the agency’s zero tolerance policy regarding sexual abuse and sexual harassment and will be informed on how to report such incidents by signing the PREA Acknowledgement Form. [115.32 (b)-2].*

*Training is approved by the SWMCCC PREA Coordinator. The Community Resource Manager will track and retain this information. Volunteers will be trained on policy and procedures relative to PREA. This training will be repeated every two years. DWCRC shall maintain documentation confirming volunteers and contractors understand the training they have received.”*

*The third slide of Refresher Training for SWMCCC Facility Volunteers, Contractors, and Service Providers states, “Sexual abuse or sexual harassment in any form is not part of any Resident’s sentence, punishment, or justice. DWCRC and DADC have created ZERO TOLERANCE cultures within their facilities.” Slide five states, “Contractors, service providers, and volunteers are required to immediately report all allegations to the closest staff on duty, or Captain, and complete documentation as required before leaving the facility. Service providers, contractors and volunteers shall report immediately 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; retaliation against residents or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.”*

*A copy of PREA Handbook for Contractors, Volunteers, and Service Providers is provided to all contractors and volunteers. Page two states, “This handbook explains the Zero Tolerance Policy toward Sexual Abuse and Sexual Harassment. It provides definitions that are established by PREA (utilizing the definitions the U.S. Department of Justice Bureau of Justice Statistics), and explanations of prohibited conduct. Most importantly, this handbook explains your role in recognizing and preventing prohibited conduct, and your responsibility for reporting allegations or observations of conduct that violates our Zero-Tolerance Policy.”*

*Volunteers and contractors sign a PREA Acknowledgement form that states, “ I acknowledge I have read and understand the requirements of the Prison Rape Elimination Act (PREA) and acknowledge the SWMCCC’s zero-tolerance towards all forms of sexual abuse and harassment. I must immediately report any information or knowledge of sexual abuse or sexual harassment of a resident by another resident, staff member, contractor, service provider or volunteer, to a SWMCCC staff member in writing or verbally. By signing this agreement, I acknowledge I understand and will comply with this agreement. I understand a violation of this agreement may result in the termination of any contract and the imposition of civil penalties under state and federal law.”*

*In an interview with the warden, she stated she would immediately discontinue the services of any volunteer that she believed engaged in sexual abuse and/or sexual harassment. The facility PREA Compliance Manager indicated no contractors or volunteers had engaged in sexual abuse or sexual harassment. Interviews with volunteers and contractors indicated they are aware of the agency’s zero-tolerance policy and their reporting responsibilities.*

**Conclusion:**

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

## Standard 115.33: Inmate education

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

#### 115.33 (a)

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

#### 115.33 (b)

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

#### 115.33 (c)

- Have all inmates received the comprehensive education referenced in 115.33(b)?  
 Yes  No
- Do inmates receive education upon transfer to a different facility to the extent that the policies and procedures of the inmate's new facility differ from those of the previous facility?  
 Yes  No

#### 115.33 (d)

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

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

#### 115.33 (e)

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

#### 115.33 (f)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- SWMCCC *Sexual Abuse/Assault Prevention & Intervention* brochure
- Resident postings within the facility
- Resident file reviews
- Interview with intake staff
- Interviews with random residents

(a-b) DWCRC Policy & Procedures 3C-4 states on page 15, *"Within 30 days of intake, facility staff will provide comprehensive education to all adults in custody by showing the video, 'PREA: What You Need To Know' and providing a verbal comprehensive explanation of the video. The comprehensive education*



*will explain the following: DWCRC's zero tolerance policy regarding sexual abuse and sexual harassment; their right to be free from sexual abuse or sexual harassment; how to report incidents or suspicions of sexual abuse or sexual harassment; their right to be free from retaliation; the agency's policies and procedures for responding to such incidents. An adult in custody Orientation PREA Information handout is provided to each adult in custody during the booking process with information on definitions and reporting methods."*

Upon intake to DWCRC, residents receive a *SWMCCC Sexual Abuse/Assault Prevention & Intervention* brochure as well as watch a minimum of the first 3.14 minutes of *PREA: What You Need to Know*. Within 30 days from intake in orientation housing, residents are meet with by the agency PREA Coordinator and shown the entire *PREA: What You Need to Know* video. After watching the video, the agency PREA Coordinator reviews the zero tolerance policy for sexual abuse and sexual harassment, the right to be free from sexual abuse and/or sexual harassment and confirms understanding of how to report sexual abuse or sexual harassment and the availability of the PREA hotline. Other areas of concern, such as sexual harassment definitions and personal boundaries, are discussed and residents have an opportunity to ask any questions.

Residents transferring back to DWCRC due to disciplinary issues from a treatment facility or transition center are re-educated upon arrival by watching *PREA: What You Need to Know* in its entirety and receiving a *SWMCCC Sexual Abuse/Assault Prevention & Intervention* brochure.

After receiving the initial education, residents sign a PREA Acknowledgment form. After the onsite review, the facility PREA Compliance Manager updated the form with a space for documenting the receipt of the comprehensive education.

(c, e) This auditor reviewed the PREA acknowledgment forms for all residents interviewed. All residents interviewed indicated they had received the required information.

(d) DWCRC Policy & Procedures 3C-4 states on pages 15 and 16, "*Adult in custody PREA education is available in accessible formats for all adults in custody including those who are limited English proficient, deaf, hearing impaired, visually impaired, or otherwise disabled or limited in their reading skills. Deaf or hearing impaired – Training is available through print or closed captioning. Visually impaired – Training is available through audio. Otherwise disabled or limited reading skills – Training is provided through education and behavioral health staff.*"

The video has audio, for those that are visually impaired, and subtitles are available for those who are deaf. The training is also available in print format. The contract with Language Link and Voiance Language Services, LLC includes on-demand remote interpreting and document translation. All staff have access to the instructions for utilizing this service if a resident speaks a language other than English or Spanish.

(f) The *SWMCCC Sexual Abuse/Assault Prevention & Intervention* brochure is provided to each resident upon arrival to DWCRC. The brochure contains information about the Prison Rape Elimination Act, to include definitions, reporting options, the zero-tolerance policy and the right to be free from retaliation for reporting sexual abuse and sexual harassment. Key information is also continuously and readily available on posters throughout the facility.

Conclusion:

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

## Standard 115.34: Specialized training: Investigations

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

#### 115.34 (a)

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

#### 115.34 (b)

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

#### 115.34 (c)

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

#### 115.34 (d)

- Auditor is not required to audit this provision.

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- DOCR's *Investigating Sexual Misconduct: Training for Correctional Investigators*
- Investigative staff training records
- Interviews with investigative staff

(a-b) DWCRC Policy & Procedures 3C-4 states on page 16, "*Investigators who investigate allegations of sexual abuse are trained in conducting sexual abuse investigations in confinement settings. This includes: Department of Justice approved PREA investigator training; techniques for interviewing sexual abuse victims; proper use of Miranda and Garrity Warnings; sexual abuse evidence collection in confinement settings; criteria and evidence required to substantiate a case for administrative action or for prosecution referral.*" Facility and agency investigators conduct administrative investigations. Investigations involving potentially criminal behavior are referred to HCSD.

DWCRC has four PREA investigators. DWCRC's investigators attend training conducted by DOCR. This auditor reviewed the curriculum utilized for DOCR's *Investigating Sexual Misconduct: Training for Correctional Investigators*. The training includes instruction on interviewing sexual abuse victims, the proper use of Miranda and Garrity warnings, evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. Interviews with investigative staff indicated they were knowledgeable in each aspect of sexual abuse and sexual harassment investigations.

(c) DWCRC Policy & Procedures 3C-4 states on page 16, "*DWCRC maintains documentation agency investigators have completed the required specialized training in conducting sexual abuse investigations.*" DWCRC has four facility investigators. This auditor reviewed training certificates for all four staff to ensure the required training was received.

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

Conclusion:

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

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

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

#### 115.35 (a)

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to detect and assess signs of sexual abuse and sexual harassment? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)  Yes  No  NA
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to preserve physical evidence of sexual abuse? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)  Yes  No  NA
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to respond effectively and professionally to victims of sexual abuse and sexual harassment? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)  Yes  No  NA
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how and to whom to report allegations or suspicions of sexual abuse and sexual harassment? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)  Yes  No  NA

#### 115.35 (b)

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

#### 115.35 (c)

- Does the agency maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)  Yes  No  NA

## 115.35 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.31? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners employed by the agency.)  
 Yes    No    NA
  
- Do medical and mental health care practitioners contracted by or volunteering for the agency also receive training mandated for contractors and volunteers by §115.32? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners contracted by or volunteering for the agency.)  Yes    No    NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- PREA Specialized Training for Medical and Mental Health Staff
- Staff training records
- Interviews with medical and mental health staff

(a, d) DWCRC Policy & Procedures 3C-4 states on pages 16 and 17, "All DWCRC medical and behavioral health care practitioners are trained in their respective disciplines: DWCRC approved PREA training as well as specialized National Institute of Corrections training. PREA Behavioral Health Care for Sexual Assault Victims in a Confinement Setting (Behavioral Health staff) and PREA Medical Care for Sexual Assault Victims in a Confinement Setting (Medical staff); how to detect and assess signs of sexual abuse and sexual harassment; how to preserve physical evidence of sexual abuse; how to respond effectively and professionally to victims of sexual abuse and sexual harassment; and how and to whom to report allegations or suspicions of sexual abuse and sexual harassment."

