

PREA AUDIT REPORT Interim Final
COMMUNITY CONFINEMENT FACILITIES

Date of report: 05/22/16

Auditor Information			
Auditor name: Patrick J. Zirpoli			
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Telephone number: 570-729-4131			
Date of facility visit: 05/03/16			
Facility Information			
Facility name: Pennsylvania Department of Corrections Allentown CCC			
Facility physical address: 608-610 Hamilton Street Allentown, PA 18101			
Facility mailing address: <i>(if different from above)</i>			
Facility telephone number: 610-821-6741			
The facility is:	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> State	<input type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
Facility type:	<input type="checkbox"/> Community treatment center	<input type="checkbox"/> Community-based confinement facility	
	<input checked="" type="checkbox"/> Halfway house	<input type="checkbox"/> Mental health facility	
	<input type="checkbox"/> Alcohol or drug rehabilitation center	<input type="checkbox"/> Other	
Name of facility's Chief Executive Officer: Facility Director Therese Valliere-Fanrak			
Number of staff assigned to the facility in the last 12 months: 16			
Designed facility capacity: 116			
Current population of facility: 91			
Facility security levels/inmate custody levels: State Intermediate Custody Level 1G and Parole Residents No Custody Level			
Age range of the population: 18 yrs. And older			
Name of PREA Compliance Manager: Therese Valliere-Fanrak		Title: PCM/Facility Director	
Email address: tvalliere @pa.gov		Telephone number: 610-821-6741	
Agency Information			
Name of agency: Pennsylvania Department of Corrections			
Governing authority or parent agency: <i>(if applicable)</i>			
Physical address: 1920 Technology Parkway Mechanicsburg, PA 17050			
Mailing address: <i>(if different from above)</i>			
Telephone number: 717-728-2573			
Agency Chief Executive Officer			
Name: John E. Wetzel		Title: Secretary of Corrections	
Email address:		Telephone number:	
Agency-Wide PREA Coordinator			
Name: Carole Ann Mattis		Title: Acting PREA Coordinator	
Email address: cmattis@pa.gov		Telephone number: 717-728-4098	

AUDIT FINDINGS

NARRATIVE

The first Prison Rape Elimination Act (PREA) audit of the Pennsylvania Department of Corrections Allentown CCC took place on May 3, 2016. The purpose of the audit was to determine compliance with the Prison Rape Elimination Act standards which became effective August 20, 2012. The facility was posted on March 11, 2016, allowing adequate time for the residents to respond to me. I have access to the PADOA AARMS system that allows me to review all pertinent information and supporting documentation. This allowed ample time for review of all policies, supporting documentation, and data pertaining to the PREA Standards.

I wish to extend my appreciation to Facility Director Therese Valliere-Fanrak and her staff for the professionalism they demonstrated throughout the audit and their willingness to comply with all requests and recommendations made. I would also like to thank the Bureau of Standards/Audits/Accreditations for their assistance throughout the audit process.

The audit began on May 3, 2016. I initially met with Facility Director Therese Valliere-Fanrak, Michelle Zvorsky and Samantha Bergantine, both Zvorsky and Bergantine are Administrative Officer II's with the Bureau of Standards/Audits/Accreditations. We discussed the audit process for the day, at this time I requested a current resident list, as well as the list of all staff working that day.

An extensive facility tour was conducted, all areas of the facility were toured, and I was also able to interact with both staff and residents at this time. I had the opportunity to observe the operations of the facility, and the interaction between staff and residents.

A total of ten resident interviews were conducted. The residents were randomly selected and represented the overall population of the facility. These residents were selected from the current population list provided to me.

A total of 8 interviews were conducted onsite with random staff. The staff were randomly selected and represented administration, monitors and counselors. The staff were selected from the list provided to me.

An exit conference was held during the afternoon, present was Facility Director Therese Valliere-Fanrak. Michelle Zvorsky joined the conference via telephone.

The facility was prepared for the onsite audit and performed extremely well. Looking at the overall performance of the facility I was impressed with not only the facilities operations but the overall agencies operations and response to incidents of sexual abuse or sexual harassment. The seriousness of incidents of this nature are not overlooked by both staff and residents alike. The interactions with the staff was positive and all were extremely helpful in making the audit process run as seamless as possible.

I conducted all agency level interviews on December 3, 2015. These interviews were conducted at the Pennsylvania Department of Corrections Central Office in Mechanicsburg, PA. I conducted the agency level interviews with the Bureau of Community Corrections Acting Director Luis Resto, Acting Deputy Director Teresa Pinard, and Security Lieutenant Laura Hoffman. I also had the opportunity to verify all human resources information as well as contract language for housing of residents and inmates.

I utilized an overall methodology to make my determination of compliance with the standards. This included a complete review of all policies and documentation provided to me prior to the onsite audit. The documentation was then corroborated through visual inspection of the facility, as well as interviews with staff and residents. I was able to determine that the facility has the policies in place to address all standards, and has put these policies into daily practice. In the standard-by-standard discussion I have specifically identified the policies and documentation utilized during this process, these policies and documentation are listed verbatim in italic type. I have also listed any visual evidence, as well as interviews that aided in making my determination.

DESCRIPTION OF FACILITY CHARACTERISTICS

The Pennsylvania Department of Corrections Allentown CCC is located at 608-610 Hamilton Street Allentown, PA 18101. The physical location is within the boundaries of the City of Allentown, this is advantageous to the residents, allowing them to utilize public transportation, and being within walking distance to many areas. The facility does not provide food for the residents so again this allows them to walk to nearby eateries for meals.

The facility is an all-male facility, with both male and female staff. The residents have the ability to be out of the facility working, attending meetings or appointments, and job seeking. They are also permitted to visit home or approved residences.

All of the aforementioned areas are surveilled by cameras.

All of the resident bathrooms have toilets with stall doors, and showers with curtains.

All exterior doors to the facility are alarmed.

All areas of the facility are under direct supervision of staff. The monitor station is placed to allow adequate staff supervision.

During the past 12 months 421 residents have been admitted to the facility for 72 hours or more, with 421 staying for 30 days or more.

SUMMARY OF AUDIT FINDINGS

The Pennsylvania Department of Corrections Allentown CCC has exceeded in 2 standards, met 36 standards, and 1 standard is not applicable to the facility.

This determination was made after reviewing all materials provided during the pre-audit, the interviews and facility tour conducted during the audit, and the final review of all findings.

Number of standards exceeded: 2

Number of standards met: 36

Number of standards not met: 0

Number of standards not applicable: 1

Standard 115.211 Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator

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

EVIDENCE OF COMPLIANCE:

The agency has developed a written policy mandating zero tolerance towards all sexual abuse and sexual harassment, this policy also outlines the agencies approach to preventing, detecting, and responding to such conduct. This policy is the Commonwealth of Pennsylvania Department of Corrections, policy subject Prison Rape Elimination Act (PREA), policy number BCC-ADM 008. This policy was issued on August 7, 2015 and was effective on September 21, 2015. This policy will henceforth be known as BCC-ADM 008.

BCC-ADM 008 reads as follows:

It is the policy of the Department to prohibit any form of sexual abuse and/or sexual harassment of an offender. The Pennsylvania Department of Corrections has zero tolerance for sexual abuse or sexual harassment of any individual under the supervision of the Department. Anyone who engages in, fails to report, or knowingly condones sexual harassment or sexual abuse of an offender shall be subject to disciplinary action, up to and including termination, and may be subject to criminal prosecution. A resident, employee, contract service provider, visitor, volunteer, intern, and/or any individual who has business with or uses the resources of the Department is subject to disciplinary action and/or sanctions, including possible dismissal and termination of contracts and/or services, if he/she is found after an investigation to have engaged in sexual harassment or sexual abuse with a resident. A claim of consent will not be accepted as an affirmative defense for engaging in sexual harassment or sexual abuse of a resident.

The Department shall designate an agency-wide PREA Coordinator to develop, implement, and oversee the Department's efforts to comply with the National PREA Standards across all facilities; and each facility shall designate a PREA Compliance Manager (PCM) to coordinate the facility's efforts to comply with the Standards. The PREA Coordinator shall report directly to the Director, Bureau of Standards, Audits, and Accreditation.

The Agency will take appropriate actions to ensure zero tolerance toward all forms of sexual abuse and sexual harassment in order to promote the safety of residents. The Agency will implement federal Prison Rape Elimination Act (PREA) Standards to ensure that all aspects of operations work toward preventing, detecting, and responding to such conduct resulting in a safer environment.

All Department and Contract managers shall ensure that employees enforce and comply with the outlined procedures, take corrective action regarding non-compliance, and document appropriately.

I reviewed the Policy in its entirety, as well as questioned staff members on its content and applicable sections to their specific duties within the facility. The staff understood the policy and its practical application to the daily operation of the facility.

The policy is comprehensive and mandates zero tolerance toward all forms of sexual abuse and sexual harassment and outlines the agency's approach to preventing, detecting, and responding to such conduct. The policy further defines all prohibited acts.

The Department of Corrections PREA Coordinator position is full time which allows ample time to perform specified duties. This position is in the process of being filled, the former PREA Coordinator resigned from this position. The Acting PREA Coordinator Carole Mattis is the Director of the Bureau of Standards/Audits/Accreditations. Both Michelle Zvorsky and Samantha Bergantine work directly for Mattis, between the efforts of all three the PA DOC is continuing to cover all specified duties.

Standard 115.212 Contracting with other entities for the confinement of residents

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008 addresses contracting with other entities for housing residents (CCFs and contracted county jails [CCJs]). The policy reads as follows:

The Department shall include in any new contract or contract renewal for the housing of a resident with a private entity or other entity, including other government agencies, the entity's obligation to adopt and comply with the PREA Standards and the Department's policies related to PREA compliance. (§115.212[a])

The contracted entity will undergo regular, mandated audits as required by the federal PREA Standards.

The Regional Compliance Administrator shall provide for contract monitoring to ensure the contractor is complying with the PREA Standards with any new contract or contract renewal related to community corrections. The outcomes shall be documented on the PREA Contract Compliance Monitoring Report (Attachment 2-C) and emailed to CR, DOC PREA Reports. (§115.212[b])

Only in emergency circumstances in which all reasonable attempts to find a private agency or other entity in compliance with the PREA Standards have failed, shall the Department enter into a contract with an entity that fails to comply with these standards. All unsuccessful attempts shall be clearly documented. (§115.212[c])

I have reviewed correspondence from the Pennsylvania Department of Corrections to the contracted facilities explaining that any agency that holds a contract with DOC will not only meet the standards, but be audited as per contract.

