

Prison Rape Elimination Act (PREA) Audit Report

Adult Prisons & Jails

☐ Interim ☒ Final

Date of Interim Audit Report: May 18, 2020 ☐ N/A

If no Interim Audit Report, select N/A

Date of Final Audit Report: January 5, 2022

Auditor Information

Name: Amanda van Arcken **Email:** amanda.l.vanarcken@doc.oregon.gov

Company Name: Click or tap here to enter text.

Mailing Address: 2575 Center Street NE **City, State, Zip:** Salem, Oregon 97301

Telephone: (503) 569-8578 **Date of Facility Visit:** March 9-11, 2020

Agency Information

Name of Agency: North Dakota Department of Corrections & Rehabilitation

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

Physical Address: 3100 Railroad Avenue **City, State, Zip:** Bismarck, ND 58506

Mailing Address: 3100 Railroad Avenue **City, State, Zip:** Bismarck, ND 58506

The Agency Is: ☐ Military ☐ Private for Profit ☐ Private not for Profit

☐ Municipal ☐ County ☒ State ☐ Federal

Agency Website with PREA Information: <https://www.docr.nd.gov/prea-information>

Agency Chief Executive Officer

Name: Dave Krabbenhoft, Director

Email: dkrabben@nd.gov **Telephone:** (701) 328-6616

Agency-Wide PREA Coordinator

Name: Casey Traynor

Email: ctraynor@nd.gov **Telephone:** (701) 328-6653

PREA Coordinator Reports to: Director Leann Bertsch
Number of Compliance Managers who report to the PREA Coordinator: 4, indirectly

Facility Information			
Name of Facility: North Dakota State Penitentiary			
Physical Address: 3100 Railroad Avenue		City, State, Zip: Bismarck, ND 58506	
Mailing Address (if different from above): Click or tap here to enter text.		City, State, Zip: Click or tap here to enter text.	
The Facility Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
Facility Type:	<input checked="" type="checkbox"/> Prison	<input type="checkbox"/> Jail	
Facility Website with PREA Information: https://www.docr.nd.gov/prea-information			
Has the facility been accredited within the past 3 years? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
If the facility has been accredited within the past 3 years, select the accrediting organization(s) – select all that apply (N/A if the facility has not been accredited within the past 3 years):			
<input type="checkbox"/> ACA <input type="checkbox"/> NCCHC <input type="checkbox"/> CALEA <input type="checkbox"/> Other (please name or describe: Click or tap here to enter text.) <input checked="" type="checkbox"/> N/A			
If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe: Click or tap here to enter text.			
Warden/Jail Administrator/Sheriff/Director			
Name: James Sayler, Warden			
Email: jpsayler@nd.gov		Telephone: (701) 328-6111	
Facility PREA Compliance Manager			
Name: Todd Flanagan, Captain			
Email: tmflanagan1@nd.gov		Telephone: (701) 328-6162	
Facility Health Service Administrator <input type="checkbox"/> N/A			
Name: Beth Taghon			
Email: btaghon@nd.gov		Telephone: (701)328-6186	
Facility Characteristics			
Designated Facility Capacity:		934	
Current Population of Facility:		774	

Average daily population for the past 12 months:	748	
Has the facility been over capacity at any point in the past 12 months?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Which population(s) does the facility hold?	<input type="checkbox"/> Females <input checked="" type="checkbox"/> Males <input type="checkbox"/> Both Females and Males	
Age range of population:	19-81 years	
Average length of stay or time under supervision:	1.6 years	
Facility security levels/inmate custody levels:	Minimum, Medium, Maximum	
Number of inmates admitted to facility during the past 12 months:	1223	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:	1217	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:	1223	
Does the facility hold youthful inmates?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Number of youthful inmates held in the facility during the past 12 months: (N/A if the facility never holds youthful inmates)	Click or tap here to enter text. <input checked="" type="checkbox"/> N/A	
Does the audited facility hold inmates for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Select all other agencies for which the audited facility holds inmates: Select all that apply (N/A if the audited facility does not hold inmates for any other agency or agencies):	<input checked="" type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> U.S. Marshals Service <input type="checkbox"/> U.S. Immigration and Customs Enforcement <input type="checkbox"/> Bureau of Indian Affairs <input type="checkbox"/> U.S. Military branch <input type="checkbox"/> State or Territorial correctional agency <input type="checkbox"/> County correctional or detention agency <input type="checkbox"/> Judicial district correctional or detention facility <input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail) <input type="checkbox"/> Private corrections or detention provider <input type="checkbox"/> Other - please name or describe: Click or tap here to enter text. <input type="checkbox"/> N/A	
Number of staff currently employed by the facility who may have contact with inmates:	304	
Number of staff hired by the facility during the past 12 months who may have contact with inmates:	82	
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	53	
Number of individual contractors who have contact with inmates, currently authorized to enter the facility:	1280	
Number of volunteers who have contact with inmates, currently authorized to enter the facility:	305	