This auditor reviewed the curriculum to ensure a comprehensive training program that provides detailed information on how to detect and assess signs of sexual abuse and sexual harassment, how to preserve physical evidence of sexual abuse, how to respond effectively and professionally to victims of sexual abuse and sexual harassment, and how and to whom to report allegations or suspicions of sexual abuse

and sexual harassment. Interviews with medical and mental health staff indicated they were knowledgeable of the required elements.

(b) DWCRC Policy & Procedures 3C-4 states on page 16, *“Forensic exams will be conducted at St. Alexis Hospital (Dickinson).”* As the agency does not employ medical staff to conduct forensic medical examinations, this subsection of the standard does not apply.

(c) DWCRC Policy & Procedures 3C-4 states on page 17, *“DWCRC maintains documentation indicating medical and behavioral health practitioners have received the training as mentioned in this standard.”*

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

This auditor reviewed the training certificates for six behavioral health services staff and seven medical staff. Interviews of medical and behavioral health staff indicated they have received the training and are knowledgeable of the required elements.

Conclusion:

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

# SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

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

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

#### 115.41 (a)

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

#### 115.41 (b)

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

#### 115.41 (c)

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

#### 115.41 (d)

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

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

#### 115.41 (e)

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

#### 115.41 (f)

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

#### 115.41 (g)

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



#### 115.41 (h)

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

#### 115.41 (i)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- *North Dakota PREA Score Sheet* form
- Interview with PREA coordinator
- Interviews with staff responsible for conducting risk screening
- Interviews with randomly selected residents
- Resident file reviews

(a-e) DWCRC Policy & Procedures 3C-4 states on page 18, "*The Prison Rape Elimination Act (PREA) Intake/Admission Screening must be completed within 24 hours of admission for risk of being sexually abused by other adults in custody or being sexually abusive toward other residents. Housing assignments are made accordingly.*"

Screening staff complete the electronic *North Dakota PREA Score Sheet* form, that contains all ten considerations to assess a resident's risk for sexual victimization as described in the standard. The second part of the PREA screening form assesses a resident's aggressive/predatory factors. This form is completed upon return from temporary leave and by the receiving facility upon transfer between facilities, with input from the resident.

(f) DWCRC Policy & Procedures 3C-4 states on page 18, *“Prison Rape Elimination Act (PREA) Assessment/Reassessment Screening form will be utilized by transitional planning staff or designee within 30 days of intake in the Orientation Unit and/or before the adult in custody transfers from the orientation unit, whichever comes first. This form will also be utilized to conduct reassessments annually by an assigned case manager or designee. A reassessment should also be completed when there is a triggering event such as a substantiated PREA related incident or the adult in custody self-discloses an act of sexual predation or victimization. If an adult in custody is identified as transgender or intersex, a reassessment shall be completed by the assigned counselor or designee every six (6) months. If a reassessment is warranted because of a referral, request, or receipt of additional information that bears on the adults in custody’s risk of sexual victimization or abusiveness, any staff member may refer an adult in custody for reassessment.”*

This auditor reviewed the 72-hour and 30-day screenings completed for every resident selected for a targeted or random interview. Each resident had 72-hour and 30-day screenings completed in a timely manner.

DWCRC staff conduct new risk assessments on all residents once a year when the resident is reviewed for classification. This ensures the agency/facility has the most up to date information when considering housing or custody level changes. This auditor believes DWCRC exceeds the requirements of this standard for their proactive approach with annual risk assessments.

(g) DWCRC Policy & Procedures 3C-4 states on pages 18 and 19, *“The risk level of an adult in custody must be reassessed when warranted because of a referral, request, incident of sexual abuse, or receipt of additional information that bears on their risk of sexual victimization or abusiveness. Any staff may refer an adult in custody for reassessment.”*

This auditor reviewed examples of new screening tool assessments made in conjunction with investigative reports to verify completion.

(h) DWCRC Policy & Procedures 3C-4 states on page 19, *“Adults in custody may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked during screening or assessment.”* Interviews with staff who conduct risk screening indicated that if a resident refused to answer questions, they would complete the screening with information otherwise available to them. There were no interviews of residents that indicated they had been disciplined for refusing to answer screening questions.

(i) DWCRC Policy & Procedures 3C-4 states on page 19, *“DOCR maintains information within ELITE and FileNet that limits access to DOCR staff and ensures information is not exploited to the resident’s detriment by staff or other adults in custody. Staff [are] required to follow the DOCR confidentiality agreement.”* Interviews with screening staff indicated they are aware that information obtained during the screening process is to remain confidential unless there is a legitimate need to know.

Conclusion:

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

## Standard 115.42: Use of screening information

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

#### 115.42 (a)

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

#### 115.42 (b)

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

#### 115.42 (c)

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

#### 115.42 (d)

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

#### 115.42 (e)

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

#### 115.42 (f)

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

#### 115.42 (g)

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: lesbian, gay, and bisexual inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.)  Yes  No  NA
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: transgender inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.)  Yes  No  NA
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.)  
 Yes  No  NA

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- DOCR Policy & Procedure 4B-7
- Interview with PREA coordinator
- Interview with staff responsible for risk screening
- Interview with residents who identify as lesbian, gay or bisexual
- Resident file reviews
- Observation of facility operations while onsite

(a) DOCR Policy & Procedures 3C-4 states on page 20, *"All adult in custody work, education, and program assignments will be adequately supervised. Prior to housing, bed, work, education, and program assignments, staff will review the Alphabetical List to keep separate, when necessary, adults in custody who have been identified as high-risk of being sexually victimized or adults in custody identified as high-risk of being sexually abusive to ensure sexual safety of identified groups."*

Each resident is assigned an appropriate designator-

**Known Victim (KV):** Residents who have already been victims of sexual assault inside an institution.

**Potential Victim (PV):** Residents designated by the assessment as having characteristics of a person with a higher than normal likelihood to be sexually assaulted inside an institution.

**Unrestricted (UN):** Residents who do not fit into the criteria in the assessment to be designated as a KV, PV, KA, or PA.

**Potential Aggressor (PA):** Residents designated by the assessment as having characteristics of a person with a higher than normal likelihood to be sexually aggressive towards other adults in custody inside an institution.

**Known Aggressor (KA):** Residents who have an established history of institutional sexual predatory behavior.

The risk composition of the facility is as follows –

Unrestricted	64.9%
Potential victim	31.1%

Known victim	1.2%
Potential aggressors	1.2%
Known aggressors	1.2%

Per policy, known aggressors and potential aggressors ordinarily will not be assigned to the same cell, room, or dormitory living area as a known victim or potential victim. Known aggressors and known victims ordinarily will not be placed in the same work and program assignment unless there is continual, direct staff observation.

DWCRC had 30 residents identified as potential victims, one known victim, one potential aggressor, and one known aggressor at the time of the onsite review.

(b) DWCRC Policy & Procedures 3C-4 states on page 19, *“The facility shall make individualized determinations about how to ensure the safety of each resident by utilizing alerts within ELITE.”*

The screening tool has a section at the bottom of the form for comments, for the staff person to document other factors related to aggressive/vulnerability that may be significant, but not otherwise addressed in the scored questions. Overrides can be requested to change a resident’s housing consideration from a lower or a higher level. Overrides are encouraged when a resident’s score does not seem to be an accurate reflection of their actual risk of sexual victimization or abusiveness. When an override is requested, detailed justification shall be provided, and it will then be submitted to the facility PREA compliance manager who will consult with the warden and both shall approve or disapprove.

(c) DWCRC Policy & Procedures 3C-4 states on page 19 and 20, *“In deciding whether to assign a transgender or intersex resident to a facility for male or female residents, and in making other housing and programming assignments, a multi-disciplinary team including staff represented from security, medical, unit management, behavioral health and administration shall consider on a case-by-case basis whether a placement would ensure the resident’s health and safety and whether the placement would present management or security problems.”*

DOCR could determine DWCRC is the best place to house a trans female resident.

DOCR Policy & Procedures 4B-7 states, *“The department shall provide evaluation, housing placement, and services for adults in custody who claim to be undergoing, or claim to have undergone treatment for Gender Dysphoria; adults in custody who appear to be, or claim to be, gender-non-conforming; and adults in custody having other clinical conditions in which the biological sex or gender assignment is unclear. The department shall offer appropriate gender-related behavioral health services and other medically care throughout the adult in custody’s incarceration.”*

DOCR utilizes a Gender identity Committee to make individualized facility placement decisions for transgender residents. Committee members include the DOCR Director of Administration, Medical Director, Medical Doctor, Psychiatric provider, Clinical Director, applicable facility warden, and the agency PREA Coordinator. The committee convenes on an as-needed basis, and reviews applicable policy and procedure at least annually. Individual management plans are developed by the committee and include the provision of reasonable and appropriate housing accommodations, access to toilet and shower facilities with relative privacy, and special property allowances, including feminine clothing such as sports bras, hygiene products and other items to meet individual needs. To develop the individual management plan, the committee considers the resident’s classification level, their characteristics (to include any tendency toward violence or predatory behavior and active separation from other residents relevant to placement), and their vulnerability to assault, harassment or threats as determined by vulnerability assessments and in accordance with the standards and requirements of PREA.