The Department holds contracts with twenty Contracted County Jails and forty Community Contract Facilities. They have added language in the contracts specific to PREA. This language states that all contracted facilities must comply with the PREA standards, are subject to Department inspection, and completing a PREA Audit.

During my interview with the Acting Deputy and Agency Contract Administrator we discussed additional language ensuring that the Contracted Jails and Contract Facilities are not entering into any contract or MOU with another facility that is not PREA compliant.

Standard 115.213 Supervision and monitoring

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

EVIDENCE OF COMPLIANCE:

8.3.1, Community Corrections Security Procedures Manual Section 15- Community Corrections Center Monitor (CCCM) Staffing, addresses staffing, this policy reads as follows:

1. The Bureau Director/designee shall:

a. ensure the Community Corrections Center Monitor (CCCM) staffing pattern at each Community Corrections Center (CCC) is adequate to meet the needs of the facility and take into account:

(1) physical size and layout of the facility; and

(2) number and type of offenders assigned to the facility.

b. approve/deny requests for temporary increases or decreases to the CCCM staffing levels at a Community Corrections Center (CCC);

c. approve/deny request for permanent increases or decreases to the CCCM staffing levels at a CCC and as necessary, request additional positions through the Executive Deputy Secretary; and

d. request permission to fill vacancies through the Executive Deputy Secretary and/or the PAR system

2. The Bureau Major/designee shall:

a. conduct an annual review of the staffing patterns at every CCC;

b. prepare a report with recommendations for staffing level changes for submission to the Bureau Director/designee and Deputy Director for Facilities Management (DDFM)/designee; and

c. review, process and respond to all requests for temporary increases and decreases to the CCCM staffing levels at a CCC.

Changes to the CCCM Staffing:

Requests to temporarily or permanently increase or decrease the CCCM staffing levels at a CCC must be submitted to the Bureau Major/designee.

BCC-ADM 008 further states that the Bureau Director/Designee is responsible for developing and documenting a CCC staffing plan in accordance with Department policy 8.3.1, "Bureau of Community Corrections Security," Section 15, and email to CR, DOC PREA Reports.

The facility has developed a staffing plan to provide adequate levels of staffing, and where applicable, video monitoring, to protect residents against sexual abuse and sexual harassment. During my interviews I determined that the facility layout, composition of the resident population, any incidents of sexual abuse or sexual harassment, and any other relevant factors were utilized in developing the staffing plan.

I reviewed the Staffing Plan & PREA Reports for CCC's prepared by Major Teresa A. Pinard dated June 23, 2015. This report indicates that the facilities staffing level is adequate to staff the facility. The monitor coverage for the three shifts is three during the 0600-1400 hrs. shift, three during the 1400-2200 hrs. shift, and two during the 2200-0600 hrs. shift. This compliment fully staffs the facility and allows adequate monitoring of the residents.

Allentown CCC is monitored by fifty three surveillance cameras; static monitors are located in the Facility Directors Office as well as the monitor's office.

The facility has not had any PREA related incidents which would cause the staffing plan to be questioned.

The facility staffing has not been deviated from during the last 12 months.

Standard 115.215 Limits to cross-gender viewing and searches

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

EVIDENCE OF COMPLIANCE:

8.3.1, Community Corrections Facility Security Procedures Manual Section 30- Searches policy states that Community Corrections staff shall not conduct a body cavity search (visual or internal) of any offender; or a cross-gender strip search of any offender.

Community Corrections staff shall not conduct cross-gender pat searches of female offenders. Facilities shall not restrict female offenders' access to regularly available programming or other opportunities in order to comply with this provision. (§115.215[b][c])

If a situation arises that leads staff to believe that there is an imminent risk to staff or the overall security of the facility, staff will contact the local police for assistance. Example of this would be reputable information about the purported presence of a weapon on an offender.

Community Corrections staff shall not conduct a search or physical examination for the sole purpose of determining any offender's genital status. If the offender's genital status is unknown, it may be determined during conversations with the offender, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner. (§115.215[e])

Ensure staff are trained to conduct pat searches, strip searches, cross-gender pat searches (female staff-male offender only), and searches of transgender and intersex offenders, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs; (§115.215[f])

BCC-ADM 008 further addresses Cross-Gender Searches and Supervision. This policy states the following:

Security staff shall be trained to conduct all resident searches in a professional, respectful, and least intrusive manner possible, consistent with security needs and as outlined in Department policy 8.3.1, Section 30.

When the status quo of the gender-supervision on the housing unit changes from exclusively same gender, to mixed-gender or cross-gender supervision, staff is required to verbally announce the presence of opposite gender person(s) on the housing unit. The announcement is required for staff (security and non-security), volunteers, visitors, contractors, and interns (Example: "Female on the unit").

Residents shall be able 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 dorm room checks.

Locations shall be designated throughout the facility that allows residents to shower, perform bodily functions and change clothing with basic privacy.

Staff of the opposite gender shall announce their presence prior to entering a bathroom area, shower area, or authorized changing area (Example: "Female entering area").

During the facility tour I observed female staff making announcements of their presence. All showers and bathroom stalls have operational doors or curtains providing the residents with privacy. It is policy of the facility that the residents can only be completely unclothed in the bathrooms.

During the resident interviews they confirmed that the female staff make announcements upon entry to the bathrooms and housing areas.

The facility has not conducted cross-gender strip searches and visual body cavity searches. This was confirmed during the interviews with both random staff and residents.

During the interviews with staff they related that they understood the policies on announcing their presence as well as pat down searches. They also understood the policies as they pertain to transgender or intersex residents and determining their sex. All of the staff interviewed indicated that they had received training on cross gender pat down searches, this was confirmed by viewing their training logs.

The facility does not search or physically examine a transgender or intersex resident for the sole purpose of determining the resident's genital status. All residents received at the facility are coming from another facility so their gender is identified prior to arrival. If exigent circumstances existed all staff interviewed understood that gender should be determined through conversations with the resident, 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. The facility has not housed a transgender nor intersex resident within the last 12 months.

Standard 115.216 Residents with disabilities and residents who are limited English proficient

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008 states under access to information for special populations that as outlined in the BCC-ADM 005, Section 1 Reasonable Accommodations for Residents with Disabilities, the Department shall ensure residents with disabilities have an equal opportunity to participate in or benefit from all aspects of Department efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

BCC-ADM 005 Community Corrections Resident Legal Procedures Manual Section 1- Reasonable Accommodations for Residents with Disabilities states that individuals with disabilities shall be assigned to a Community Corrections Facility (CCC) or Community Contract Facility (CCF) that provides reasonable accommodations according to the individual needs of the resident; provides for their safety and security; provides for reintegration with residents; and provides access to programs and services. This includes individuals diagnosed as mentally and/or physically impaired.

The policy further addresses residents who are limited English proficient. Under language accommodations the policy reads as follows:

Written materials and training will be delivered in alternative formats that accommodate the resident's disability or the information will be delivered through alternative methods, such as reading it to the resident or communicating through an interpreter. This is to ensure the resident's understanding of facility rules, regulations and direction as well as information related to sexual abuse prevention, detection and response. (§115.216[a])

The Facility Director/designee shall ensure only staff members or qualified contractors provide translation for residents. If the translation involves a grievance or abuse investigation, staff involved may not provide translation for the resident.

At no time will a resident be permitted to act as a translator or assistant for sexual abuse or physical abuse related interviews, reporting, etc. (§115.216[c])

If a multi-lingual staff member is not available, translation services shall be coordinated by the Facility Director/designee utilizing the Department contracted provider. The Bureau Office will provide direction and contact information to the facility.

The facility has procedures in place to deal with residents with disabilities and who are limited English speaking. They have never had an incident where they would utilize another resident for interpretation, they would utilize staff or a language line. During the classification of the residents they identify any issues concerning disabilities and take the appropriate actions needed to protect the resident. The facility is equipped to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to residents who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

Compliance in this area was determined by reviewing policies and procedures of the facility. During the random staff interviews I determined that they all understood the availability of interpreters, and further understood the importance of not utilizing residents for interpretation during any incident.

At the time of the audit no disabled or non-English speaking residents were being housed.

The agency holds a contract with PROPIO LS LLC for language services, this service offers over the phone interpretation.

The contract is valid from September 1, 2014 to June 30, 2016.

I was provided copies of the PREA posters and handouts in both English and Spanish.

The facility is posted with the proper signage on PREA, these signs are in both English and Spanish.

Standard 115.217 Hiring and promotion decisions

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

EVIDENCE OF COMPLIANCE:

4.1.1, Human Resources and Labor Relations Procedures Manual Section 40- Conducting Employee Background Investigations states the following:

Background investigations for all candidates for positions in the Department will be in accordance with Management Directive 515.15, Identification, Employment, and Education Verification Checks and M505.5, Commercial Driver License, Drug and Alcohol Testing and Licensing Requirements and processed in the manner listed below. (§115.17 [c] [1])

General Processing

- 1. The Facility Human Resource Office will conduct a preliminary background investigation and prepare an appointment package for all new hires and rehires that have been separated for more than 60 days and which shall contain the items outlined in the Checklist for Background Check Requests (refer to Section 38, Attachment 38-C of this procedures manual).*
- 2. The Facility Human Resource Office need only conduct a CLEAN/JNET for all rehires that have been separated for less than 60 days. The results must be submitted to the Background Coordinator in the Bureau of Human Resources (BHR), Workforce Management Division.*
- 3. The local criminal history check may be done by CLEAN/JNET, letter, or personal contact, however, appropriate documentation must be attached to verify the CLEAN/JNET inquiries on wanted persons and warrants, criminal history in Pennsylvania and all other states outside Pennsylvania, Bureau of Motor Vehicles, and Protection from Abuse (PFA) orders on all names listed by applicant. If the response received is insufficient, contact should be made with local District Magistrates or Clerk of Courts for all counties of residences listed. Verification should also be made for any criminal justice*

violation disclosed on application, indicated on RAP sheet, or discovered during the preliminary background investigation, to include out-of-state charges.