Physical Plant

Number of buildings: Auditors should count all buildings that are part of the facility, whether inmates are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house inmates, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.	7
Number of inmate housing units: Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house inmates of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows inmates to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.	23
Number of single cell housing units:	10
Number of multiple occupancy cell housing units:	13
Number of open bay/dorm housing units:	2
Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):	58/7 observation cells
In housing units, does the facility maintain sight and sound separation between youthful inmates and adult inmates? (N/A if the facility never holds youthful inmates)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Medical and Mental Health Services and Forensic Medical Exams	
Are medical services provided on-site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are mental health services provided on-site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Where are sexual assault forensic medical exams provided? Select all that apply.	<input type="checkbox"/> On-site <input checked="" type="checkbox"/> Local hospital/clinic <input type="checkbox"/> Rape Crisis Center <input type="checkbox"/> Other (please name or describe: Click or tap here to enter text.)
Investigations	
Criminal Investigations	
Number of investigators employed by the agency and/or facility who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment:	1
When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.	<input type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input checked="" type="checkbox"/> An external investigative entity
Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input checked="" type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: Click or tap here to enter text.) <input type="checkbox"/> N/A
Administrative Investigations	
Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?	6 Primary/6 Emergency
When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply	<input checked="" type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: Click or tap here to enter text.) <input checked="" type="checkbox"/> N/A

Audit Findings

Audit Narrative (including Audit Methodology)

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

Amanda van Arcken, a U.S. Department of Justice (USDOJ) Certified PREA Auditor for Adult Facilities, conducted the Prison Rape Elimination Act (PREA) on-site audit of North Dakota State Penitentiary (NDSP) in Bismarck, North Dakota from March 9-11, 2020. This audit was conducted under a contract between the North Dakota Department of Corrections & Rehabilitation (DOCR) and the Oregon Department of Corrections (ODOC) in conjunction with the Western States PREA Circular Auditing Agreement. The DOCR, ODOC and nine other agencies (California, Colorado, Hawaii, Los Angeles County, Indiana, Nevada, New Mexico, Montana, and Washington) are members of the Western States PREA Circular Auditing Agreement. The audit was conducted with the assistance of two support staff – Jeremy Wagner and Steven Boston. Wagner is a USDOJ Certified PREA Auditor for Adult Facilities. The audit team conducted the site review together. Amanda van Arcken conducted the documentation review for staff and inmates; informal interviews with random staff and inmates; formal interviews with specialized staff and targeted inmates; and, authored this report. Wagner and Boston conducted informal and formal interviews of random staff, specialized staff, random inmates and targeted inmates.

This auditor and the agency PREA Coordinator jointly developed a Notification of Audit in both English and Spanish that was posted in the facility prior to February 10, 2020. The auditor verified the posting with ten dated and time-stamped photographs. The notification contained information about the upcoming audit and stated that any inmate or staff member with pertinent information should send a letter containing this information to the auditor. The auditor instructed the facility to post this notification in all housing units and throughout the facility for the six weeks prior to the onsite review, on a brightly-colored piece of paper that would stand out among other postings in these areas. The notice contained a reminder about the confidential nature of communication with the auditor, and possible exceptions to confidentiality. During the facility tour, the auditor observed the posting in all housing areas and throughout the facility in inmate-accessible areas. The notice was observed to be posted in areas only accessible to staff and areas accessible to visitors, providing them with the opportunity to contact the auditor. Prior to the onsite review, this auditor received four letters from inmates at NDSP. While onsite, two inmates requested to meet with members of the audit team. A member of the audit team interviewed five of the six who requested contact; the sixth inmate had passed away prior to the onsite review. After the onsite review, this auditor received two additional letters.