DWCRC did not have any transgender or intersex residents at the time of the onsite review.

(d-e) DWCRC Policy & Procedures 3C-4 states on page 20, *“Placement and programming assignments for each transgender or intersex resident shall be reassessed at least twice each year to review any threats to safety experienced by the resident. Case managers will complete this task and record results in the 30-day contact notes. A transgender or intersex resident’s own view with respect to his or her own safety shall be given serious consideration.”*

DWCRC did not have any transgender or intersex residents at the time of the onsite review.

(f) DWCRC Policy & Procedures 3C-4 states on page 20, *“Transgender and intersex residents must have the opportunity to shower separately from other residents. Adults in custody who identify themselves as transgender or intersex during the mental health screening will be advised they can request the opportunity to shower separately from other residents.”*

DWCRC did not have any transgender or intersex residents at the time of the onsite review.

(g) DWCRC Policy & Procedures 3C-4 states on page 20, *“DWCRC shall not place lesbian, gay, bisexual, transgender, or intersex adults in custody in dedicated facilities, units, or wings solely on the basis of such identification or status unless such 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 such adults in custody.”*

According to the agency PREA Coordinator, DWCRC is not subject to a consent decree, legal settlement, or legal judgment for protecting LGBTI residents, and does not place those residents in dedicated facilities, units, or wings solely based on such identification. No LGBTI residents indicated in their interviews that they had been housed in such a manner.

Conclusion:

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

## Standard 115.43: Protective Custody

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

#### 115.43 (a)

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

#### 115.43 (b)

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible?  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Privileges to the extent possible?  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Education to the extent possible?  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible?  Yes  No
- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the opportunities that have been limited? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.)  Yes  No  NA
- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the duration of the limitation? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.)  Yes  No  NA
- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the reasons for such limitations? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.)  Yes  No  NA

#### 115.43 (c)

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



### 115.43 (d)

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

### 115.43 (e)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- DWCRC Policy & Procedures 3A-18
- Resident housing records
- Interview with warden
- Interview with staff who supervise segregated housing
- Interviews with random residents

(a) DWCRC Policy & Procedures 3C-4 states on page 20, "*Adults in custody at high-risk for sexual victimization may not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made and a determination has been made there is no available alternative means of separation from likely abusers. If assessment can't be completed immediately, the adult in custody*

*may be held in involuntary segregated housing for less than 24 hours while assigned staff completes the assessment.”*

*(b) DWCRC Policy & Procedures 3C-4 states on pages 20 and 21, “Adults in custody placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document: the opportunities that have been limited; the duration of the limitation; and the reasons for any limitations.”*

*(c) DWCRC Policy & Procedures 3C-4 states on page 21, “Adults in custody will only be assigned to involuntary segregated housing until an alternative means of separation from likely abusers can be arranged. The assignment may not ordinarily exceed a period of 30 days. Every effort shall be made to keep the victim in the victim’s normal housing unit to prevent re-traumatization.”*

*(d) DWCRC Policy & Procedures 3C-4 states on page 21, “If an involuntary segregated housing assignment is made pursuant to substandard of this section, the case manager shall clearly document: The basis for the concern for the safety of the adult in custody; and the reason why no alternative means of separation can be arranged. Every seven days for the first two months and then 30 days thereafter, the Administrative Segregation review team shall afford each adult in custody a review to determine whether there is a continuing need for separation from the general population.”*

The facility’s review every seven days for the first two months, and then 30 days thereafter, exceeds this subsection of the standard. DWCRC has not used involuntary segregation as a means of separation or protection for residents at high risk for sexual victimization. No residents interviewed indicated they had been placed in involuntary segregation because they were at high risk for sexual victimization.

**Conclusion:**

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

# REPORTING

## Standard 115.51: Inmate reporting

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

### 115.51 (a)

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

### 115.51 (b)

- Does the agency also provide at least one way for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency?  Yes  No
- Is that private entity or office able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials?  Yes  No
- Does that private entity or office allow the inmate to remain anonymous upon request?  
 Yes  No
- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security? (N/A if the facility *never* houses inmates detained solely for civil immigration purposes)  
 Yes  No  NA

### 115.51 (c)

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

### 115.51 (d)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- Resident postings/paintings within the facility
- SWMCCC's *Employee Handbook*
- *Inmate Handbook*
- *Sexual Abuse/Assault Prevention and Intervention* brochure
- Interview with PREA Compliance Manager
- Interviews with random staff
- Interviews with random contractors and volunteers
- Interviews with random residents

(a) DWCRC Policy & Procedures 3C-4 states on page 21, "*The DOCR allows for internal reporting by adults in custody to report privately to agency officials about sexual abuse, sexual harassment, staff neglect of responsibilities contributing to sexual abuse or sexual harassment, and retaliation by other residents or staff for reporting sexual abuse or sexual harassment. Adults in custody can report in the following ways: verbal reporting to any staff member; third-party reporting; adult in custody request forms; adult in custody grievance forms; email notifications to DWCRC Supervisory level staff through JPAY; and, use of the internal hotline (toll-free, recorded).*"

Residents of DWCRC have the option to privately report through JPAY, a private company that provides technologies and services, including money transfer, email, and video visitation services to the United States prison system. All residents have received a notification indicating, "*It is the policy of NDDOCR to affect procedures to provide a safe and secure institution, mandating a zero tolerance policy towards all forms of sexual abuse and sexual harassment and to prevent sexually assaultive behavior between inmates and between inmates and staff. If you or someone you know has been a victim of sexual abuse/assault, you can now report it through the JPAY kiosk following the directions [included in the email].*"

Internal and external reporting options are readily available to residents on the permanent PREA signs (in English and Spanish) posted throughout the facility, in the *SWMCCC Sexual Abuse/Assault Prevention & Intervention* brochure, and in the *Inmate Handbook*.

(b) DWCRC Policy & Procedures 3C-4 states on page 22, adults in custody can report sexual abuse or sexual harassment to the HCSD. The *Inmate Handbook* states on page five, “*Subsection (b) of Section 115.51 of 28 C.F.R. Part 115 requires DWCRC to provide a means for inmates to report sexual abuse or harassment to another entity that is not a part of DWCRC and is able to receive and immediately forward reports of sexual abuse and harassment to DWCRC officials and provide anonymity to the inmate if requested by the inmate. DWCRC has entered into a Memorandum of Understanding with the Hettinger County Sheriff Department to receive these reports. All reports will be reviewed by the Hettinger County Sheriff Department and forwarded to DWCRC for appropriate action.*”

Hettinger County Sheriff Department  
P.O. Box 157  
Mott, ND 58646”

DWCRC has entered into a written memorandum of understanding with the Hettinger County Sheriff's Department as an external reporting mechanism. HCSD agrees to advise DWCRC immediately if they are made aware, through correspondence with a resident or any other means, of any sexual abuse that is occurring in the facility.

Internal and external reporting options are readily available to residents on the permanent PREA signs (in English and Spanish) posted throughout the facility. Interviews with random residents indicated they are aware of available reporting mechanisms.

DWCRC does not house residents detained solely for civil immigration purposes.

(c) When staff receive a verbal report from a resident, they are required to pass the information to their direct supervisor immediately. Verbal reports are documented by staff using a staff report or staff witness statement. This documentation is required prior to the end of their shift.

DWCRC has posted a PREA information sheet at the entrance and in visiting areas of the facility with information about PREA, its purpose, the facility mission statement and how to make a third-party report of sexual abuse or sexual harassment.

SWMCCC's *Employee Handbook* states on page 39, “*SWMCCC shall require all staff members to report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in the facility, whether or not it is part of the agency; retaliation against inmate or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Methods of reporting are in person, email, or by telephone. Reports may be privately submitted in writing to the Operations Administrator/Warden, PREA Coordinator or PREA Manager. The reported information must remain confidential and only discuss it with the appropriate officials.*” The handbook was last revised on December 14, 2020.

Staff are trained on the expectation to immediately report during PREA-related trainings, as verified by curriculum review and through interviews with random staff. All staff are provided with a copy of the *Sexual Abuse/Assault Prevention and Intervention* brochure, which states, “*SWMCCC shall require all staff, to report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in the facility. Staff shall immediately report any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation. Staff shall immediately notify the Captain of any verbal report of sexual abuse or sexual harassment and documentation of the reports will be completed and turned in to the Captain by the end of shift. The reported information must remain confidential and only discuss it with the appropriate officials.*”

All staff interviewed were knowledgeable of this expectation.

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

Conclusion:

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

## Standard 115.52: Exhaustion of administrative remedies

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

### 115.52 (a)

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

### 115.52 (b)

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

### 115.52 (c)

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

#### 115.52 (d)

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

#### 115.52 (e)

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

#### 115.52 (f)

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

- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)  
 Yes  No  NA
- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA

### 115.52 (g)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- Interview with the agency PREA Coordinator

DWCRC Policy & Procedures 3C-4, states on page 22, *"Although DWCRC allows allegations to be submitted on a grievance form, DWCRC does not have administrative procedures to address adult in custody grievances regarding sexual abuse. If an allegation of sexual abuse is submitted on a grievance form, it must be removed from the grievance process and treated as though it were submitted through any other method."*



DWCRC is exempt from this standard, as it does not have administrative procedures to address resident grievances regarding sexual abuse.