4. *Consistent with the Prison Rape Elimination Act (PREA)*

a. *Prior employment in any type of prison, jail, lockup, community confinement facility, juvenile facility, or other institution will be further investigated to ensure that the candidate has not been found to have any of the following: (§115.17 [a] [1])*

(1) *have 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) (§115.17 [a][1]); and*

(2) *have been convicted or civilly or administratively adjudicated for engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse. (§115.17 [a] [2][3])*

b. *Human Resource Offices will be responsible for sending the PREA Consent to Release of Information Form, along with the PREA Current/Prior Employer Letter (Attachment 40-A) to the attention of applicable employer's Human Resource Offices via certified mail, receiving and reviewing their responses, and determining whether the applicant may be hired consistent with the PREA. Human Resource Offices should wait a minimum of two weeks for a response before proceeding with the hiring process. If the answer is "yes" to any of the questions, then the information will be forwarded to the Background Coordinator in the BHR, Workforce Management Division, to obtain the Office of Chief Counsel's concurrence that the candidate will be considered unsuitable for hire. Unless prohibited by law, the Director of the BHR shall 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.*

4.1.1, *Human Resources and Labor Relations Procedures manual Section 41-Employment of Job Applicants Having Adverse Contacts with Criminal Justice Agencies states the following:*

1. *The Department shall ensure that any job applicant who has had an adverse contact with a criminal justice agency shall be evaluated as to his/her suitability for employment.*

2. *Consistent with the Prison Rape Elimination Act (PREA), the Department shall not hire or promote anyone who:*

- a) *has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, or other correctional institution;*
- b) *has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse;*
- c) *has been civilly or administratively adjudicated to have engaged in the activity described above; and/or*
- d) *the Department will consider any incidents of sexual harassment in determining whether to hire or promote anyone.*

3. *Any applicant who has been convicted of a felony or a misdemeanor punishable by a term of imprisonment of more than two years (first degree misdemeanor) shall not be considered as suitable for employment in a position requiring use of a firearm.*

1.1.4, *Centralized Clearances Procedures Manual Section 4-Centralized Clearance Check Procedures addresses contractor criminal background checks. The policy reads as follows:*

1. *Prior employment of contractors will be further investigated to ensure that the Department does not enlist the services of any contractor(s) who may have contact with inmates who: (§115.17 [a])*

- a. *have engaged in sexual abuse in a prison, jail, lockup, community facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997) (§115.17 [a] [1]); and/or*

- b. *have been convicted or civilly or administratively adjudicated for engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse. (§115.17 [a] [2] [3])*

2. *The Department shall consider any incidents of sexual harassment in determining whether to enlist the services of any contractor who may have contact with inmates. (§115.17 [b])*

The Centralized Clearance Unit is responsible for conducting clearances for the PA Prison Society, PBPP, agency temps, and contract service providers; (§115.17 [d]). They also monitor the CLEAN/JNET criminal charge alert and notify Bureau of Human Resources of any alerts received. This system alleviates the need to conduct criminal histories on employees, the agency uploads a master name list and the system alerts if someone entered by the agency has been arrested.

During the interviews with Human Resources I confirmed that background checks are being completed by OSII during the initial hiring process. They also utilize a system through JNET that allows the immediate notification of any criminal act committed by an employee.

Standard 115.218 Upgrades to facilities and technologies

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

EVIDENCE OF COMPLIANCE:

8.3.1, Community Corrections Security Procedures Manual Section 3-Facility Design, Access and Metal Detectors Requirements reads as follows:

When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the Agency shall consider the effect of the design, acquisition, expansion or modification upon the Agency's ability to protect offenders from sexual abuse. (§115.218[a])

The Facility Director/designee shall ensure the PREA Coordinator and/or Compliance Manager is involved with all new construction projects and/or changes to the current facility layout.

Additional facility construction direction is outlined in Section 6 of this procedures manual.

The facility is not planning any substantial expansion or modifications.

Standard 115.221 Evidence protocol and forensic medical examinations

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008, Section 4- Responding to a Report of Sexual Abuse reads as follows:

In order to maximize the potential for obtaining usable physical evidence, the facility shall secure and protect the potential crime scene, until physical evidence can be collected by law enforcement and/or an outside medical professional. If those entities decline to take possession of the evidence, it shall be handled in accordance with Department policy 8.3.1, "Bureau of Community Corrections Security," Section 24. (§115.221[a]). It should be noted that policy 8.3.1, Bureau of Community Security Section 24-BCC Evidence Control is a policy outlining staffs responsibilities when responding to an allegation of sexual abuse. I reviewed the policy in its entirety and found it to be comprehensive, covering all areas of evidence procedures.

BCC-ADM008 further states that:

The Prison Rape Elimination Act (PREA) Compliance Manager (PCM) shall coordinate medical services related to sexual abuse for their facility and where possible, utilize a hospital that employs a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE). The facility shall enter into a letter of agreement with the hospital. (§115.221[c])

The PCM shall coordinate victim services related to sexual abuse for their facility and work with the Pennsylvania Coalition Against Rape (PCAR) approved local rape crisis center to establish a Rape Crisis Center Letter of Agreement (Attachment 4-B). (§115.221[d]) (§115.253[c])

CCC letters shall be vetted through the Department's Office of Chief Counsel.

CCFs may utilize the Rape Crisis Center Letter of Agreement as a template and vet through the Contract Agency's legal department to ensure compliance with the national PREA standards.

Each facility shall maintain the signed document for review upon request and provide a copy to the Regional Director/designee and Agency PREA Coordinator.

All victims of sexual abuse shall be offered access to a forensic medical examination at an outside facility, without financial cost to the victim, using a SAFE or SANE where possible. If a SAFE or SANE cannot be made available, the examination can be performed by other qualified medical practitioners and documented appropriately. (§115.221[c])

All victims of sexual abuse shall be offered access to outside victim advocates for emotional supportive services, without financial cost to the victim. Supportive services may be provided via a variety of methods including in person, over the phone, and/or in writing. The facility shall not monitor these communications. (§115.221[d])

As requested by the victim, the victim advocate shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals. Facility staff may not serve as victim advocates for Department-Funded Residents (DFR). (§115.221[e][h])

The facility has an MOU with Lehigh Valley Health Network for forensic examinations. Lehigh Valley Health Network provides forensic examinations by a Sexual Assault Nurse Examiners (SANEs). The memo of understanding is dated February 10, 2015.

The facility utilizes Crime Victims Council of Lehigh Valley, Inc. for victim advocacy. The memo of understanding is dated February 10, 2015.

All of the staff interviewed understood their responsibility in the preservation of evidence, and how to preserve a crime scene.

The Pennsylvania Department of Corrections and the Pennsylvania State Police entered into a Memorandum of Understanding as it relates to the investigative process of PREA allegations, this MOU was entered into on September 24th 2013. The Pennsylvania State Police agrees to conduct the investigations of sexual abuse in facilities, the investigators and Forensic Services Unit members are highly trained in identifying and collecting evidence in sexual assault investigations. The Pennsylvania State Police has policies and procedures in place that exceed this standard.

During the interview with the facility Director I confirmed that the above services are being utilized for forensic examinations.

I was informed that the facility has had no incidents where these services were utilized.

Standard 115.222 Policies to ensure referrals of allegations for investigations

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

EVIDENCE OF COMPLIANCE:

The Pennsylvania Department of Corrections is responsible for administrative investigations at the facility, all criminal investigations are conducted by the Pennsylvania State Police.

BCC-ADM 008, Section 5- Investigations and Retaliation monitoring states the following:

The Bureau Major/designee shall assign an administrative investigation for every incident/allegation of sexual abuse and/or sexual harassment and report it to the Department's Office of Special Investigations and Intelligence (OSII). (§115.222[a][b])

The Bureau Major/designee shall refer incidents/allegations of sexual abuse or sexual harassment of a resident for criminal investigation, unless it does not involve potentially criminal behavior, and assign a Bureau of Community Corrections (BCC) investigator to track the progress. (§115.222[a][b])

The agency's policy regarding the referral of allegations of sexual abuse or sexual harassment for criminal investigation is published at:

[http://www.cor.pa.gov/Administration/PrisonRapeEliminationAct\(PREA\)/Pages/default.aspx](http://www.cor.pa.gov/Administration/PrisonRapeEliminationAct(PREA)/Pages/default.aspx)

The above policy ensures that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.

I reviewed the policy in its entirety and found it to be complete. I also reviewed all investigations during the last twelve months and found that they were investigated by the proper authorities.

All staff interviewed understand the importance of ensuring all allegations are referred for investigation. They also understand the procedure of contacting the DOC Operations Center.

Standard 115.231 Employee training

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008, Section 2- Prevention and Training addresses the agencies training requirements for employees. The policy reads as follows:

- 1. Every Department and Contract Agency employee, volunteer, and intern who has contact with residents shall be trained on his/her responsibilities related to sexual abuse and sexual harassment prevention, detection, and response policies and procedures. This shall occur as follows: (§115.231[c]) (§115.232[a])*

- a. *Orientation – Basic information related to PREA shall be provided, by the PCM or Facility Director/designee, and documented during facility orientation via the PREA Orientation Receipt for Department and Contract Employees, Volunteers, and Interns (Attachment 2-G). Individuals shall also be informed of their immediate responsibility for reporting and responding to sexual abuse and sexual harassment allegations/incidents.*
- b. *Basic Training – Initial training shall be provided within three months of hire or execution of contract. This may occur through the Department’s Basic Training Academy, the PCM, or another approved training source.*
- c. *Refresher Training – Refresher training shall be provided every two years and include current sexual abuse and sexual harassment policies and procedures. In alternate years, refresher information shall be provided on the current sexual abuse and sexual harassment policies.*

The policy further states that basic and refresher training shall include the following:

- a. *the Agency’s zero tolerance policy for sexual abuse and sexual harassment;*
- b. *how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;*
- c. *residents’ right to be free from sexual abuse and sexual harassment;*
- d. *the right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment;*
- e. *the dynamics of sexual abuse and sexual harassment in confinement;*
- f. *the common reactions to sexual abuse and sexual harassment victims;*
- g. *how to detect and respond to signs of threatened and actual sexual abuse;*
- h. *how to avoid inappropriate relationships with residents;*
- i. *how to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents; and*
- j. *how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.*

The policy further states that each individual who receives any type of training (basic, ongoing, or specialized) shall complete and sign the PREA Training Receipt for Department and Contract Employees, Volunteers, and Interns (Attachment 2-H). (§115.231[d]) (§115.232[c]) (§115.234[c])

I reviewed the PowerPoint Presentation titled Basic Training PREA, PA Department of Corrections, Version 2, January 2015. This presentation is 58 slides long and covers all training aspects of PREA.

Additionally, Staff has access to the BCC 008 and DC ADM 008 at all times via the State Department of Corrections Network, commonly referred as DOC-net.

The training is tailored to the gender of residents at the specific facility.