The Pre-Audit Questionnaire (PAQ) was initiated by the facility and was received by this auditor on February 3, 2020. The PAQ was formatted on a password-protected thumb-drive and included all relevant documentation pertaining to the audit, including, but not limited to: policies, procedures, memorandum of understanding and training documents. The auditor reviewed the questionnaire and all documentation. This auditor reviewed the Annual PREA Reports for 2014-2018, which were posted on the agency website. The 2019 Annual PREA Report was provided to this auditor by the agency PREA Coordinator and has since been added to the agency website. News articles referencing NDSP were reviewed online. Nothing related to the sexual safety of the facility was located. This was the third PREA audit conducted at NDSP.

On January 30, 2020, this auditor sent an email to NDSP's PREA Compliance Manager (PCM) requesting the following documents prior to the audit team's arrival at the facility:

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

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

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

This auditor conducted outreach to Just Detention International (JDI), and the Abused Adult Resource Center (AARC) to learn about issues of sexual safety at the facility.

- JDI is a health and human rights organization that seeks to end sexual abuse in all forms of detention by advocating for laws and policies that make prisons and jails safe and providing incarcerated survivors with support and resource referrals. JDI advised this auditor that they have not received any correspondence from incarcerated survivors at NDSP within the last 12 months.
- AARC has been helping survivors of domestic violence and sexual assault for more than 30 years in south central North Dakota. AARC provides emergency support, crisis intervention, temporary shelter, food, counseling, and advocacy to survivors of domestic violence, domestic assault, and human trafficking. They provide free and confidential assistance 24-hours a day, seven days a week. AARC advised this auditor they provide services to incarcerated survivors over the phone, in writing and in person, at forensic medical exams. AARC believed they had contact with incarcerated survivors at NDSP approximately five times over the last year and did not have any specific concerns related to the sexual safety of the facility or the agency.

An entrance meeting was held in the morning of March 9, 2020 with facility leadership and members of the agency's central administration.

After the entrance meeting the audit team began conducting the physical plant review of NDSP. The audit team was provided access to all areas of the facility, including outlying buildings where inmates may be assigned for work. This auditor observed the facility configuration, locations of cameras and security mirrors, the level of staff supervision, the housing unit layout (including shower/toilet areas), placement of posters and other PREA informational resources, security monitoring, and search procedures. Toilet and shower areas of the facility allowed for inmate privacy while undressing and using facilities. Cross-gender announcements were consistently observed when the audit team entered housing units. The audit notice was visible in all inmate areas. Inmate phones were tested to ensure the ability to contact the PREA Hotline. Locked boxes were in each housing unit or common areas for inmates to deposit grievance and discrimination forms. Unit log books were checked to ensure the completion of unannounced supervisory rounds.

During the physical plant review, the audit team looked for potential blind spots in areas accessible to inmates, and areas where cross-gender viewing may occur. The facility took immediate action to begin correcting deficiencies or creating a plan to correct deficiencies, to include:

- Portions of the showers in the West Cell House could be viewed from the adjacent hallway;
- The south showers could not be viewed for security reasons without entering them; and,
- In the Behavioral Intervention Unit, the shower doors on B, C, D and E tiers required additional obstruction across the lower part of the door's upper window (completed prior to the issuance of the Interim Report, as reviewed by the auditor through photographs on April 20, 2020).

The audit team made the following recommendations, to include:

- Removing paint from the West Unit Property Officer's office door (completed while the audit team was onsite);
- Adding security mirrors to the television room and bunk areas of the Overflow Unit;
- Adding the Infirmary Control Center to the gender-restricted list of posts, as it allows viewing into the observation cells behind it; and,
- Evaluating if the case manager's office in the MTU requires a solid door and miniblinds on the window for privacy reasons.