Conclusion:

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

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

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

### 115.53 (a)

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations?  Yes  No
- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies? (N/A if the facility *never* has persons detained solely for civil immigration purposes.)  Yes  No  NA
- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible?  Yes  No

### 115.53 (b)

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

### 115.53 (c)

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

## Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Memorandum of Understanding with Domestic Violence Rape Crisis Center
- *Inmate Handbook*
- *Sexual Abuse/Assault Prevention and Intervention* brochure
- Interview with PREA Compliance Manager
- Interviews with random residents

(a-b) DWCRC Policy & Procedures 3C-4 states on pages 22 and 23, *“Adults in custody are provided with access to outside victim advocates for emotional support services related to sexual abuse through mailing addresses and telephone numbers, including toll-free hotline numbers to the organizations listed below. In the event of sexual abuse, a trained behavioral health staff member will be available to provide support services. The facility shall enable reasonable communication between adults in custody and these organizations and agencies in as confidential a manner as possible.”*

The policy provides the toll free, non-recorded telephone number for the Domestic Violence Rape Crisis Center (DVRCC). DWCRC has postings near resident telephones with information about contacting DVRCC. The postings read, *“This number is direct access to a free and confidential hotline for you to call to report any sexual abuse, sexual harassment or domestic violence. This number is available to you in accordance with PREA standards and gives you access to the Domestic Violence Rape & Crisis Center (DVRCC) located in Dickinson. These calls are not recorded so they cannot be monitored by staff. When making the call you can select 1 for English, 1 for collect call, enter your PIN #, you can either enter the phone number [redacted] or [redacted]. DVRCC will not report back the allegations made on the hotline unless requested to do so by the caller. Calls to this hotline are free of charge. If call does not go through one first attempt, please try again to connect the call. DWCRC has a zero-tolerance policy for any instances of sexual abuse, assault, or harassment.”*

DWCRC Policy & Procedures 3C-4 states on page 23, *“Staff shall inform adults in custody, prior to giving them access to outside victim advocates, 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.”*

(c) DOCR Policy & Procedures 3C-4 states on page 23, *“DWCRC maintains or attempts to enter into memorandum of understanding or other agreements with community service providers able to provide*

*adults in custody with confidential emotional support services related to sexual abuse. DWCRC shall maintain copies of these agreements or documentation showing attempts to enter into such agreements.”*

DWCRC has a written and signed Memorandum of Understanding (MOU) with the Dickinson Domestic Violence & Rape Crisis Center (DVRCC) that was executed on October 24, 2016. The term of the MOU is for five years from the date of signature. Through the agreement, DVRCC provides sexual assault advocacy services to sexual assault victims who are incarcerated in DWCRC, to include access to a SANE, and a forensic medical exam.

Upon being interviewed, about half of the residents were aware of advocacy services after being prompted by the audit team about the posting near the telephones. Only one resident indicated they had used advocacy services while incarcerated.

Conclusion:

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

## Standard 115.54: Third-party reporting

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

#### 115.54 (a)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- SWMCCC website

(a) DWCRC Policy & Procedures 3C-4 states on page 23, "DWCRC distributes, on its website information on how to report adult in custody sexual abuse or sexual harassment on behalf of adults in custody." The SWMCCC website lists the contact information for the warden and the agency PREA Coordinator at [PREA \(Prison Rape Elimination Act\) - Southwest Multi-County Correction Center \(govoffice3.com\)](http://PREA (Prison Rape Elimination Act) - Southwest Multi-County Correction Center (govoffice3.com)).

DWCRC has posted a PREA information sheet at the entrance and in visiting areas of the facility with information about PREA, its purpose, the facility mission statement and how to make a third-party report of sexual abuse or sexual harassment to the warden, agency PREA Coordinator or the Hettinger County Sheriff.

Conclusion:

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

# OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

## Standard 115.61: Staff and agency reporting duties

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

### 115.61 (a)

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

### 115.61 (b)

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

### 115.61 (c)

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

### 115.61 (d)

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

### 115.61 (e)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- SWMCCC *Employee Handbook*
- *Sexual Abuse/Assault Prevention and Intervention* brochure
- Interview with warden
- Interview with PREA coordinator
- Interviews with random staff
- Interviews with medical and mental health staff

(a) DWCRC Policy & Procedures 3C-4 states on pages 23 and 24, *"All DWCRC staff are required to report immediately 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 DWCRC. Staff shall accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties. Staff shall immediately notify the security Captain of any verbal report of sexual abuse or sexual harassment against adults in custody or staff. Documentation of adult in custody verbal reports will be completed and turned in to the security Captain by the end of shift. All DWCRC employees shall immediately report any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation. DWCRC employees may privately report sexual abuse and sexual harassment of adults in custody to their supervisor or any other facility supervisor."*

SWMCCC's *Employee Handbook* states on page 39, *"SWMCCC shall require all staff members to report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in the facility, whether or not it is part of the agency; retaliation against inmate or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Methods of reporting are in person, email, or by telephone. Reports may be privately submitted in writing to the Operations Administrator/Warden, PREA Coordinator or PREA Manager. The reported information must remain confidential and only discuss it with the appropriate officials."* The handbook was last revised on December 14, 2020.

Staff are trained on the expectation to immediately report during PREA-related trainings, as verified by curriculum review and through interviews with random staff. All staff are provided with a copy of the

*Sexual Abuse/Assault Prevention and Intervention* brochure, which states, “SWMCCC shall require all staff, to report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in the facility. Staff shall immediately report any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation. Staff shall immediately notify the Captain of any verbal report of sexual abuse or sexual harassment and documentation of the reports will be completed and turned in to the Captain by the end of shift. **The reported information must remain confidential and only discuss it with the appropriate officials.**”

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

(b) DWCRC Policy & Procedures 3C-4 states on page 24, “*Apart from reporting to designated supervisors or officials, staff may 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 and management decisions.*”

This directive is in the *Sexual Abuse/Assault Prevention and Intervention* brochure, as well. Interviews with random staff indicated they are aware of their responsibility to keep information related to sexual abuse confidential, as required by agency policy, staff training, and the standard.

(c) DWCRC Policy & Procedures 3C-4 states on page 24, “*Unless otherwise precluded by federal, state, or local law, medical and behavioral health practitioners shall report sexual abuse and inform adults in custody of the practitioner’s duty to report, and the limitations of confidentiality, at the initiation of services.*”

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

(d) DOCR Policy & Procedures 3C-4 states on page 24, “*If the alleged victim is considered a vulnerable adult under a state or local vulnerable persons’ statute, behavioral health or medical staff shall report the allegation to the Department of Human Services under applicable mandatory reporting laws.*”

(e) DOCR Policy & Procedures 3C-4 states on page 24, “*The PREA compliance manager or PREA coordinator shall assign an investigator for all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports.*” Investigations are assigned to one of four facility investigators or, in the case of an allegation of sexual abuse, referred to the Hettinger County Sheriff’s Department.

Conclusion:

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

## Standard 115.62: Agency protection duties

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

#### 115.62 (a)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- Interview with facility PREA Compliance Manager
- Interviews with random staff

(a) DWCRC Policy & Procedures 3C-4 states on page 24, *"When facility staff learn an adult in custody is subject to a substantial risk of imminent sexual abuse, staff shall take immediate action to protect the adult in custody."*

Interviews with random staff indicated they are aware of their responsibility to take immediate action if they learn a resident is subject to substantial risk of imminent sexual abuse. The facility PREA Compliance manager indicated the facility had one incident where it was determined that a resident was subject to substantial risk of imminent sexual abuse. The resident was escorted to the Administration Building from minimum security housing to take next steps.

Conclusion:

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



## Standard 115.63: Reporting to other confinement facilities

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

#### 115.63 (a)

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

#### 115.63 (b)

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

#### 115.63 (c)

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

#### 115.63 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- Interview with warden
- Interviews with investigative staff

(a-d) DWCRC Policy & Procedures 3C-4 states on page 24, "Upon receiving an allegation an adult in custody was sexually abused while confined at another facility, the warden shall notify the head of the

*facility or appropriate office of the agency where the alleged abuse occurred. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. DWCRC shall document it has provided such notification using the Risk Management Incident Report form 50508. The facility head or agency head who receives such notification shall ensure the allegation is investigated in accordance with this policy.”*

DWCRC has developed a standardized letter to be sent from the facility head where the allegation was received to the facility head where the allegation was reported to have occurred. The letter reflects the language in the standard, and includes the reporting resident’s name, date of incident and incident details.

An interview with the warden and investigative staff confirmed they are aware of these requirements. During the audit period, DWCRC received one report of sexual abuse that was alleged to have occurred at a prior confinement facility. This auditor reviewed documentation of the notification.

Conclusion:

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

## **Standard 115.64: Staff first responder duties**

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

### **115.64 (a)**

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

## 115.64 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- DWCRC PREA Training Curriculum
- *Sexual Abuse/Assault Prevention and Intervention* brochure
- Interviews with random staff

(a-b) DWCRC Policy & Procedures 3C-4 states on pages 25, "First responder: The first staff member responding to an allegation of sexual abuse must separate the alleged victim from the alleged abuser. Notify the Captain of the alleged incident. Preserve and protect any crime scene until appropriate steps can be taken to collect evidence. If the alleged abuse occurred within the past 120 hours, request that the alleged victim not take any action that could destroy physical evidence including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, eating, or drinking. If the alleged abuse occurred within the past 120 hours staff will 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, eating or drinking."