All of the staff interviewed have been trained on PREA and understand their responsibilities under the standards.

The staff at the facility are receiving update training over the video monitoring system.

I reviewed the training records and verified all training with the Facility Director.

Standard 115.232 Volunteer and contractor training

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008, Section 2- Prevention and Training addresses the agencies training requirements for volunteers and contractors. The policy reads as follows:

2. *Every Department and Contract Agency employee, volunteer, and intern who has contact with residents shall be trained on his/her responsibilities related to sexual abuse and sexual harassment prevention, detection, and response policies and procedures. This shall occur as follows: (§115.231[c]) (§115.232[a])*
 - d. *Orientation – Basic information related to PREA shall be provided, by the PCM or Facility Director/designee, and documented during facility orientation via the PREA Orientation Receipt for Department and Contract Employees, Volunteers, and Interns (Attachment 2-G). Individuals shall also be informed of their immediate responsibility for reporting and responding to sexual abuse and sexual harassment allegations/incidents.*
 - e. *Basic Training – Initial training shall be provided within three months of hire or execution of contract. This may occur through the Department’s Basic Training Academy, the PCM, or another approved training source.*
 - f. *Refresher Training – Refresher training shall be provided every two years and include current sexual abuse and sexual harassment policies and procedures. In alternate years, refresher information shall be provided on the current sexual abuse and sexual harassment policies.*
3. *Individuals not identified above who provide recurring services at the facility and have moderate contact (weekly) with residents shall receive all training consistent with **Subsection N.1**. Examples may include facility maintenance staff, contracted food services, contracted medical services, contracted programming facilitators, parole supervision staff assigned to a facility, etc.*
4. *Individuals not identified above who provide recurring services at the facility and have sporadic contact (monthly) with residents shall only receive orientation consistent with **Subsection N.1.a**. Examples may include building owners, vending machine personnel, contracted maintenance and repair persons, parole supervision staff who have intermittent resident contact inside the facility, etc. If the person refuses to sign the document, the staff member should indicate such, sign the form, and provide to the PCM. While refusal to sign does not prohibit the person from entering the facility, it also does not absolve responsibility for compliance with the law.*

The policy further states that each individual who receives any type of training (basic, ongoing, or specialized) shall complete and sign the PREA Training Receipt for Department and Contract Employees, Volunteers, and Interns (Attachment 2-H). (§115.231[d]) (§115.232[c]) (§115.234[c])

I confirmed that all volunteer training has been completed, I was able to view the training logs which were provided to me.

No volunteers were available during the audit.

Standard 115.233 Resident education

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008, Section 2- Prevention and Training addresses resident education. The policy reads as follows: Resident Education (§115.233 [a][b])

1. *Every resident, including transfers and new receptions, will receive information regarding the Agency's zero tolerance policy regarding sexual abuse and sexual harassment, how to report incidents or suspicions of sexual abuse or sexual harassment, their rights to be free from sexual abuse and sexual harassment, and to be free from retaliation for reporting such incidents, and regarding Agency policies and procedures for responding to such incidents.*
2. *The Facility Director/designee shall ensure resident orientation and education is able to be provided in formats accessible to all residents including those who are limited English proficient, deaf, visually impaired, or otherwise disabled as well as residents who have limited reading skills. Additional information is outlined in BCC-ADM 005, Section 1. (§115.233[c])*
3. *Each resident, including transfers and new receptions, will receive a copy of the PREA Brochure in English or Spanish (Attachment 2-I and 2-J) immediately upon arrival at the facility. The resident shall sign the Resident PREA Brochure Receipt (Attachment 2-K).*
4. *Any staff member who received PREA basic training may provide the PREA Brochure to residents. Questions that cannot be answered by the staff member should be referred to the PCM or Facility Director/designee.*
5. *At the daily 2100 hours count, every CCC and group home CCF, shall make announcement over the public address system utilizing the Zero Tolerance Fact Sheet (Attachment 2-L).*
6. *More thorough resident education will be provided by a trained counselor within 14 days of reception or transfer, using:*
 - a. *the Sexual Abuse/Sexual Harassment Education Program (Attachment 2-M); and*
 - b. *the PREA Resource Center video and facilitator's guide.*
6. *The program may be provided to residents individually or in groups.*
7. *Security staff may not conduct the resident education program.*
8. *The PCM shall ensure the counselor or presenter received PREA basic training and is able to answer questions specific to the facility's response to a PREA report.*
9. *The counselor or presenter must be present at all times to facilitate discussion on the presentation/video and to answer questions and meet individually with any of the residents, if they request, to discuss issues related to PREA.*
10. *Documentation that sexual abuse and sexual harassment training has occurred during orientation shall be recorded on the PREA Education Receipt for Residents (Attachment 2-N) form and maintained in the resident's file. (§115.233[d])*
11. *The PCM shall serve as a resource to any staff member who provides resident orientation and/or education program.*

The facility requires the staff to assess all arrivals for the following PREA information accessibility need and will respond appropriately based on the needs of the resident:

- *Limited English Proficiency- Utilization of Staff interpreters or use of Language line.*
- *Deaf/Hard of Hearing- Provide written materials to the residents and gain feedback by answering questions in writing.*
- *Visually impaired- Read materials aloud to resident and gain feedback by answering questions verbally.*

- *Otherwise disabled- an individual plan should be developed with the Center Director, PREA Compliance Manager, and Security office to address the specialized limitation the resident has identified that will impede their ability to access or report PREA related information.*
- *Limited in their Reading Skills- Read materials aloud to resident and gain feedback by answering questions verbally.*

I reviewed the brochures, both English and Spanish, given to the residents upon admission, I found them to be detailed and comprehensive.

The residents interviewed related that they had received the brochures upon intake, they further stated that they have also reviewed a video on PREA.

During the audit I reviewed the sign off sheet for the resident education, all residents at the facility have received this training.

Standard 115.234 Specialized training: Investigations

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008, Section 2- Prevention and Training addresses education for investigators. The policy reads as follows: Any employee who conducts sexual abuse investigations shall receive specialized training specific to Confinement settings through the Department or other approved source. This training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative actions or prosecution referral. (§115.234[a][b][d])

Staff may complete training offered by the Department or by another source whose curriculum complies with the Federal PREA Standards.

Each individual who receives any type of training (basic, ongoing, or specialized) shall complete and sign the PREA Training Receipt for Department and Contract Employees, Volunteers, and Interns (Attachment 2-H). (§115.231[d]) (§115.232[c]) (§115.234[c])

The investigator training provided was created by me during my employment with the Pennsylvania State Police. This training exceeds any expectations of the standard and provides the recipient with the needed skills to conduct investigations in a confinement setting.

I reviewed investigations completed by the PADOX Investigators for the past 12 months, these investigations were from a wide range of facilities. I found the investigations to be thorough and completed in a very timely manner.

I reviewed the four investigations conducted at the facility these investigations are thorough and completed in a timely manner.

Standard 115.235 Specialized training: Medical and mental health care

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

EVIDENCE OF COMPLIANCE:

NOT APPLICABLE

This standard does not apply to the facility. The agency does not employ any mental or medical staff at this facility.

Standard 115.241 Screening for risk of victimization and abusiveness

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008, Section 2- Prevention and Training addresses screening for risk of victimization and abusiveness. The policy reads as follows:

A. Screening for Risk of Victimization and Abusiveness

1. *Every resident shall be assessed for risk of being sexually abused by other residents or sexually abusive toward other residents: (§115.241[a][b][f][g])*
 - a. *within 72 hours of initial reception to the facility, including transfers;*
 - b. *between 20-30 days after initial reception;*
 - c. *when a resident is involved (victim or abuser) in an incident/allegation of sexual harassment and/or sexual abuse;*
 - d. *when warranted due to referral, request, or receipt of additional information that bears on the resident's risk of sexual victimization of abusiveness; and*
 - e. *when admitted to a licensed Mental Health Unit (MHU) at a CCF.*
2. *The PREA risk assessments shall be conducted utilizing the **PREA Risk Assessment Tool in English (Attachment 2-D) or Spanish (Attachment 2-E)** otherwise known as the PRAT. The tool will be an objective instrument that shall consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: (§115.241[c][d])*
 - a. *whether the resident has a mental, physical, or developmental disability;*
 - b. *the age of the resident;*
 - c. *the physical build of the resident;*
 - d. *whether the resident has previously been incarcerated;*

- e. *whether the resident's criminal history is exclusively nonviolent;*
 - f. *whether the resident has prior convictions for sex offenses against a child or an adult;*
 - g. *whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;*
 - h. *whether the resident has previously experienced sexual victimization;*
 - i. *the resident's own perception of vulnerability; and*
 - j. *whether the resident is detained solely for civil immigration purposes.*
3. *The initial assessment (within 72 hours of reception) shall be conducted by a trained counselor and consider prior acts of abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the Department, in order to assess residents for the risk of being sexually abusive. (§115.241[e])*
 4. *Follow-up assessments, including the 20-day assessment, shall be conducted by the trained counselor assigned to the resident.*
 5. *Assessments occurring at a licensed MHU shall be conducted by PREA-trained medical staff.*
 6. *Residents shall not be disciplined for refusing to answer, or for not disclosing complete information in response to the questions regarding prior victimization, disabilities, their perception of vulnerability, or their sexual orientation. (§115.241[h])*
 7. *The information received through the administration of the PRAT shall be used to make individualized determinations regarding housing, work, education, and program assignments with the goal of keeping residents safe and keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive. (§115.242[a][b])*
 8. *If a resident refuses to answer the PRAT questions, the staff member will emphasize the importance of answering the questions honestly to assist with proper placement and document any refusals.*
 9. *The answers to the PRAT should be stored in a secure location with access restricted to administrative personnel only. Information and scores shall only be made available to select staff to aid in housing, bed, and program assignment with the goal to keep separate those residents at high risk of being sexually victimized from those residents at high risk of being sexually abusive, and shall never be shared with other residents. (§115.241[i])*
 10. *CCCs shall use the electronic PRAT in WEBTAS to conduct assessments.*
 11. *CCFs may utilize the PRAT attachment or a different agency-specific tool that meets PREA standards. The tool must be made available for review upon request by the Department of Corrections (DOC)/Pennsylvania Board of Probation and Parole (PBPP).*

I reviewed the PA DOC PREA Risk Assessment Tool utilized in the screening process of the residents. I found that the PRAT asks all questions enumerated in this standard.

I reviewed the spreadsheet and found that the PRAT is being conducted in a timely manner.