Cameras were not noted in areas where inmates may be using restrooms or showers. The existing camera system consists of approximately 455 cameras that monitor the institution. The facility replaced all the CCTV main network switches throughout the facility, to allow them to more readily add cameras to the systems. The camera system has been maintained and as cameras fail to function properly, they are replaced with cameras in their inventory, which is maintained on a one-to-one replacement schedule. The video management system retains approximately 35 days of video footage. This footage is only accessible at supervisory staff work stations and cannot be deleted or altered in any way or form by staff. Per a written memorandum from the Deputy Warden, dated January 29, 2020, *"The video playback system has been limited to the following machine: Master Control, Lieutenants, Captains, Investigative Captain, Chief of Security, and Deputy Warden. Should there be a need to review footage for investigation into a facility rule violation or criminal act; staff retrieve the footage through the identified machines. In addition to this, exporting is limited to these machines as well. This ensures that the Department of Corrections effectively manages our video footage as well as establishes a system for our video retrieval and exporting."*

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

NDSP employs 304 staff who may have contact with inmates. These staff include seven captains, 11 lieutenants, 33 sergeants and 170 officers. Security staff are divided into four teams with different areas of responsibility: Housing unit staff are divided into three teams – Specialized Housing, Preferred Housing and General Housing. Specialized Housing includes the Behavioral Intervention Unit, Orientation and the Infirmary. Preferred Housing operates the South Unit, the Medium Transition Unit and North Unit. General Housing has oversight of the West and East Units. The fourth team is identified as the Perimeter/Utility Team, who provide security services for the entire institution. Housing unit staff monitor the movement and activities of inmates within the housing units and utility team staff monitor the inmate movement and activities outside of the housing units in areas to include, but not limited to, main yard recreation or the main facility inmate dining room. Work area supervisors and program staff are responsible for the supervision of inmates during work detail and rehabilitative or educational programming. These staff provide continual supervision through rounds or direct inmate supervision, in conjunction with security staff.

The August 2017 edition of the PREA Auditor Handbook requires at least 12 random security staff be interviewed. (The August 2017 edition was the most current version of the handbook at the time of the onsite review.) Eleven random interviews were conducted. Interviews with security staff, non-security staff, volunteers and contractors were selected based on who was working during the site review.

A total of 20 specialized staff interviews were conducted, Interviews with the following specialized staff:

- Agency head designee
- Warden
- Agency PREA Coordinator
- Facility PREA Compliance Manager
- Agency contract administrator
- Two intermediate or higher-level facility staff
- Medical Services staff
- Mental Health Services staff
- Human Resource manager
- Investigative staff
- SANE
- Confidential, community-based advocate
- Classification officer
- Staff who supervise inmates in segregated housing
- Staff on the sexual abuse incident review team
- Designated staff member charged with monitoring retaliation
- Mailroom staff
- Contractors/volunteers

The PAQ indicated the average daily population for audit period was 748 inmates. The inmate population on the first day of the onsite review was 735. The August 2017 edition of the PREA Auditor Handbook requires at least 15 random inmate interviews and at least 15 targeted inmate interviews for an adult prison population of 501-1000 inmates. The audit team planned to interview at least one random inmate from each housing unit (nine in total), in addition to any targeted inmates. No inmates in the Infirmary were interviewed by the audit team, due to a severe outbreak of influenza. Using an inmate roster sorted by housing unit, this auditor designated targeted inmates and then selected the first inmate in the housing unit for random interview. The identified inmate name was selected for both file reviews and random interviews. If the resulting number did not identify one inmate from each housing unit, the auditor selected the inmate in the first occupied cell of that housing unit. A total of 25 random inmates were interviewed. No inmates declined to be interviewed. Files were reviewed to evaluate screening and intake procedures, documentation of inmate education and medical or mental health referrals when required.

The North Dakota State Penitentiary did not have any inmates who were youthful, had limited-English proficiencies or cognitive difficulties, were placed in segregated housing for high risk of sexual victimization, have cognitive disabilities, or who identified as transgender. A total of 16 targeted inmate interviews were conducted. Interviews were conducted with the following targeted inmates:

- Two inmates with a physical disability
- One inmate with a vision impairment
- Seven inmates who identified as gay or bisexual
- One inmate who identified as transgender
- One inmate who reported sexual abuse
- Four inmates who reported sexual victimization during risk screening

There were 162 inmates at NDSP who were admitted to the facility prior to August 20, 2012. The auditor divided the total number by 30 and selected every fifth name to verify the comprehensive PREA education for 32 inmates.