The *Sexual Abuse/Assault Prevention and Intervention* brochure provided to all employees states, "If assault is caught in progress, activate ICS for possible assault and separate the alleged victim and alleged abuser. If the first responder is not a security staff member, the responder shall be required to re-quest that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff. Notify the Captain of the alleged incident if the assault was not caught in progress and ICS was not activated. Preserve and protect any crime scene until appropriate steps can be taken to collect evidence. The area will remain secured as a crime scene until released by the PREA Coordinator or investigator. If the abuse occurred within 120 hours request that the alleged victim and alleged abuser do not take any action that could destroy physical evidence."

*SWMCCC Sexual Abuse/Assault Prevention & Intervention brochure for residents provides information about the first response – Once the allegation is reported, SWMCCC/DWCRC, or other appropriate law enforcement agency will conduct an investigation. The purpose of the investigation is to determine the nature and extent of the misconduct. You may be asked to give a statement during the investigation. If criminal charges are brought, you may be asked to testify during criminal proceedings. Any resident who alleges that he/she has been sexually assaulted shall be offered immediate protection and will be referred for a medical examination. Any allegation that is found to be falsely reported may be subject to disciplinary action.*

Staff PREA training curriculum contains the same directive and indicates that after the security shift supervisor has been contacted, they will start the remainder of the coordinated response plan. Interviews with random staff indicated they understood the distinction between first responder duties with a victim and with an alleged perpetrator and clear on the protocol for obtaining usable physical evidence.

Conclusion:

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

## Standard 115.65: Coordinated response

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

#### 115.65 (a)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4

(a) DWCRC Policy & Procedures 3C-4 outlines the actions taken by facility staff in response to an incident of sexual assault on pages 25-32. The response includes when the initial disclosure is within 120 hours of a sexual assault incident, investigative actions, the forensic examination, after action and follow-up care, court referral/presentation and the after-action review. The policy was most recently revised on February 18, 2021.

The agency has a flow chart as a separate document that outlines the actions taken by first responders, supervisors, medical staff, mental health staff, investigators, facility PCM and agency PREA Coordinator.

Conclusion:

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

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

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

### 115.66 (a)

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

### 115.66 (b)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Policy & Procedure 3C-4
- Interview with agency head/designee
- Interview with warden

(a) DWCRC Policy & Procedures 3C-4 states on page 32, "Standard § 115.66 does not apply to North Dakota since there are no collective bargaining agreements. North Dakota is a right to work state." Interviews with the agency head and facility warden confirmed they do not engage in any form of collective bargaining.

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

Conclusion:

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

## Standard 115.67: Agency protection against retaliation

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

#### 115.67 (a)

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

#### 115.67 (b)

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

#### 115.67 (c)

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

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

#### 115.67 (d)

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

#### 115.67 (e)

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

#### 115.67 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- SWMCCC *Sexual Abuse/Assault Prevention & Intervention* brochure
- *Inmate Handbook*
- Interview with PREA Compliance Manager



- Review of investigative files

(a-e) DWCRC Policy & Procedures 3C-4 states on pages 32-33, *“The SWMCCC/DWCRC PREA Coordinator protects all adults in custody and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other adults in custody or staff. The PREA Coordinator in conjunction with the warden shall ensure multiple protection measures are available, including housing changes or transfers for adult in custody victims or abusers, removal of alleged staff or adult in custody abusers from contact with victims, and emotional support services for adults in custody or staff that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. Items the facility should monitor for adults in custody include disciplinary reports, housing or program changes, or negative performance reviews or reassignments of staff. DWCRC shall continue monitoring beyond 90 days if the initial monitoring indicates a continuing need. For at least 90 days following a report of sexual abuse or sexual harassment, the Unit Manager shall monitor the conduct and treatment of adults in custody who reported the sexual abuse or sexual harassment of adults in custody who were reported to have suffered sexual abuse or sexual harassment to determine if there are changes that may suggest possible retaliation by adults in custody or staff, and shall act promptly to remedy any such retaliation. In the case of staff, the Warden will assign a supervisory level staff member to monitor for retaliation against staff that reported or provided information regarding adult in custody sexual abuse. In the case of adults in custody, monitoring shall also include monthly status checks documented in case notes in ELITE. If any other individual who cooperates with an investigation expresses a fear of retaliation, the warden shall take appropriate measures to protect that individual against retaliation. DWCRC’s obligation to monitor terminates if DWCRC determines that the allegation is unfounded.”*

The *Inmate Handbook* states on page six, *“If you allege sexual harassment or sexual abuse you will be free from retaliation by inmates, employees, contractors or volunteers.”*

The SWMCCC *Sexual Abuse/Assault Prevention & Intervention* brochure states on page six, *“SWMCCC/DWCRC shall monitor the conduct and treatment of residents who reported the sexual abuse or residents who may have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff, and shall act promptly to remedy any such retaliation.”*

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

One interview with a retaliation monitor indicated monitoring began at the conclusion of the investigation and not at the time the allegation was reported. As part of corrective action, the agency PREA Coordinator made a policy change. The new policy language directs, *“DWCRC shall start monitoring upon report of allegation and continue monitoring beyond 90 days if the initial monitoring indicates a continuing need.”*

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

Conclusion:

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

## Standard 115.68: Post-allegation protective custody

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

#### 115.68 (a)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- Interview with PREA Compliance Manager

(a) DOCR Policy & Procedures 3C-4 states on page 31, "Any use of segregated housing to protect an adult in custody who is alleged to have suffered sexual abuse shall be subject to the requirements of standard § 115.43 Protective Custody."

The facility PREA Compliance Manager reported that DWCRC did not use segregated housing to protect a resident who was alleged to have suffered sexual abuse during the audit period.

Conclusion:

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

# INVESTIGATIONS

## Standard 115.71: Criminal and administrative agency investigations

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

### 115.71 (a)

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

### 115.71 (b)

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

### 115.71 (c)

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

### 115.71 (d)

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

### 115.71 (e)

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

#### 115.71 (f)

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

#### 115.71 (g)

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

#### 115.71 (h)

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

#### 115.71 (i)

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

#### 115.71 (j)

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

#### 115.71 (k)

- Auditor is not required to audit this provision.

#### 115.71 (l)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- Interview with PREA Compliance Manager
- Interviews with investigative staff
- Review of administrative and criminal investigations

(a) DWCRC Policy & Procedures 3C-4 states on pages 33 and 34, “When DWCRC conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall initiate a thorough and objective investigation for all allegations promptly, including third-party and anonymous reports.”

There were three allegations of sexual abuse and seven allegations of sexual harassment for the 2020 calendar year:

<b>Allegation Type</b>	<b>Total Number of Allegations</b>	<b>Substantiated</b>	<b>Unsubstantiated</b>	<b>Unfounded</b>	<b>Ongoing Investigation</b>
Resident-on-Resident Sexual Abuse	3	1	0	2	0
Staff-on-Resident Sexual Abuse	0	0	0	0	0
Resident-on-Resident Sexual Harassment	7	2	4	2	0
Staff-on-Resident Sexual Harassment	0	0	0	0	0
<b>Totals</b>	10	3	4	4	0

DWCRC had not received any allegations for 2021 at the time of the onsite review.

(b) DWCRC Policy & Procedures 3C-4 states on page 34, *“Where sexual abuse is alleged, DWCRC shall utilize investigators who have received Department of Justice approved sexual abuse investigation training.”*

DWCRC facility investigators receive training through DOCR. This auditor reviewed the curriculum utilized for DOCR’s *Investigating Sexual Misconduct: Training for Correctional Investigators*. The training includes instruction on interviewing sexual abuse victims, the proper use of Miranda and Garrity warnings, evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. Interviews with investigative staff indicated they were knowledgeable in each aspect of sexual abuse and sexual harassment investigations.

DWCRC has four facility investigators. This auditor reviewed training certificates for all four staff to ensure the required training was received.

(c) DWCRC Policy & Procedures 3C-4 states on page 34, *“Investigators shall gather and preserve direct and circumstantial evidence, including available physical and DNA evidence and available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.”*

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

(d) DWCRC Policy & Procedures 3C-4 states on page 34, *“When the quality of evidence appears to support criminal prosecution, the DWCRC investigator will stop the administrative investigation while the criminal investigation is being conducted, unless otherwise directed by the warden. The agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.”*

An interview with investigative staff indicated they do not conduct compelled interviews. The Hettinger County Sheriff’s Department, based on their investigative procedures, may conduct such interviews.

(e) DWCRC Policy & Procedures 3C-4 states on page 34, *“The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person’s status as adult in custody or staff. DWCRC may not require an adult in custody who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.”*

An interview with investigative staff indicated they are conducting credibility assessments properly, and do not require incarcerated survivors to submit to a polygraph or other truth-telling device as a condition for investigation.