All of the residents interviewed confirmed that they are being asked the screening questions by their counselor upon admission and have been asked the questions a second time.

During my interview with the counselor I confirmed that they are conducting the PRAT during the initial intake and within the thirty day timeframe.

Standard 115.242 Use of screening information

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008, Section 2- Prevention and Training addresses use of screening information. The policy reads as follows: The information received through the administration of the PRAT shall be used to make individualized determinations regarding housing, work, education, and program assignments with the goal of keeping residents safe and keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive. (§115.242[a][b])

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, the Bureau 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. (§115.242[c][d][e])

- a. Discussion shall occur between the Bureau's Referral Unit, Major/designee, Regional Director/designee, CFC, and PCM of the potential housing location.*
- b. These discussions will focus on sleeping quarters, use of bathroom/shower facilities, facility-based activities, community-based resources, and general questions or clarification.*

Factors used to determine placement as well as placement outcome shall be documented on the Transgender/Intersex Resident Placement Notes (Attachment 2-F).

I reviewed the aforementioned documentation utilized in the screening process. I found the forms to be easily understandable and the instructions explicit.

I confirmed with the Facility Director that the information from the PRAT is being utilized in the process of determining housing.

Standard 115.251 Resident reporting

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008, Section 3- Reporting Incidents and Allegations addresses resident reporting. The policy reads as follows: An incident/allegation of sexual abuse, sexual harassment, or retaliation (by other residents or staff) for reporting sexual abuse and/or sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents can be reported by several means: verbal, written, anonymous, or by a third party. (§115.251[a])

Employees shall accept reports made verbally, in writing, anonymously, and from third parties, promptly document any verbal reports on a DC-121, Part 3-BCC and immediately notify the Facility Director/designee. (§115.251[c], §115.261[e])

Residents may privately report sexual abuse, sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. Reports may be made verbally, in writing, anonymously, and from third parties to: (§115.251[a])

- a. any staff member;
- b. the Facility Director/designee;
- c. the facility PREA Compliance Manager (PCM);
- d. the Department PREA Coordinator; or
- e. to the address identified in Subsection C.

If a resident files a grievance related to sexual abuse, the grievance officer shall immediately reject the grievance and contact the BCC-MOC for investigation. The resident will be notified of this action. This will be considered an exhaustion of administrative remedies.

Third Party Reporting (§115.251[b][d]); (§115.254)

Anyone may make a private report of an allegation of sexual abuse or sexual harassment on behalf of a resident by writing to the:

- a. BCI/PREA Coordinator
1800 Elmerton Avenue
Harrisburg, PA 17110
- b. or by submitting a report online at www.tipsubmit.com.

NOTE: This address and website are not part of the Department or Contract Agency and are able to receive and immediately forward reports of sexual abuse and sexual harassment to Agency officials. The reporter may remain anonymous upon request.

This address and website may be used by anyone including employees, residents, friends, family, volunteers, visitors, interns, contractors, vendors, and the general public.

It should be noted that both the above listed address and online reporting directly goes to the Pennsylvania State Police Crime Stoppers Program Coordinator.

The signage is properly posted throughout the facility; this was viewed during the facility tour.

During the resident interviews they also indicated that the signage was placed throughout the facility and they understood the avenues of reporting.

Standard 115.252 Exhaustion of administrative remedies

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008, Section 3- Reporting Incidents and Allegations addresses administrative remedies. The policy reads as

follows:

If a resident files a grievance related to sexual abuse, the grievance officer shall immediately reject the grievance and contact the BCC-MOC for investigation. The resident will be notified of this action. This will be considered an exhaustion of administrative remedies.

The agency does not accept grievances related to sexual assault.

This facility has had no grievances filed pertaining to sexual abuse.

Standard 115.253 Resident access to outside confidential support services

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008, Section 4- Responding to a Report of Sexual Abuse addresses the resident access to outside confidential support services. The policy reads as follows:

- 1. The PCM shall coordinate victim services related to sexual abuse for their facility and work with the Pennsylvania Coalition Against Rape (PCAR) approved local rape crisis center to establish a **Rape Crisis Center Letter of Agreement (Attachment 4-B)**. (§115.221[d]) (§115.253[c])
 - a. CCC letters shall be vetted through the Department's Office of Chief Counsel.*
 - b. CCFs may utilize the Rape Crisis Center Letter of Agreement as a template and vet through the Contract Agency's legal department to ensure compliance with the national PREA standards.*
 - c. Each facility shall maintain the signed document for review upon request and provide a copy to the Regional Director/designee and Agency PREA Coordinator.**
- 2. Notification about available services (Attachment 4-C) shall be laminated and posted in facility common areas accessed by residents. (§115.233[e]) The facility shall add the address for local services prior to printing and laminating the attachment. (§115.253[a]) Phone numbers may not be posted without the written consent of the organization providing the service.*

The facility utilizes Crime Victims Council of Lehigh Valley, Inc. for victim advocacy. The memo of understanding is dated February 10, 2015.

The facility has not had any incidents where these services were utilized.

This was confirmed during the Facility Director interview and reviewing the investigations completed over the last 12 months.

Standard 115.254 Third-party reporting

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008, Section 3- Reporting Incidents and Allegations addresses third party reporting. The policy reads as follows:

Third Party Reporting (§115.251[b][d]); (§115.254)

1. *Anyone may make a private report of an allegation of sexual abuse or sexual harassment on behalf of a resident by writing to the:*
 - a. *BCI/PREA Coordinator*
1800 Elmerton Avenue
Harrisburg, PA 17110
 - b. *or by submitting a report online at www.tipsubmit.com.*

NOTE: This address and website are not part of the Department or Contract Agency and are able to receive and immediately forward reports of sexual abuse and sexual harassment to Agency officials. The reporter may remain anonymous upon request.

2. *This address and website may be used by anyone including employees, residents, friends, family, volunteers, visitors, interns, contractors, vendors, and the general public.*
3. *This information shall be posted as outlined in Subsection A.*

The following is also posted on the Pennsylvania Department of Corrections website at:

[http://www.cor.pa.gov/Administration/PrisonRapeEliminationAct\(PREA\)/Pages/Report-Institutional-Sexual-Assault.aspx](http://www.cor.pa.gov/Administration/PrisonRapeEliminationAct(PREA)/Pages/Report-Institutional-Sexual-Assault.aspx)

The information reads as follows:

Methods for Inmates to Report Sexual Abuse or Sexual Harassment:

- a. *Verbal or written report to any staff member*
- b. *Submission of a DC-135A, Inmate Request to Staff Member*
- c. *Incidents of sexual abuse, sexual harassment and retaliation can be reported in writing by sending correspondence via U.S. mail to the BCI/PREA Coordinator at 1800 Elmerton Avenue, Harrisburg, PA 17110*
- d. *Request more information from the Pennsylvania Coalition Against Rape, P.O. Box 400, Enola, PA 17025*

Methods for Civilians to Report Sexual Abuse or Sexual Harassment:

- a. *Incidents of sexual abuse, sexual harassment and retaliation can be reported in writing by sending correspondence via U.S. mail to the BCI/PREA Coordinator at 1800 Elmerton Avenue, Harrisburg, PA 17110*
- b. *Submit a report online at www.tipsubmit.com using the PREA Complaint Form*

The facility has the proper signage for third party reporting posted in the facility and at the entrance.

All of the residents interviewed understood the third party reporting avenues.

Standard 115.261 Staff and agency reporting duties

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008, Section 3- Reporting Incidents and Allegations addresses staff and agency reporting duties. The policy reads as follows:

Staff Reporting

All staff shall provide an immediate verbal report to the Facility Director/designee of any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in any 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. (§115.261[a]) This information shall be documented on a DC-121, Part 3-BCC.

NOTE: If the report involves an incident/allegation of sexual abuse, the employee shall also complete first responder duties as outlined in Section 4 of this procedures manual.

A staff member may also make a private report as outlined in Subsection C.

Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone except those specified in this procedures manual, to make treatment, investigation, or other security and management decisions. (§115.261[b])

Unless otherwise precluded by federal, state, or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to Subsection D.1. and to inform residents of the practitioner's duty to report and the limitations of confidentiality at the initiation of services. (§115.261[c])

If the alleged victim is under the age of 18, or considered a vulnerable adult under a state or local "Vulnerable Persons" statute, the facility shall report the allegation to the designated state or local services agency under applicable mandatory reporting laws. (§115.261[d])

The policy further states that the responsibilities of the Facility Director/designee are as follows:

Upon learning of an allegation of sexual abuse or sexual harassment, including third-party and anonymous reports, the Facility Director/designee shall:

- a. ensure the safety of the victim;*
- b. verbally notify the BCC-MOC for action and investigation; (§115.261[e])*
- c. ensure first responder duties are completed in accordance with Section 4 of this procedures manual for every incident/allegation of sexual abuse; and*
- d. document the allegations via DC-121, Part 3-BCC.*

When I interviewed the random staff I was impressed with the answers related to staff reporting. All of the staff understood the importance of reporting, what their duties were, and how to effectively report this information. The staff also understood

the internal reporting system as well as the external reporting avenues. They all understood the importance of keeping the information reported to them private as well as all applicable mandatory reporting laws.

Standard 115.262 Agency protection duties

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008, Section 3- Reporting Incidents and Allegations addresses agency protection duties. The policy reads as follows:

When any employee learns that a resident is subject to a substantial risk of imminent sexual abuse, the employee shall take immediate action to protect the resident and verbally contact the Facility Director/designee for additional direction. This information shall be documented on a DC-121, Part 3-BCC. (§115.262)

All of the staff interviewed understood their duties to protect a resident, they all responded in the same manner, they would act immediately.

The staff also recognized the importance of separating the alleged offender from further interaction with any other residents, they all related that they would have the alleged offender under constant supervision.

Standard 115.263 Reporting to other confinement facilities

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008, Section 3- Reporting Incidents and Allegations addresses reporting to other confinement facilities as well as responding to reports from other confinement facilities. The policy reads as follows:

A. Reports Received about Other Confinement Facilities

- 1. Upon receiving an allegation that a resident was sexually abused while confined at another facility, the Facility Director/designee shall document the receipt of the allegation via DC-121, Part 3-BCC and **verbally** notify the BCC-MOC without delay.*
- 2. The BCC-MOC will make initial contact with the affected facility and the reporting Facility Director/designee shall make follow-up contact with the affected Facility Manager within 72 hours of report. The affected facility will be provided a copy of the confidential report and contact information for any follow-up questions. (§115.263[a][b])*

B. Reports Received from Other Confinements Facilities

1. Upon receiving an allegation from another facility (Community Corrections Center [CCC], Community Contract Facility [CCF], State Correctional Institution [SCI], Contract County Jail [CCJ], etc.) about an allegation of sexual abuse or sexual harassment, the Facility Director/designee shall document the receipt of the allegation via **DC-121, Part 3-BCC** and verbally notify the BCC-MOC without delay.
2. The BCC-MOC will take action as outlined in **Subsection I**.