There were two allegations of sexual abuse and 12 allegations of sexual harassment for the 2018 and 2019 calendar years:

Investigation Data					
Allegation Type	Total Number of Allegations	Substantiated	Unsubstantiated	Unfounded	Ongoing Investigation
Inmate-on-Inmate Sexual Harassment	12	6	6	0	0
Staff-on-Inmate Sexual Harassment	0	0	0	0	0
Inmate-on-Inmate Sexual Abuse	2	0	0	2	0
Staff-on-Inmate Sexual Abuse	0	0	0	0	0
Totals	14	6	6	2	0

An exit meeting was held in the afternoon on March 11, 2020 with facility leadership and members of the agency's central administration. The auditor provided a summary of the audit through the on-site phase and provided information on what to expect during the Corrective Action Period (CAP).

The auditor spoke with a local Sexual Assault Nurse Examiner (SANE) at Jamestown Regional Medical Center, to discuss and confirm the agreement in place with DOCR to provide SANE/SAFE services. They verified that all SANEs receive training that meets the national training standards and confirmed there is always a SANE available for forensic medical exams.

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

On March 13, 2020 then-President Donald Trump issued a declaration of national emergency due to the growing COVID-19 crisis in the states. Governor Doug Burgum activated the North Dakota State Emergency Operations Plan, directing all state agencies and offices to accelerate the transition of non-essential staff members to remote, in-home worksites.

The interim report was scheduled to be provided to the facility no later than April 25, 2020. While the audit team was still in North Dakota, information about COVID-19 began being disseminated, and correctional agencies began implementing policies and procedures to help prevent its spread. The audit team left North Dakota on March 13, 2020 as a national emergency was declared. Correctional staff are deemed essential personnel and continued working through the pandemic, but the focus of daily duties turned to pandemic response. This auditor was reassigned from her regular duties to working inside an institution and was unable to provide the interim report to NDSP by April 25, 2020. This auditor and the agency PREA Coordinator communicated about the delay, and the interim report was provided on May 18, 2020.

In response to the COVID-19 pandemic, DOCR implemented a number measures to mitigate the spread of the virus within its facilities. Employees were required to complete a health screen and temperature check prior to reporting for work each day. Face masks were and remain mandatory in all DOCR facilities. DOCR began wastewater testing to allow DOCR to better anticipate and manage future facility outbreaks. Public access to facilities was limited and in-person visitation was suspended until the week of March 29, 2021. This included access for contractors and volunteers. Since the start of the pandemic, the DOCR has taken proactive measures to limit the spread of COVID-19, including frequent testing, reducing resident populations, and implementing safety protocols including personal protective equipment (PPE). DOCR anticipated being able to resume their regular audit schedule and related duties in the fall of 2020, but the Midwest began experiencing a surge in September 2020. At the time of the final audit report, North Dakota has had 141,154 confirmed cases of COVID-19 and 2,002 coronavirus-related deaths. More than 500 DOCR residents have been infected with COVID-19. This is largely due to the difficulty of physical distancing in prison. The agency began offering vaccinations to staff and residents in February 2021.

NDSP resolved all corrective action prior to the scheduled end of the corrective action period except for the physical plant changes necessary for the West Cell House shower room, under §115.15(d). By August 2020, NDSP had ordered and received all the materials necessary to complete the project but were not authorized to allow contractors into the facility due to COVID-19.

This auditor contacted the PREA Management Office on August 31, 2020 and September 11, 2020 to determine if the corrective action period could be extended due to COVID-19. On September 14, 2020, this auditor received the following response from the PREA Management Office:

“As you know, PREA Standard 115.404 establishes a 180-day corrective action period, after which the auditor has an additional 30 days to complete and submit the final report. The PREA Management Office (PMO) does not have the authority to temporarily suspend or alter the requirements in the PREA statute or promulgated standards, including the corrective action timeline requirement.

However, the PMO recognizes that the current outbreak may necessitate auditing delays, which may impact agencies’ and auditors’ ability to uphold requirements in the PREA standards. The PMO will attempt to minimize any adverse consequences to facilities, DOJ-certified auditors, or others who may be unable to comply in a timely fashion with PREA requirements because of efforts to address, manage, and mitigate the effects of COVID-19, to the extent permissible under statutory and regulatory requirements. Although we cannot change the corrective action timeline requirement in the Standards, I want to assure you that neither you nor the agency will not be penalized for the extended corrective action period and delayed final audit report. To that end, we would recommend that you document the delay and the reason in your final audit report and keep the PREA Resource Center apprised of the status of the corrective action and your final audit report.”