(f-g) DWCRC Policy & Procedures 3C-4 states on page 34, *“Administrative investigations: must include an effort to determine whether staff actions or failures to act contributed to the abuse; and, must be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. Criminal investigations must be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.”*

(h) DWCRC Policy & Procedures 3C-4 states on page 34, *“Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.”*

(i) DWCRC Policy & Procedures 3C-4 states on pages 34 and 35, *“DWCRC shall retain all administrative and criminal written reports referenced for as long as the alleged abuser is incarcerated or employed by the agency, plus five years or in accordance with state statute.”*

(j) DWCRC Policy & Procedures 3C-4 states on page 35, *“Investigations are completed regardless of employee status or resident custody status.”*

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

(l) DWCRC Policy & Procedures 3C-4 states on page 35, *“When the Hettinger County Sheriff’s Department investigates sexual abuse, DWCRC investigators shall cooperate with outside investigators and shall remain informed about the progress of the investigation.”*

Conclusion:

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

## Standard 115.72: Evidentiary standard for administrative investigations

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

### 115.72 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy 031800
- Interview with the warden
- Interview with investigative staff
- Review of administrative and criminal investigations

(a) DWCRC Policy & Procedures 3C-4 states on page 35, "DWCRC may not impose a standard higher than a preponderance (More than 50 percent) of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated."

Interviews with the warden and investigative staff indicated they are aware of this standard in determining if allegations of sexual abuse or sexual harassment are substantiated, unsubstantiated, or unfounded. A review of all facility investigations indicated determinations are appropriately made. During the audit period, one report of sexual abuse was referred for outside criminal investigation. The findings of the criminal investigation did not lead to criminal charges. By a preponderance of evidence, the institutional investigation findings were substantiated. The victim was no longer housed at DWCRC at the completion of the criminal investigation.

Conclusion:

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



## Standard 115.73: Reporting to inmates

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

#### 115.73 (a)

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

#### 115.73 (b)

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

#### 115.73 (c)

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

#### 115.73 (d)

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

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

#### 115.73 (e)

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

#### 115.73 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- SWMCCC *Sexual Abuse/Assault Prevention & Intervention* brochure
- *Notice of PREA Investigation Status* form
- Review of administrative and criminal investigations
- Interview with PREA Compliance Manager
- Interview with investigative staff

*(a-b) DWCRC Policy & Procedures 3C-4 states on page 35, “Following an investigation, the PREA investigator or staff member designated by the PREA Coordinator will inform the adult in custody or adults in custody verbally whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. The investigator will deliver in person a statement of findings which will require the signature of the adult in custody or adults in custody. If the adult in custody refuses to sign the findings form, the investigator will document the refusal and have a staff member witness and sign the refusal. If the Hettinger County Sheriff’s Department conducts an investigation, DWCRC shall request the relevant information in order to inform the adult in custody of the outcome of the investigation and this information will be reported to the adult in custody by the PREA Coordinator.*

DWCRC uses a form, *Notice of Prison Rape Elimination Act (PREA) Investigation Status*, to make notifications to residents. The information on the form includes the victim's name and identification number, the name of the investigator, identification numbers assigned to the case and the outcome of each allegation. Interviews with the agency PREA Coordinator and investigative staff indicated they obtain the appropriate information from investigative agencies to inform residents.

DWCRC provides residents with an overview of the investigatory process in the SWMCCC *Sexual Abuse/Assault Prevention & Intervention* brochure - *Once the allegation is reported, SWMCCC/DWCRC, or other ap-proprate law enforcement agency will conduct an investigation. The purpose of the investigation is to determine the nature and extent of the misconduct. You may be asked to give a statement during the investigation. If criminal charges are brought, you may be asked to testify during criminal proceedings. Any resident who alleges that he/she has been sexually assaulted shall be offered immediate protection and will be referred for a medical examination. Any allegation that is found to be falsely reported may be subject to disciplinary action.*

(c) DWCRC Policy & Procedures 3C-4 states on pages 35 and 36, *"If there has been a substantiated or unsubstantiated complaint of sexual abuse committed by a staff member against an adult in custody, the PREA Coordinator will inform the adult in custody whenever: The staff member is no longer posted within the unit in which the adult in custody resides; the staff member is no longer employed at the facility; DWCRC learns that the staff member has been charged or convicted on an offense related to sexual abuse within the facility."*

The *Notice of Prison Rape Elimination Act (PREA) Investigation Status* form includes checkboxes to indicate if the alleged staff member is no longer posted in the offender's living unit; is no longer employed at the facility; has been included as a suspect in the case, which was presented for prosecution to local authorities; and, not applicable.

During the audit period, one report of sexual abuse was referred for outside criminal investigation. The findings of the criminal investigation did not lead to criminal charges. By a preponderance of evidence, the institutional investigation findings were substantiated. The victim was no longer housed at DWCRC at the completion of the criminal investigation.

(d) DWCRC Policy & Procedures 3C-4 states on page 36, *"Following an allegation by an adult in custody that she has been sexually abused by another adult in custody in a DWCRC facility, the PREA Coordinator will inform the alleged victim whenever: DWCRC learns that the alleged abuser has been indicted or convicted on a charge related to sexual abuse within the facility."*

The *Notice of Prison Rape Elimination Act (PREA) Investigation Status* form includes checkboxes to indicate if the alleged offender has been included as a suspect in the case which was presented for prosecution to local authorities; has been charged with a disciplinary violation institutionally; and, not applicable. This auditor verified documentation of such notifications to residents.

(e) DWCRC Policy & Procedures 3C-4 states on page 36, *"All notifications or attempted notifications of the final determination of the allegation are documented and stored in FileNet. DWCRC's obligation to report under this standard terminates if the adult in custody is released from DWCRC's custody."*

The *Notice of Prison Rape Elimination Act (PREA) Investigation Status* form has a space for comments, and notes, *"This letter is regarding the above-referenced case only. This case may be reopened in the future should additional evidence become available. Your cooperation in this investigation is appreciated."* There is a place for the victim's signature and date, and the staff signature, title and date.

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

Conclusion:

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

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

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

#### 115.76 (a)

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

#### 115.76 (b)

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

#### 115.76 (c)

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

#### 115.76 (d)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- DWCRC Investigative Reports

(a) DWCRC Policy & Procedures 3C-4 states on page 36, *“Any sexual contact or sexual harassment between staff and adult in custody, volunteer and adult in custody, or contract personnel and adult in custody, regardless of consent, is prohibited and subject to administrative disciplinary and criminal sanctions. Staff are subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Employees shall cooperate fully by providing all pertinent information during the investigation. Failure of an employee to answer any inquiry fully will be grounds for disciplinary action. Employees may not make any attempt to contact the adult in custody from the time the allegation is first made, until the completion of the investigation.”*

DWCRC did not have any substantiated or unsubstantiated allegations against staff during the audit period.

(b) DWCRC Policy & Procedures 3C-4 states on page 36, *“Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse with an adult in custody or ward of the state of North Dakota.”*

(c) DWCRC Policy & Procedures 3C-4 states on page 36, *“Disciplinary sanctions for violations of DWCRC policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) must be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.”*

(d) DWCRC Policy & Procedures 3C-4 states on page 37, *“All terminations for violations of DWCRC 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, unless the activity was clearly not criminal, and to any relevant licensing bodies.”*

Conclusion:

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

## Standard 115.77: Corrective action for contractors and volunteers

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

#### 115.77 (a)

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with inmates?  Yes  No
- Is any contractor or volunteer who engages in sexual abuse reported to: Law enforcement agencies (unless the activity was clearly not criminal)?  Yes  No
- Is any contractor or volunteer who engages in sexual abuse reported to: Relevant licensing bodies?  Yes  No

#### 115.77 (b)

- In the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, does the facility take appropriate remedial measures, and consider whether to prohibit further contact with inmates?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- Interview with the warden
- Interview with Agency PREA Coordinator
- Interviews with contractors and volunteers

(a) DWCRC Policy & Procedures 3C-4 states on page 37, "Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with adults in custody and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies."

The agency PREA Coordinator provided this auditor with a written memorandum indicating that DWCRRC did not have any contractors or volunteers who engaged in the sexual abuse of a resident during the audit period.

(b) DWCRRC Policy & Procedures 3C-4 states on page 37, *“The deputy warden shall take appropriate remedial measures, and shall consider whether to prohibit further contact with adults in custody, in the case of any other violation of DWCRRC sexual abuse or sexual harassment policies by a contractor or volunteer.”*

The agency PREA Coordinator provided this auditor with a written memorandum indicating that DWCRRC did not have any instances of remedial measures with contractors or volunteers during the audit period.