All staff understood their responsibilities if an incident was reported to them which allegedly occurred at another facility. All reports such as this will go through the BCC Operations Center.

The facility has not had any incident where they needed to report to another confinement facility.

Standard 115.264 Staff first responder duties

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008, Section 4- Responding to a Report of Sexual Abuse addresses the staff first responder responsibilities. The policy reads as follows:

Upon learning of an allegation that a resident was sexually abused, the first staff member to respond shall take immediate action and: (§115.264[a][b])

- a. call “911” if a physical and/or sexual assault is currently in progress;
- b. as soon as safely possible, separate the alleged victim and alleged abuser;
- c. escort the victim to a safe location away from others;
- d. notify the Facility Director/designee;
- e. contact the Bureau of Community Corrections (BCC) Management Operations Center (BCC-MOC) and follow all direction provided to include preserving and protecting any possible crime scene as outlined in Department policy 8.3.1, Section 24 until appropriate steps can be taken to collect evidence; and
- f. complete the BCC First Responder Checklist (Attachment 4-D) and a DC-121, Part 3-BCC.

In order to maximize the potential for obtaining usable physical evidence, the facility shall secure and protect the potential crime scene, until physical evidence can be collected by law enforcement and/or an outside medical professional. If those entities decline to take possession of the evidence, it shall be handled in accordance with Department policy 8.3.1, “Bureau of Community Corrections Security,” Section 24. (§115.221[a])

The BCC-MOC shall complete duties as outlined in Section 4 of this procedures manual to include the coordination of initial medical and mental health services by an external provider. (§115.282[b])

During the staff interviews I found that the staff understand their duties as to responding to an incident. They all advised me that they would act immediately and make the protection of the resident their first priority.

All of the investigations over the last 12 months did not require any staff to act as first responders.

Standard 115.265 Coordinated response

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008, Section 4- Responding to a Report of Sexual Abuse addresses coordinated response. The policy reads as follows:

The facility shall develop a written facility plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership. (§115.265)

The following procedures are followed when an incident occurs at the facility:

Upon witnessing or receiving a report of sexual abuse, the first responder shall:

- 1. Notify the center director, security lieutenant, or MOC shift commander and follow their direction.*

Ensure:

Alleged victim is escorted to conference room

Reported crime scene is secured until appropriate steps can be taken to collect evidence.

- 2. separate the alleged victim and alleged abuser*
- 3. If alleged incident occurred within 96 hours, instruct alleged victim and perpetrator not to shower, brush teeth, urinate, defecate, eat, drink, change clothing, or anything that would destroy evidence.*
- 4. No photographs are to be taken by bcc staff within 96 hours of the alleged abuse. Photographs, if necessary will be taken by hospital staff.*
- 5. EMT, law enforcement will determine if alleged victim is transported to and outside hospital for forensic examination by a safe/sane certified medical professional.*
- 6. Alleged victim will be offered timely information about and access to emergency contraception and sexually transmitted infections prophylaxis.*
- 7. PCM will offer alleged victim an opportunity to talk to an outside victim advocate and receive continued care.*
- 8. Ongoing medical and mental health treatment will be made available to inmates who have been victimized by sexual abuse.*
- 9. Alleged victims and reporting parties of sexual abuse must be monitored and protected from retaliation.*
- 10. Submit all required written reports and checklist pursuant to doc policy.*

The facility has an MOU with Lehigh Valley Health Network for forensic examinations. Lehigh Valley Health Network provides forensic examinations by a Sexual Assault Nurse Examiner (SANE). The memo of understanding is dated February 10, 2015.

The overall policies outline the coordinated response to a PREA incident. I found the policies to be in depth and covering all aspects of an investigation.

Standard 115.266 Preservation of ability to protect residents from contact with abusers

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

EVIDENCE OF COMPLIANCE:

I reviewed a letter from Ty Stanton Director of Human Resources dated January 13, 2015. This letter states in part that the Department operates within the confines of collective bargaining agreements with eight (8) different unions. None of these collective bargaining agreements contain language that limit the ability to remove an alleged staff sexual abuser from contact with any inmates pending the outcome of an investigation or a determination of whether and to what extent discipline is warranted. In addition, the collective bargaining agreements are silent regarding suspensions pending investigation. When the contract is silent on issues, policy then governs.

I further reviewed a memo from Secretary Wetzel dated January 12, 2015. This letter reads in part that recent arbitration awards and court decisions have clarified the procedures to be followed when placing an employee on Suspension Pending Investigation status. The procedures outlined below are to be implemented immediately, without exception.

Suspensions pending investigation should only be considered when the alleged offenses are of a nature that warrants immediate removal from the workplace. Per the awards, the Department does not need to demonstrate that the employee committed the suspected offenses; but rather, that the "nature of the allegations" are such that there is just cause to remove the employee from the institution pending the outcome of the investigation.

Standard 115.267 Agency protection against retaliation

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

EVIDENCE OF COMPLIANCE:

*BCC-ADM 008 Section 5-Investigations and Retaliation Monitoring addresses agency protection against retaliation. The policy reads as follows:
Retaliation Monitoring*

1. *The Department shall protect all residents and staff who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff. Action may include: (§115.267[a][b])*
 - a. administrative and/or criminal investigation;*
 - b. housing changes or transfers for resident victims or abusers;*
 - c. removal of alleged abusers from contact with victims; and/or*
 - d. emotional support services for residents or staff.*

2. *For at least 90 days, and longer if deemed necessary, following a report of sexual abuse, the PREA Compliance Manager (PCM) shall monitor the conduct and treatment of: (§115.267[c][e])*
 - a. *residents who reported sexual abuse;*
 - b. *residents who were reported to have suffered sexual abuse;*
 - c. *staff who reported sexual abuse; and*
 - d. *any other individual who cooperates with a sexual abuse or sexual harassment investigation and expresses a fear of retaliation.*
3. *The PCM shall monitor these individuals to see if there are changes that may suggest retaliation by residents or staff by: (§115.267[c])*
 - a. *reviewing the resident’s infraction reports, program reports, and housing assignment;*
 - b. *reviewing negative staff performance reviews or staff reassignment;*
 - c. *negative interactions with other staff or other residents;*
 - d. *meeting with the resident bi-weekly to discuss their progress; (§115.267[d]) and*
 - e. *document on the Retaliation Monitoring (Attachment 5-A) form.*
4. *When retaliation is suspected, the PCM shall immediately notify the Facility Director/designee and Regional Director/designee so that appropriate steps may be taken to protect the individual and remedy any such retaliation. (§115.267[c])*
5. *The facility’s obligation to monitor retaliation shall terminate if the allegation is unfounded. (§115.267[f])*

I reviewed the Bureau of Community Corrections Retaliation Monitoring form, this was provided to me with the initial documentation.

The Facility Director would be tasked with monitoring any reported retaliation. During my interview with the Facility Director she understood her role in monitoring retaliation.

There have been no PREA incidents that have required investigations for retaliation.

Standard 115.271 Criminal and administrative agency investigations

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008 Section 5-Investigations and Retaliation Monitoring addresses criminal and administrative agency investigations. The policy reads as follows:

The Bureau Director/designee shall ensure every reported incident/allegation of sexual abuse and/or sexual harassment of a resident is investigated promptly, thoroughly, objectively, and a confidential report compiled as outlined in Department policy 8.3.1, “Bureau of Community Corrections Security,” Section 35. (§115.271[a])

8.3.1 Section 35-Investigations further states the following:

A. Responsibilities

1. *All Department and Contract managers shall ensure that employees enforce and comply with the outlined procedures, take corrective action regarding non-compliance and document appropriately.*
2. *The Bureau Major/designee shall ensure:*
 - a. *PREA related investigations are reported to the Office of Special Investigations and Intelligence (OSII), for tracking, utilizing the Sexual Abuse Coversheet (Attachment 35-A) via the CR, CEN Sexual Abuse email account;*
 - b. *non-PREA related physical abuse and fraternization investigations are reported to the Office of Special Investigations and Intelligence (OSII), for tracking, utilizing the Inmate Abuse Coversheet (Attachment 35-B) via the CR, CEN Inmate Abuse email account;*
 - c. *other administrative investigations are assigned an internal tracking number;*
 - d. *all investigations are assigned a due date and processed accordingly.*
3. *Depending on the seriousness of the allegation, an accused staff member, contract service provider, volunteer, intern or an individual who has business with or uses the resources of the Agency may be suspended or otherwise removed from contact with residents, pending the outcome of the investigation. This decision will be made by the Bureau Director/designee on a case-by-case basis.*
 - a. *Department of Corrections employee suspensions procedures are outlined in Department policy 4.1.1.*
 - b. *Contract employee suspensions shall be at the discretion of the contract agency head, in consultation with the Bureau Director/designee.*
4. *Investigators shall:*
 - a. *conduct each investigation as outlined in this Section;*
 - b. *complete each investigation no later than the assigned due date;*
 - c. *stop the administrative investigation if, at any point, the quality of the evidence appears to support criminal prosecution and discuss the next course of action with the Bureau Major/designee. Compelled interviews shall not be conducted by BCC investigators. The administrative investigation shall be placed on hold until the conclusion of the criminal investigation unless otherwise approved by the Bureau Director/designee; (§115.271[d])*
 - d. *endeavor to remain informed about the progress of the criminal investigation (§115.271[l]); and*
 - e. *inform the Bureau Major/designee of any delays, difficulties or extension requests.*
5. *Employees may not discuss any active investigation regardless of the level of information they are privy to.*
6. *Employees shall fully cooperate with any administrative or criminal investigation conducted on behalf of the Department. Failure to cooperate may result in disciplinary action and/or criminal prosecution. (§115.271[d])*

B. PREA Related Administrative Investigations

1. *PREA related administrative investigations shall be conducted by staff trained in accordance with BCC-ADM 008.*
2. *Investigators shall: (§115.271[c])*
 - a. *gather and/or preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data;*

- b. *interview alleged victims, suspected abusers, and witnesses; and*
 - c. *review prior complaints and reports of sexual abuse involving the suspected abuser.*
3. *Investigations shall be conducted to determine internal discipline and contract violations for the following:*
 - a. *every reported incident/allegation of sexual harassment of an offender; and*
 - b. *every reported incident/allegation of sexual abuse of an offender.*
 4. *The departure of the alleged abuser or victim from employment or control of the facility or agency shall not provide a basis for terminating an investigation. (§115.271[j])*
 5. *The investigation shall include an effort to determine whether staff actions or failures to act contributed to the abuse and documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments and investigative facts and findings. (§115.271[f])*
 6. *No standard higher than a preponderance of the evidence shall be imposed in determining whether allegations of sexual abuse or sexual harassment are substantiated. (§115.272) DEFINE PREPONDERANCE*
 7. *CCC investigations shall be conducted by trained Department employees.*
 8. *CCF investigations shall be conducted as follows:*
 - a. *When the allegation/incident involves a DOC funded offender (either victim or abuser) the administrative investigation will be conducted by the PA DOC.*
 - b. *When the allegation/incident involves only non-DOC funded residents the Bureau Major/designee shall advise the CCF to:*
 - 1) *conduct the administrative investigation in compliance with the national PREA standards; and*
 - 2) *report the incident to outside law enforcement for possible criminal investigation.*

I have reviewed the four investigations for this facility as well as numerous agency investigations provided to me during the agency level interviews. I found that the investigations are complete and thorough.