During the pandemic, this auditor remained in contact with the agency PREA Coordinator and continued receiving updates about the status of both DOCR and NDSP, to include –

- The appointment of Interim Director Dave Krabbenhoft in August 2020;
- A copy of DOCR’s 2021 Annual Report, which was also posted to the agency’s website;
- In March 2021, Dave Krabbenhoft was permanently appointed to the position of Director; and,
- In July 2021, Casey Traynor became the Agency PREA Coordinator.

The auditor requested and received updates from the facility regarding the progress on the West Cell House shower room –

- This auditor was notified on April 7, 2021 that the project should be completed within two months.

- On July 6, 2021, this auditor was notified that additional materials were necessary, and the contractor was unable to obtain confirmation on when the materials would arrive.
- On July 15, 2021, this auditor was notified the additional materials should arrive at NDSP by mid-August.
- This auditor was notified on October 8, 2021 that all parts were on site and installation should be completed by the end of the following week.
- On November 15, 2021, this auditor was notified that additional parts were necessary and only four of the five required panels could be installed.

On December 1, 2021, this auditor notified the facility of her intent to close out the corrective action period no later than December 31, 2021. On December 7, 2021, the facility PCM notified this auditor that installation was complete and provided six photographs documenting the completion of the project. After reviewing the photographs, this auditor was satisfied that showering inmates could no longer be viewed from the corridor doorway and found the facility compliant with the PREA standards on January 5, 2022.

Facility Characteristics

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

The North Dakota Department of Corrections & Rehabilitation (DOCR) operates four adult prisons in the state of North Dakota, incarcerating approximately 1700 adult offenders. The mission statement of DOCR is *to enhance public safety, to reduce the risk of future criminal behavior by holding adult and juvenile offenders accountable, and to provide opportunities for change.*

NDSP was established in Bismarck, North Dakota, on 43 acres of land in 1885. NDSP houses maximum to minimum-high custody inmates. This mission statement of the North Dakota State Penitentiary (NDSP) is *to provide a safe environment to learn and practice skills necessary to be successful in the community.*

The facility is comprised of five general population housing units and three specialized housing units; an additional unit operates as needed for overflow beds.

- East Unit – general population housing
- West Unit – single cells with open bar front construction, except for the first floor which has solid doors
- South Unit – preferred housing with double and single cells for 110 inmates
- North Unit – preferred housing
- Orientation – functions as Intake Center for DOCR
- Medium Transition Unit – dormitory-style housing
- Behavioral Intervention Unit – single cells, restricted movement unit divided into five pods
- Infirmary
- Overflow Unit – operates as needed based on population needs, can house 19 inmates in dormitory setting. It has not been used on a regular basis since 2013.

NDSP provides areas for inmates to participate in educational and treatment programs, recreational activities, and opportunities for work. Rough Riders Industries spans three outer buildings that include an upholstery shop, furniture shop, tag plant and metal shop. These buildings are situated near a large outdoor recreation yard.

Summary of Audit Findings

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

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

Standards Exceeded

Number of Standards Exceeded: 0

List of Standards Exceeded: Click or tap here to enter text.

Standards Met

Number of Standards Met: 45

Standards Not Met

Number of Standards Not Met: 0

List of Standards Not Met: Click or tap here to enter text.

PREVENTION PLANNING

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

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

115.11 (a)

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

115.11 (b)

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

115.11 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

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

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

(b) DOCR employs an upper-level, agency-wide PREA Coordinator. The PREA Coordinator reports directly to the Director of Facility Operations. This position is reflected in agency organizational charts. When interviewed, the PREA Coordinator indicated that they have the time, resources and authority required to manage their responsibilities.

(c) NDSP has designated a captain as the facility PREA Compliance Manager. The PCM reports directly to the warden. When interviewed, the facility PCM indicated that he has the time to manage all his PREA-related responsibilities.

Conclusion:

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

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

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

115.12 (a)

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

115.12 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- Contracts for the five facilities noted

(a-b) DOCR Policy & Procedures 3C-4 states on page eight, "Agencies under contract with the DOCR will include in any new contract or contract renewal to adopt and comply with the PREA standards. All new contracts or contract renewals provide for DOCR contract monitoring to ensure compliance with the PREA standards. Contract managers will monitor compliance through reported offenses and facility inspections. All final audit reports for contract facilities will be forwarded to the NDDOCR PREA Coordinator for storage. The Parole and Probation Division will ensure that all facilities utilized to house

DOCR parole violators are compliant with the Department of Justice Title 28 Code of Federal Regulations Part 115 National Standards to prevent, detect, and respond to prison rape."