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

Conclusion:

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

## Standard 115.78: Disciplinary sanctions for inmates

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

### 115.78 (a)

- Following an administrative finding that an inmate engaged in inmate-on-inmate sexual abuse, or following a criminal finding of guilt for inmate-on-inmate sexual abuse, are inmates subject to disciplinary sanctions pursuant to a formal disciplinary process?  Yes  No

### 115.78 (b)

- Are sanctions commensurate with the nature and circumstances of the abuse committed, the inmate’s disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories?  Yes  No

### 115.78 (c)

- When determining what types of sanction, if any, should be imposed, does the disciplinary process consider whether an inmate’s mental disabilities or mental illness contributed to his or her behavior?  Yes  No

#### 115.78 (d)

- If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, does the facility consider whether to require the offending inmate to participate in such interventions as a condition of access to programming and other benefits?  Yes  No

#### 115.78 (e)

- Does the agency discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact?  Yes  No

#### 115.78 (f)

- For the purpose of disciplinary action does a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred NOT constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation?  Yes  No

#### 115.78 (g)

- If the agency prohibits all sexual activity between inmates, does the agency always refrain from considering non-coercive sexual activity between inmates to be sexual abuse? (N/A if the agency does not prohibit all sexual activity between inmates.)  Yes  No  NA

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- Memorandum from agency PREA Coordinator
- *Inmate Handbook*
- *Housing Unit Rules*
- SWMCCC *Sexual Abuse/Assault Prevention & Intervention* brochure



- Interview with warden
- Interviews with medical and mental health staff
- Resident misconduct reports

(a) DWCRC Policy & Procedures 3C-4 states on page 37, *“Adults in custody shall be subject to disciplinary sanctions pursuant to the DWCRC disciplinary process following an administrative or criminal finding of guilt that the adult in custody engaged in adult in custody-on-adult in custody sexual abuse.”*

Disciplinary procedures are carried out promptly and with respect for due process. Each resident is provided with an *Inmate Handbook*, which specifies acts prohibited within the institution and penalties that can be imposed for various degrees of violation. The handbook provides a written set of disciplinary procedures governing resident rule violations. “Sexual harassment” is considered a Level II Infraction within DWCRC, but may receive an enhancement to a Level III infraction in the event that *“the infraction has been committed in a way that displays a chronic failure to follow rules, creates a serious risk to the security or orderly running of the facility, or endangers any person or property.”* “Sexual abuse” is a Level III infraction.

(b) DWCRC Policy & Procedures 3C-4 states on page 37, *“Sanctions must be commensurate with the nature and circumstances of the abuse committed, the disciplinary history of the adult in custody, and the sanctions imposed for comparable offenses by other adults in custody with similar histories.”*

Hearings reports are reviewed and signed by the facility warden. The warden may approve the sanction, modify the sanction, dismiss the report, or order a new hearing.

(c) DWCRC Policy & Procedures 3C-4 states on page 37, *“The disciplinary process shall consider whether the mental disabilities or mental illness of an adult in custody contributed to her behavior when determining what type of sanction, if any, should be imposed.”*

If there are concerns about the resident’s mental health, the hearing officer will request information from the mental health provider. The mental health provider indicates if the resident is currently in treatment, the date of their last encounter with mental health and if the misconduct is due to the resident’s mental illness.

(d) DWCRC Policy & Procedures 3C-4 states on page 37, *“Behavior health staff shall consider, as a condition of access to programming or other benefits, whether to require the offending adult in custody to participate in therapy, counseling or other interventions designed to address and correct underlying reasons or motivations for the abuse.”*

(e) DWCRC Policy & Procedures 3C-4 states on page 37, *“DWCRC may discipline an adult in custody for sexual contact with staff only upon a finding the staff member did not consent to the contact.”*

The agency PREA Coordinator provided this auditor with a written memorandum that no instances of sexual contact with a staff member occurred during the audit period. DWCRC residents who are victim of staff sexual misconduct are not disciplined.

(f) DOCR Policy & Procedures 3C-4 states on page 35, *“For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred may not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.”*

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

*(g) Housing Unit Rules states, "You will refrain from touching other inmates. Touching incidents may be written up as a level I, disobeying a verbal/written order report up to a Level III, sexual contact report."*

*The Inmate Handbook defines sexual contact as including consensual kissing and/or touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person to arouse or gratify the sexual desire of any person.*

*The SWMCCC Sexual Abuse/Assault Prevention & Intervention brochure states on page 2, "Sexual abuse does not include consensual sex between residents, although that is generally considered a disciplinary violation. Consensual sexual relationships may deter you from focusing on personal goals and development while incarcerated."*

DWCRC prohibits sexual activity between residents but does not consider it sexual abuse.

Conclusion:

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

## MEDICAL AND MENTAL CARE

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

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

#### 115.81 (a)

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

#### 115.81 (b)

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

#### 115.81 (c)

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

#### 115.81 (d)

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

#### 115.81 (e)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- DWCRC form *Sexual Risk/Vulnerability Risk Notification*
- DWCRC form *Authorization to Disclose Information*
- Interviews with staff responsible for risk screening
- Interviews with medical and mental health staff
- Interviews with residents who disclosed sexual victimization at risk screening
- Review of resident files

(a-c) DWCRC Policy & Procedures 3C-4 states on page 38, *"If the screening indicates an adult in custody has experienced prior sexual victimization or perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure the adult in custody is offered a follow-up meeting with a medical or behavioral health practitioner within 14 days of the intake screening."*

All residents arriving at DWCRC meet with medical staff, who conduct a mental health screening. The screening includes questions about prior victimization and any history of sexually aggressive behavior. If a resident indicates they have a history of sexually aggressive behavior, may be unable to defend themselves from unwanted sexual advances, or are identified as known/potential victims or aggressors on the PREA risk screening, a *Sexual Risk/Vulnerability Risk Notification* form is completed. Within 72 hours, the resident meets with an assigned staff member to review the information.

The audit team interviewed 12 residents who indicated they had previously experienced victimization on a risk screening. All residents confirmed these policies and procedures are in practice.

(d) DWCRC Policy & Procedures 3C-4 states on page 38, *"Disclosure of information related to sexual victimization or abuse that occurred in an institutional setting must be strictly limited to staff, as necessary, to make security and management decisions, including treatment plans, housing, bed, work, education, and program assignments, or as required by federal, state, or local law."*

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

(e) DWCRC Policy & Procedures 3C-4 states on page 35, “Medical and behavioral health practitioners shall obtain informed consent from adults in custody before reporting information about prior sexual victimization that did not occur in an institutional setting.”

DWCRC medical and mental health staff utilize DWCRC form *Authorization to Disclose Information* to obtain informed consent from residents.

Conclusion:

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

## Standard 115.82: Access to emergency medical and mental health services

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

### 115.82 (a)

- Do inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment?  
 Yes  No

### 115.82 (b)

- If no qualified medical or mental health practitioners are on duty at the time a report of recent sexual abuse is made, do security staff first responders take preliminary steps to protect the victim pursuant to § 115.62?  Yes  No
- Do security staff first responders immediately notify the appropriate medical and mental health practitioners?  Yes  No

### 115.82 (c)

- Are inmate victims of sexual abuse offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate?  Yes  No

### 115.82 (d)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?  
 Yes  No

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- North Dakota Century Code 12.1-34-07
- DWCRC Policy & Procedures 3C-4
- Interviews with medical and mental health staff

(a-c) DWCRC Policy & Procedures 3C-4 states on pages 38 and 39, *"Adult in custody victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope determined by medical and behavioral health practitioners according to their professional judgment. If qualified medical or behavioral health practitioners are not on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim and shall immediately notify the appropriate medical and behavioral health practitioners. Adult in custody victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infection prophylaxis in accordance with professionally accepted standards of care where medically appropriate."*

DWCRC reported that no residents received a forensic medical exam during the audit period. Interviews with medical staff indicated incarcerated survivors are offered sexually transmitted infection prophylaxis medication and treatment during the forensic medical exam and upon their return to the facility. Medical and mental health referrals are documented in the investigation reports for each incident.

(d) DWCRC Policy & Procedures 3C-4 states on page 39, *"Medical and behavioral health services shall be provided to the victim and abuser without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident."*

North Dakota Century Code 12.1-34-07 states, *"An acute forensic medical examination is an examination performed on an alleged victim of criminal sexual conduct for the purpose of gathering evidence of an alleged crime and is performed within ninety-six hours after the alleged crime unless good cause is shown for the delay in performing the examination. When an acute forensic medical examination is performed, the costs incurred by a health care facility or health care professional for performing the acute forensic medical examination or any preliminary medical screening examination may not be charged, either directly or through a third-party payer, to the alleged victim."*

Conclusion:

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

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

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

#### 115.83 (a)

- Does the facility offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility?  Yes  No

#### 115.83 (b)

- Does the evaluation and treatment of such victims include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody?  Yes  No

#### 115.83 (c)

- Does the facility provide such victims with medical and mental health services consistent with the community level of care?  Yes  No

#### 115.83 (d)

- Are inmate victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if “all-male” facility. *Note: in “all-male” facilities, there may be inmates who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*)  Yes  No  NA

#### 115.83 (e)

- If pregnancy results from the conduct described in paragraph § 115.83(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if “all-male” facility. *Note: in “all-male” facilities, there may be inmates who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*)  Yes  No  NA

### 115.83 (f)

- Are inmate victims of sexual abuse while incarcerated offered tests for sexually transmitted infections as medically appropriate?  Yes  No

### 115.83 (g)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?  Yes  No

### 115.83 (h)

- If the facility is a prison, does it attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners? (NA if the facility is a jail.)  Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- Review of resident files
- Interviews with medical and mental health staff

(a-c, f) DWCRC Policy & Procedures 3C-4 states on page 39, *"The facility shall offer medical and behavioral health evaluation and, as appropriate, treatment to all adults in custody who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. The evaluation and treatment of such victims must 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. The facility shall provide such victims with medical and behavioral health services consistent with the community level of care."*



Files for each resident selected for a targeted or random interview were reviewed. Referrals to mental health were completed as required. Interviews with 12 residents who reported prior victimization of sexual abuse indicated they had been offered the opportunity to meet with mental health providers.

Interviews with medical and mental health services staff members indicated ongoing treatment is provided to victims of sexual abuse, as well as to known resident-on-resident abusers. When asked about the comparison with a community-level of care, they indicated they believed the facility's standard of care to be higher, as residents are scheduled for appointments and do not have to seek these services out on their own.