The Pennsylvania Department of Corrections and the Pennsylvania State Police entered into a Memorandum of Understanding as it relates to the investigative process of PREA allegations, this MOU was entered into on September 24th 2013. The Pennsylvania State Police agrees to conduct the criminal investigations of sexual abuse in facilities.

During the review of the aforementioned investigations I verified the proper authorities are conducting the investigations.

Standard 115.272 Evidentiary standard for administrative investigations

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

EVIDENCE OF COMPLIANCE:

8.3.1 Section 35-Investigations addresses evidentiary standards for administrative investigations. The policy reads as follows:

No standard higher than a preponderance of the evidence shall be imposed in determining whether allegations of sexual abuse or sexual harassment are substantiated. (§115.272)

I have reviewed numerous agency investigations on PREA allegations, as well as the four investigations from this facility. I found that the level of preponderance of the evidence has been consistently applied to these investigations.

Standard 115.273 Reporting to residents

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

EVIDENCE OF COMPLIANCE:

*BCC-ADM 008 Section 8-Notification to Residents addresses reporting to residents. The policy reads as follows:
Section 8 – Notification to Residents*

A. General

- 1. The PREA Compliance Manager (PCM) shall document all notifications or attempted notifications via the Resident Notification – PREA (Attachment 8-A) form. (§115.273[e])*
- 2. All completed forms shall be placed in the resident’s file and a copy forwarded to the PREA Captain/designee and Contract Facility Coordinator (CFC) (if applicable).*
- 3. Notifications shall occur even in instances where a resident has been transferred to another facility in the Department of Corrections (DOC).*
- 4. The Department’s obligation to report the results of the investigation or other actions under this policy shall terminate if the resident is released from the Department’s custody. (§115.273[f])*

B. Notification Process

- 1. Following the investigation into a resident’s allegation that he or she suffered sexual abuse or sexual harassment in a facility operated/contracted by the DOC, the PCM at the facility where the resident is housed shall inform the resident, in writing, as to whether the allegation has been determined to be: (§115.273[a])*
 - a. Substantiated – an allegation that was investigated and determined to have occurred.*
 - b. Unsubstantiated – an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.*
 - c. Unfounded – an allegation that was investigated and determined not to have occurred.*
- 2. If another agency conducted the investigation, the Bureau of Community Corrections (BCC) PREA investigator will request the relevant information from the investigative agency and forward it to the PCM, who will inform the resident. (§115.273[b])*
- 3. Following a resident’s allegation that a staff member has committed sexual abuse or sexual harassment against the resident, the PCM shall subsequently inform the resident when any of the following occur: (§115.273[c])*
 - a. the staff member is no longer posted within the resident’s unit;*

- b. *the staff member is no longer employed at the facility;*
 - c. *the agency learns the staff member has been criminally charged related to sexual abuse or sexual harassment within the facility; or*
 - d. *the agency learns that the staff member has been convicted on a charge related to sexual abuse or sexual harassment within the facility.*
4. *Following a resident's allegation that he or she has been sexually abused or sexually harassed by another resident, the PCM shall subsequently inform the alleged victim whenever: (§115.273[d])*
- a. *the agency learns that the alleged abuser has been criminally charged related to sexual abuse or sexual harassment within the facility; or*
 - b. *the agency learns that the abuser has been convicted on a charge related to sexual abuse or sexual harassment within the facility.*
5. *These notifications apply to the victim only. Third party reporters will not be notified of outcomes and/or actions.*

I reviewed the Resident Notification – PREA (Attachment 8-A) form, this form is complete and meets all requirements enumerated in the standard.

During my review of the facility investigations I found that the Resident Notification Forms are being completed for all notifications to the residents.

At the time of the audit no alleged victims were available for interview.

Standard 115.276 Disciplinary sanctions for staff

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008 Section 7-Disciplinary and Administrative Action addresses disciplinary sanctions for staff. The policy reads as follows:

Department employees shall be subject to disciplinary sanctions up to and including termination for violating sexual abuse or sexual harassment policies. Discipline shall occur in accordance with Department policy 4.1.1, "Human Resources and Labor Relations." (§115.276[a])

All activity that is the basis of terminations for violations of Department 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. (§115.276[d])

In furtherance of this policy 4.1.1, Human Resources and Labor Relations Procedures Manual Section 7- Standardization of Pre-Disciplinary Conferences further addresses disciplinary sanctions for staff. This policy was reviewed in its entirety, the policy standardizes discipline for staff through an investigation followed by a Pre-Disciplinary Conference.

In the past 12 months, there have not been any staff found to have violated agency sexual abuse or sexual harassment policies

Standard 115.277 Corrective action for contractors and volunteers

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008 Section 7-Disciplinary and Administrative Action addresses disciplinary sanctions for staff. The policy reads as follows:

Any Contract employee or volunteer who engages in sexual abuse shall be prohibited from contact with residents and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. (§115.277[a])

The Department shall take appropriate remedial measures and shall consider whether to prohibit further contact with residents, in the case of any other violation of Department sexual abuse or sexual harassment policies by a contractor or volunteer. (§115.277[b])

Contract agency hiring, firing, and promotional practices must comply with the National Prison Rape Elimination Act (PREA) standards.

Interviews indicated that if any volunteer or contractor violated the Department’s sexual abuse or sexual harassment policies, their security clearance would be temporarily suspended until the investigation was complete. If the investigation found any violation of criminal law, the investigation would be turned over for prosecution. Any substantiated investigation would result in the indefinite suspension of the individual’s security clearance.

The facility has had no PREA related incidents involving volunteers or contractors.

Standard 115.278 Disciplinary sanctions for residents

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008 Section 7-Disciplinary and Administrative Action addresses disciplinary sanctions for residents. The policy reads as follows:

Resident Discipline – General

- 1. Residents shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse, resident-on-resident sexual harassment, or following a criminal finding of guilt for resident-on-resident sexual abuse. (§115.278[a])*
- 2. Sanctions shall be commensurate with the nature and circumstances of the abuse or harassment committed, the resident’s disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories. (§115.278[b])*

3. *The disciplinary process shall consider whether a resident's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. (§115.278[c])*
4. *If the allegation of sexual abuse has been substantiated, the resident abuser will be discharged from the facility where the abuse occurred. (§115.278[d])*
5. *For the purpose of disciplinary action, a report of sexual abuse or sexual harassment made in good faith, based upon a reasonable belief that the alleged conduct occurred, shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation. (§115.278[f])*
6. *The facility may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact. (§115.278[e])*
7. *The Agency prohibits all sexual activity between residents and disciplines residents for such activity. The Agency will not deem such activity to constitute sexual abuse if the Agency determines that the activity is not coerced (meaning it is consensual). (§115.278[g])*

The facility has had one sexual harassment substantiated investigation; the discipline was commensurate with the nature and circumstances of the harassment.

Standard 115.282 Access to emergency medical and mental health services

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008 Section 4- Responding to a Report of Sexual Abuse addresses the access to emergency medical and mental health care services. The policy reads in part: The BCC-MOC shall complete duties as outlined in Section 4 of this procedures manual to include the coordination of initial medical and mental health services by an external provider. (§115.282[b])

Resident victims of sexual abuse shall 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. (§115.282[a])

The PCM shall coordinate medical services and referrals for treatment in the community, in accordance with professionally accepted standards, to include: pregnancy tests for resident victims of sexually abusive vaginal penetration during incarceration; timely and comprehensive information about and timely access to emergency contraception; lawful pregnancy-related services; Sexually Transmitted Infections (STI) testing and follow-up treatment. (§115.282[c]) (§115.283[d][e][f])

Services shall be provided without financial cost to the victim and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. This financial obligation ends when the resident is released from the facility. Any financial obligation incurred by the facility shall be reported to the Bureau Director/designee. (§115.282[d]) (§115.283[g])

The facility has an MOU with Lehigh Valley Health Network for forensic examinations. Lehigh Valley Health Network provides forensic examinations by a Sexual Assault Nurse Examiners (SANEs). The memo of understanding is dated February 10, 2015.

The facility utilizes Crime Victims Council of Lehigh Valley, Inc. for victim advocacy. The memo of understanding is dated February 10, 2015.

The Facility Director understood the obligations of the facility in providing this service to the residents.

The aforementioned services have not been utilized within the last 12 months.

Standard 115.283 Ongoing medical and mental health care for sexual abuse victims and abusers

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008 Section 4- Responding to a Report of Sexual Abuse addresses ongoing medical and mental health care for sexual abuse victims and abusers. The policy reads in part:

D. Follow-Up Care for Victims of Sexual Abuse

- 1. The PCM shall coordinate medical and mental health evaluations and, as appropriate, treatment for all residents who have been victimized by sexual abuse in any prison, jail, lockup, juvenile facility, or community confinement facility. This includes follow-up services, treatment plans, and referrals for continued care following their release from the facility. (§115.283[a][b])*
- 2. The PCM shall coordinate medical services and referrals for treatment in the community, in accordance with professionally accepted standards, to include: pregnancy tests for resident victims of sexually abusive vaginal penetration during incarceration; timely and comprehensive information about and timely access to emergency contraception; lawful pregnancy-related services; Sexually Transmitted Infections (STI) testing and follow-up treatment. (§115.282[c]) (§115.283[d][e][f])*
- 3. Medical and mental health referrals shall occur to locations providing services consistent with the community level of care. (§115.283[c])*
- 4. Services shall be provided without financial cost to the victim and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. This financial obligation ends when the resident is released from the facility. Any financial obligation incurred by the facility shall be reported to the Bureau Director/designee. (§115.282[d]) (§115.283[g])*

E. Resident Abusers

The facility shall attempt to coordinate a mental health evaluation for all known resident-on-resident abusers within 60 days of learning of such abuse history and coordinate treatment when deemed appropriate by mental health practitioners. (§115.283[h])

The facility has an MOU with Lehigh Valley Health Network for forensic examinations. Lehigh Valley Health Network provides forensic examinations by a Sexual Assault Nurse Examiners (SANEs). The memo of understanding is dated February 10, 2015.