DOCR has six contracts for confinement of its inmates with other facilities.

- ❖ DOCR Contract #53000-14-029 with Bismarck Transition Center was executed on July 1, 2015 and ends on June 30, 2026. Page three of the contract states, *"The CONTRACTOR shall comply with the Prison Rape Elimination Act of 2003 ("PREA"), 42 U.S.C. § 15601 et.seq., and all applicable PREA Standards and DOCR Adult Services Policies related to PREA for the prevention, detection, monitoring, investigation, and eradication of any form of sexual abuse within CONTRACTOR facilities, programs, or offices, whether owned, operated or contracted. This includes the education and training of staff, education for offenders, conducting investigations, reporting incidents to the DOCR, compiling incident data and aggregate data, and providing incident and aggregate data to DOCR on an annual basis. The CONTRACTOR acknowledges that, in addition to its self-monitoring requirements, DOCR will conduct announced or unannounced compliance monitoring, including on-site monitoring. Failure to comply with PREA and applicable PREA Standards and DOCR Policies may result in termination of the contract."*
- ❖ DOCR Contract #53000-13-053 with Lake Region Residential Reentry Center was executed on July 1, 2019 and ends on July 30, 2021. Page two of the contract states, *"The CONTRACTOR shall comply with the Prison Rape Elimination Act of 2003 ("PREA"), 42 U.S.C. § 15601 et.seq., and all applicable PREA Standards and DOCR Adult Services Policies related to PREA for the prevention, detection, monitoring, investigation, and eradication of any form of sexual abuse within CONTRACTOR facilities, programs, or offices, whether owned, operated or contracted. This includes the education of staff and offenders, conducting investigations, reporting incidents to the DOCR, compiling incident data and aggregate data, and providing incident and aggregate data to DOCR on an annual basis. The CONTRACTOR acknowledges that, in addition to its self-monitoring requirements, DOCR will conduct announced or unannounced compliance monitoring, including on-site monitoring. Failure to comply with PREA and applicable PREA Standards and DOCR Policies may result in termination of the contract."*
- ❖ DOCR Contract #53000-14-010 with Community Corrections Residential Program Facilities in North Dakota was executed on October 1, 2015 and ends on June 30, 2020. Page four of the contract states, *"The CONTRACTOR shall comply with the Prison Rape Elimination Act of 2003 ("PREA"), 42 U.S.C. § 15601 et.seq., and all applicable PREA Standards and DOCR Adult Services Policies related to PREA for the prevention, detection, monitoring, investigation, and eradication of any form of sexual abuse within CONTRACTOR facilities, programs, or offices, whether owned, operated or contracted. This includes the education and training of staff, education of offenders, conducting investigations, reporting incidents to the DOCR, compiling incident data and aggregate data, and providing incident and aggregate data to DOCR on an annual basis. The CONTRACTOR acknowledges that, in addition to its self-monitoring requirements, DOCR will conduct announced or unannounced compliance monitoring, including on-site monitoring. Failure to comply with PREA and applicable PREA Standards and DOCR Policies may result in termination of the contract."*
- ❖ DOCR Contract #AC005566 with Southwest Multi-County Correction Center was executed on July 1, 2007 and amended to end on June 30, 2025. Page 28 of the contract states, *"SWMCCC shall comply with the Prison Rape Elimination Act of 2003 ("PREA"), 42 U.S.C. § 15601 et.seq., and all applicable PREA Standards and DOCR Adult Services Policies related to PREA for the prevention, detection, monitoring, investigation, and eradication of any form of sexual abuse within SWMCCC facilities, programs, or offices, whether owned, operated or contracted. This includes the education and training of staff, education for offenders, conducting investigations, reporting incidents to DOCR, compiling incident data and aggregate data, and providing incident and aggregate data to DOCR on an annual basis. SWMCCC acknowledges that, in addition to its*

self-monitoring requirements, DOCR may conduct announced or unannounced compliance monitoring, including on-site monitoring. Failure to comply with PREA and applicable PREA Standards and DOCR Policies may result in termination of the contract. DOCR shall provide a copy of any and all applicable DOCR Adult Services PREA Policies SWMCCC.”