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

(d-e) DWCRC Policy & Procedures 3C-4 states on page 39, *"Adult in custody victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. If pregnancy results from the conduct described in (d) above in this section, such victims shall receive timely and comprehensive information about and access to all lawful pregnancy-related medical services."*

There were no residents of DWCRC that required pregnancy-related medical services as the result of sexually abusive vaginal penetration while incarcerated.

(g) DWCRC Policy & Procedures 3C-4 states on page 39, *"Medical and behavioral health services shall be provided to the victim and abuser without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident."*

There were no incarcerated survivors at DWCRC who had received forensic medical exams within the audit period to be interviewed by the audit team to determine if they had been held financially responsible for any charges related to a forensic medical exam or STI prophylaxis or treatment. Interviews with medical staff indicated these services are provided free of charge.

(h) DWCRC Policy & Procedures 3C-4 states on page 39, *"Behavioral health staff will complete an evaluation of all known adult in custody-on-adult in custody abusers within 60 days of learning of such abuse history and offer treatment when appropriate."*

Conclusion:

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

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

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

#### 115.86 (a)

- Does the facility conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded?  Yes  No

#### 115.86 (b)

- Does such review ordinarily occur within 30 days of the conclusion of the investigation?  Yes  No

#### 115.86 (c)

- Does the review team include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners?  Yes  No

#### 115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse?  Yes  No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility?  Yes  No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse?  Yes  No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts?  Yes  No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff?  Yes  No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager?  Yes  No

#### 115.86 (e)

- Does the facility implement the recommendations for improvement, or document its reasons for not doing so?  Yes  No

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

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

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

(a-c) DWCRC Policy & Procedures 3C-4 states on pages 39 and 40, *"The facility shall conduct a sexual abuse incident review pursuant to PREA Standard 115.87 at the conclusion of every sexual abuse investigation, including when the allegation has not been substantiated, unless the allegation has been determined to be unfounded. The review shall ordinarily occur within 30 days of the conclusion of the investigation. The review team, at a minimum, includes the PREA coordinator/compliance manager, Treatment Services Director, Unit Manager, Medical Services Director, Deputy Warden, and investigator. The results of the review will be provided to the warden."*

(d-e) DWCRC Policy & Procedures 3C-4 states on page 40, *"The review team shall: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility; examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; assess the adequacy of staffing levels in that area during different shifts; assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and prepare a report of its findings, including determinations and any recommendations for improvement and submit such report to the Warden of DWCRC."*

This auditor reviewed one sexual abuse incident review conducted by the facility during the audit review period. Interviews with the warden, facility PCM, and other potential members of the incident review team indicated they were aware of the required considerations.

Conclusion:

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

## Standard 115.87: Data collection

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

#### 115.87 (a)

- Does the agency collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions?  Yes  No

#### 115.87 (b)

- Does the agency aggregate the incident-based sexual abuse data at least annually?  Yes  No

#### 115.87 (c)

- Does the incident-based data include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice?  Yes  No

#### 115.87 (d)

- Does the agency maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews?  Yes  No

#### 115.87 (e)

- Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates? (N/A if agency does not contract for the confinement of its inmates.)  Yes  No  NA

#### 115.87 (f)

- Does the agency, upon request, provide all such data from the previous calendar year to the Department of Justice no later than June 30? (N/A if DOJ has not requested agency data.)  Yes  No  NA

### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- SWMCCC website
- 2019 Survey of Sexual Victimization
- 2015, 2016 and 2017 *PREA Annual Reports*

*(a-f) DWCRC Policy & Procedures 3C-4 states on pages 40-41, "DWCRC shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. DWCRC utilizes the Department of Justice, Bureau of Justice Statistics form SSV-2, Survey of Sexual Violence for State Prison Systems. In addition, data is collected in the State Risk Management Incident Report Data system. The DWCRC PREA Coordinator shall aggregate the incident-based sexual abuse data at least annually. DWCRC shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. The PREA Coordinator will ensure the documents are uploaded into the PREA drive. The PREA Coordinator will compile data and statistics on the number of sexual abuse and sexual harassment incidents that occurred the prior calendar year. These statistics will be forwarded to the Department of Justice annually, upon request. DWCRC does not contract with other facilities for the confinement of its adults in custody. Upon request, the DWCRC shall provide the data from the previous calendar year to the DOJ no later than June thirtieth."*

SWMCCC does not contract for the confinement of their residents.

This auditor reviewed the agency's Survey of Sexual Victimization for 2019. The annual reports for 2016 through 2020 are available on the agency website at [Annual Reports - Southwest Multi-County Correctional Center \(govoffice3.com\)](http://govoffice3.com).

Conclusion:

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

## Standard 115.88: Data review for corrective action

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

#### 115.88 (a)

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole?  Yes  No

#### 115.88 (b)

- Does the agency's annual report include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse?  Yes  No

#### 115.88 (c)

- Is the agency's annual report approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means?  Yes  No

#### 115.88 (d)

- Does the agency indicate the nature of the material redacted where it redacts specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility?  Yes  No

### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- SWMCCC website
- 2016, 2017, 2018, 2019 and 2020 *PREA Annual Reports*

(a-d) DWCRC Policy & Procedures 3C-4 states on pages 41 and 42, *"The PREA Coordinator in conjunction with the warden shall review data collected and aggregated pursuant to PREA Standard 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training to include: Identifying problem areas; taking corrective action on an ongoing basis; and preparing an annual report of its findings and corrective actions for each facility and the agency as a whole. The report must 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. The DWCRC's report shall be approved by the Warden of DWCRC and made readily available to the public through its website or other means. DWCRC may redact specific material from the reports when publication presents a clear and specific threat to the safety and security of a facility but must indicate the nature of the material redacted."*

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

The annual reports for 2016 through 2020 are available on the agency website at [Annual Reports - Southwest Multi-County Correction Center \(govoffice3.com\)](http://govoffice3.com).

Conclusion:

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

## Standard 115.89: Data storage, publication, and destruction

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

#### 115.89 (a)

- Does the agency ensure that data collected pursuant to § 115.87 are securely retained?  
 Yes  No

#### 115.89 (b)

- Does the agency make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means?  Yes  No

#### 115.89 (c)

- Does the agency remove all personal identifiers before making aggregated sexual abuse data publicly available?  Yes  No

#### 115.89 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DWCRC Policy & Procedures 3C-4
- SWMCC website
- 2016, 2017, 2018, 2019, and 2020 *PREA Annual Reports*
- Interview with Agency PREA Coordinator



- Interview with Human Resource staff
- Interview with PREA Compliance Manager
- Interviews with investigative staff

(a) DWCRC Policy & Procedures 3C-4 states on page 42, *“DWCRC ensures that data collected pursuant to § 115.87 are securely retained by the FileNet Administrator.”* The agency and facility utilize an electronic database to collect and secure data, and includes all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. The agency head authorizes access to for employees with a legitimate need to know.

(b) DWCRC Policy & Procedures 3C-4 states on page 42, *“The DOCR shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website.”* Data from the agency’s public and privately-operated facilities is maintained in an electronic database. The annual reports for 2016 through 2020 are available on the agency website at [Annual Reports - Southwest Multi-County Correction Center \(govoffice3.com\)](http://govoffice3.com).

(c) DWCRC Policy & Procedures 3C-4 states on page 42, *“Before making aggregated sexual abuse data publicly available, the DOCR shall remove all personal identifiers.”* The reports on the website do not contain any personal identifiers.

(d) DWCRC Policy & Procedures 3C-4 states on page 42, *“The agency shall maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of initial collection, unless federal, state, or local law requires otherwise.”*

Conclusion:

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

# AUDITING AND CORRECTIVE ACTION

## Standard 115.401: Frequency and scope of audits

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

### 115.401 (a)

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

### 115.401 (b)

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

### 115.401 (h)

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

### 115.401 (i)

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

### 115.401 (m)

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

### 115.401 (n)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DOCR website
- Interview with Agency PREA Coordinator

(a) SWMCC operates two adult facilities. The agency began receiving audits in 2014. All audits were completed by DOJ-certified auditors, and all final audit reports have been posted on SWMCC's website, available to the public at [Audit Reports - Southwest Multi-County Correction Center \(govoffice3.com\)](http://govoffice3.com). During the prior three-year audit period, Cycle Two, the agency ensured that each facility under their control was audited at least once.

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

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

Conclusion:

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

## Standard 115.403: Audit contents and findings

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

#### 115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports. The review period is for prior audits completed during the past three years PRECEDING THIS AUDIT. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.)  Yes  No  NA

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

- DWCRC Pre-Audit Questionnaire (PAQ) responses
- DOCR website
- Interview with Agency PREA Coordinator

(f) SWMCC operates two adult facilities. The agency began receiving audits in 2014. All audits were completed by DOJ-certified auditors, and all final audit reports have been posted on SWMCC's website, available to the public at [Audit Reports - Southwest Multi-County Correction Center \(govoffice3.com\)](http://govoffice3.com).

Conclusion:

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

# AUDITOR CERTIFICATION

I certify that:

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

## Auditor Instructions:

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

Amanda van Arcken

June 10, 2021

**Auditor Signature**

**Date**

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

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