The facility utilizes Crime Victims Council of Lehigh Valley, Inc. for victim advocacy. The memo of understanding is dated February 10, 2015.

The Facility Director understood the obligations of the facility in providing this service to the residents. The Facility Director understood the obligations of the facility in providing this service to the residents.

The aforementioned services have not been utilized within the last 12 months.

Standard 115.286 Sexual abuse incident reviews

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008 Section 6- Sexual Abuse Incident Review addresses the review of sexual abuse incidents. The policy reads as follows:

A. General

A Sexual Abuse Incident Review shall be conducted at the conclusion of every sexual abuse investigation where the allegation was substantiated or unsubstantiated. No review will be conducted if the allegation has been determined to be unfounded. The review shall occur within 30 working days of notice of satisfactory completion of the investigation. These reviews must take place for ALL sexual abuse investigations, whether they are conducted by the Bureau Security Division or the Office of Special Investigations and Intelligence (OSII). (§115.286[a][b])

B. Sexual Abuse Incident Review

- 1. The Prison Rape Elimination Act (PREA) Compliance Manager (PCM) will chair the Sexual Abuse Incident Review committee. The PCM, in collaboration with the Regional Director/designee, will determine the exact composition of the team based on the nature of the incident. At a minimum, the Sexual Abuse Incident Review Team may involve the: (§115.286[c])*
 - a. Facility Director/designee;*
 - b. Other designated manager or supervisor;*
 - c. Bureau of Community Corrections (BCC) Investigator;*
 - d. Facility Counselor (presence not authorized for staff on resident accusations);*
 - e. Facility medical/mental health practitioner (only if directly involved); and*
 - f. Agency PREA Coordinator (when necessary).*
- 2. The PCM shall ensure all necessary documents are available for review (resident file, investigative packet, etc.) and notify the review team of the date, time, and place of the meeting.*
- 3. The Sexual Abuse Incident Review must occur at the facility where the incident occurred.*
- 4. The team will carefully review the documentation surrounding the incident. The review will focus upon the events associated with the incident, such as housing assignment, location of the alleged incident, measures taken as a result of the allegation, need for follow-up for the victim, etc.*
- 5. The review committee will consider, at a minimum, the items outlined in the PREA Sexual Abuse Incident Review (Attachment 6-A).*

6. *In addition to reviewing the information surrounding the incident, the team will also gather information that can help to sensitize staff to possible clues and situations that are present before such incidents may occur. The aim is to help all staff become more proficient at detecting preventable incidents before they occur.*
7. *The Sexual Abuse Incident Review Committee shall utilize all available information and reports to: (§115.286[d])*
 - a. *consider whether the incident or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;*
 - b. *consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;*
 - c. *examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse:*
 - d. *assess the adequacy of staffing levels in that area during different shifts;*
 - e. *assess whether monitoring technology should be deployed or augmented to supplement supervision by staff;*
 - f. *take action necessary to address immediate safety concerns;*
 - g. *utilize the PREA Sexual Abuse Incident Review to prepare a confidential report with findings and recommendations; and*
 - h. *forward the completed report with attachments via email, to the BCC Investigator and Facility Director/designee within five working days of the incident review.*
8. *The BCC investigator shall ensure completeness of the packet and provide to the Bureau Director/designee.*

The four investigations I reviewed had incident reviews conducted on them. All of the aspects of this standard were applied during the review.

The reviews identified no issues as the cause of the incident.

Standard 115.287 Data collection

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008 Section 1- Data Collection addresses the collection of data, data review for corrective action, and data storage, publication and destruction. . The policy reads as follows:

Section 1 – Data Collection

The Department's Bureau of Planning, Research, and Statistics (BPRS) shall collect accurate, uniform data for every allegation of sexual abuse at facilities under the Department's direct control using a standardized instrument and set of definitions. (§115.287[a])

A. Department's Annual Prison Rape Elimination Act (PREA) Report

- 1. The BPRS shall review data collected and aggregate it annually pursuant to PREA Auditing Standard §115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection and response policies, practices and training by: (§115.287[b]) (§115.288[a])*
 - a. identifying problem areas;*
 - b. taking corrective action on an ongoing basis; and*
 - c. preparing an annual report of its findings and corrective actions for each facility, as well as the Department as a whole.*
- 2. All data information shall be maintained, reviewed, and collected as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. (§115.287[d])*
- 3. Incident-based aggregate data will also be collected from every private facility the Department contracts with for the confinement of residents. (§115.287[c]) Information collected will be related to incidents involving Department-Funded Residents (DFR) as either victim or abuser. (§115.287[e])*
- 4. The Department will produce an annual PREA report, capturing data from January 1 to December 31, and will provide the following information:*
 - a. the number of allegations made at each facility;*
 - b. the number of substantiated, unsubstantiated, and unfounded investigations completed as of December 31 each year;*
 - c. the number of ongoing investigations as of December 31 for each facility;*
 - d. comparison of the rates of incidents for each facility from the preceding year to the current report year;*
 - e. any additional information that is required by the Survey of Sexual Violence required by the Department of Justice; and (§115.287[c])*
 - f. the report shall include a comparison of the current year's data and corrective actions taken to reduce the incident of sexual abuse, sexual harassment, and retaliation with those from prior years, and shall provide an assessment of the Department's progress in addressing sexual abuse. (§115.288[b])*
- 5. The Department shall make all aggregated sexual abuse data information listed in Subsection A.4. above, from facilities under its direct control and contracted facilities, readily available to the public through the Department website, at least annually. (§115.289[b])*
- 6. The Annual PREA Report shall be approved by the Secretary, provided to the Department of Justice and posted on the Department website by June 30 of each year. (§115.287[f]) (§115.288[c])*
- 7. The Department shall securely retain all aggregate PREA data, on the Department's secure servers, collected for a period of no less than ten years after the date of the initial collection unless federal, state, or local law requires otherwise. (§115.289[a][d])*
- 8. Specific identifying information collected for reporting purposes shall be redacted so that no individual is identifiable. In addition, the Department may redact specific material from the reports*

when publication would present a clear and specific danger to a facility, but must indicate the nature of the material redacted. (§115.289[c]) (§115.288[d])

I was informed that OSII collects data through the investigative process, data is also collected utilizing the WebTAS system which collects pertinent information. The agency further collects the information from the reports submitted by the Pennsylvania State Police during a criminal investigation.

The facilities submits data on a monthly report, this facility has not had any reports of PREA incidents.

Standard 115.288 Data review for corrective action

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

EVIDENCE OF COMPLIANCE:

*BCC-ADM 008 Section 1- Data Collection addresses the collection of data, data review for corrective action, and data storage, publication and destruction. . The policy reads as follows:
Section 1 – Data Collection*

The Department’s Bureau of Planning, Research, and Statistics (BPRS) shall collect accurate, uniform data for every allegation of sexual abuse at facilities under the Department’s direct control using a standardized instrument and set of definitions. (§115.287[a])

A. Department’s Annual Prison Rape Elimination Act (PREA) Report

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 - a. identifying problem areas;*
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 - c. preparing an annual report of its findings and corrective actions for each facility, as well as the Department as a whole.*
- 2. All data information shall be maintained, reviewed, and collected as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. (§115.287[d])*
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- c. *the number of ongoing investigations as of December 31 for each facility;*
 - d. *comparison of the rates of incidents for each facility from the preceding year to the current report year;*
 - e. *any additional information that is required by the Survey of Sexual Violence required by the Department of Justice; and (§115.287[c])*
 - f. *the report shall include a comparison of the current year's data and corrective actions taken to reduce the incident of sexual abuse, sexual harassment, and retaliation with those from prior years, and shall provide an assessment of the Department's progress in addressing sexual abuse. (§115.288[b])*
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 6. *The Annual PREA Report shall be approved by the Secretary, provided to the Department of Justice and posted on the Department website by June 30 of each year. (§115.287[f]) (§115.288[c])*
 7. *The Department shall securely retain all aggregate PREA data, on the Department's secure servers, collected for a period of no less than ten years after the date of the initial collection unless federal, state, or local law requires otherwise. (§115.289[a][d])*
 8. *Specific identifying information collected for reporting purposes shall be redacted so that no individual is identifiable. In addition, the Department may redact specific material from the reports when publication would present a clear and specific danger to a facility, but must indicate the nature of the material redacted. (§115.289[c]) (§115.288[d])*

During the audit I reviewed the PREA Summary Reports from 2011, 2012, 2013, and the 2013 and 2014 Annual reports.

Through interviews it was confirmed that if a problem or trend is identified they would immediately implement a corrective action plan.

During the staff interviews I found that data is being forwarded on a monthly basis for review.

Standard 115.289 Data storage, publication, and destruction

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

EVIDENCE OF COMPLIANCE:

BCC-ADM 008 Section 1- Data Collection addresses data storage, publication and destruction. . The policy reads in part:

The Department shall make all aggregated sexual abuse data information listed in Subsection A.4. above, from facilities under its direct control and contracted facilities, readily available to the public through the Department website, at least annually. (§115.289[b])

The Department shall securely retain all aggregate PREA data, on the Department's secure servers, collected for a period of no less than ten years after the date of the initial collection unless federal, state, or local law requires otherwise. (§115.289[a][d])

Specific identifying information collected for reporting purposes shall be redacted so that no individual is identifiable. In addition, the Department may redact specific material from the reports when publication would present a clear and specific danger to a facility, but must indicate the nature of the material redacted. (§115.289[c]) (§115.288[d])

All of the data collected by the agency is kept on a secure server with limited access. I reviewed the issued 2014 PREA Annual Report and found it to be complete, all data is contained within the report, and all identifiers have been removed.

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 Signature

05/22/16
Date