- ❖ *DOCR Contract #AC00291 with Teen Challenge North Dakota was executed on July 1, 2019 and ends on June 30, 2021. Page two of the contract states, “CONTRACTOR shall comply with the Prison Rape Elimination Act of 2003 (“PREA”), 42 U.S.C. § 15601 et.seq., and all applicable PREA Standards and DOCR Adult Services Policies related to PREA. In addition, CONTRACT shall report incidents to DOCR, compile incident data and aggregate data, and provide incident and aggregate data to DOCR on an annual basis. CONTRACTOR acknowledges that, in addition to its self-monitoring requirements, DOCR may conduct announced or unannounced compliance monitoring, including on-site monitoring. Failure to comply with PREA and applicable PREA Standards and DOCR Policies may result in termination of the contract.”*
- ❖ *DOCR Contract #AC00367 with Tomkins Rehabilitation Center was executed on July 1, 2019 and ends June 30, 2021. Page three of the contract states, “NOSH shall ensure TRC complies with the Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. § 15601 et.seq., and all applicable PREA Standards and applicable OOCR Adult Services Policies related to PREA. NOSH shall report all incidents to OOCR, compiling incident data and aggregate data, and provide incident and aggregate data to OOCR on an annual basis. OOCR may conduct announced or unannounced compliance monitoring, including on-site monitoring. Failure to comply with PREA and applicable PREA Standards may result in termination of this contract.”*

Conclusion:

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

Standard 115.13: Supervision and monitoring

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

115.13 (a)

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

115.13 (b)

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

115.13 (c)

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

115.13 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- 2009 Staffing Plan for NDSP
- Interview with the warden
- Interview with the PREA Coordinator
- Interview with the PREA Compliance Manager
- Interview with intermediate or higher-level facility staff
- Housing Unit log books
- Staff duty rosters
- Observation of facility operations while onsite

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

At least once per year the facility warden or designee, in collaboration with the agency PREA Coordinator, will review the staffing plan, the deployment of monitoring technology and the allocation of DOCR resources to commit to the staffing plan to ensure compliance. Any adjustments are documented. This auditor reviewed documentation from the most recent staffing plan meeting, held on March 18, 2019. The overall staffing plan remained unchanged with the primary method of inmate supervision remaining direct staff supervision, augmented using surveillance equipment:

“The staffing levels are divided into 4 teams with different areas of responsibility: Housing unit staff are divided into 3 teams. These teams include Specialized Housing (BIU, ORU, and INF), Preferred Housing (SU, MTU, NU) and General Housing (EU and WU). The 4th team is identified and the Perimeter/Utility Team staff who provide security services for the entire institution. Housing unit staff monitors the movement and activities of inmates within the housing unit and utility team staff monitor the inmate movement and activities outside of the housing unit in areas to include, but not limited to, main yard recreation or the main facility inmate dining room. Work area supervisors and program staff are responsible for the supervision of inmates during work detail and rehabilitative or educational programming. Along with Uniformed Security staff, these staff provide continual supervision through rounds or direct inmate supervision.

Based on the number of allocated positions, 42 staff members (43 when Overflow is open) are needed to fully staff one shift during standard operational hours when frequent inmate movement occurs to effectively detect, prevent altercations, physical or sexual abuse, self-harm, general misconduct and escape. The primary method of inmate supervision remains direct staff supervision. To aid in supervision, video surveillance equipment is utilized to monitor inmate activities where staff presence alone is not sufficient.

When staffing levels fall below the 42 (43 with the Overflow Unit), the shift supervisor will make every attempt to ensure appropriate staffing coverage with either call days or overtime. In the event that no staff is willing or able to work overtime or call days, and if shift staffing numbers fall to 39, the shift supervisor will consider limiting recreation opportunities for the inmate population to ensure the overall safety and security of the facility. The areas that the shift supervisor may consider restricting access to may include, but are not limited to, visitation, main outdoor recreation yard, library or in-unit recreation such as dayroom recreation or unit outdoor recreation yards. The shift supervisor may also call on staff members who serve in the role as Case

Manager, Unit Manager or other administrative roles to provide inmate supervision to ensure the safety and security goals of the institution are met.

The 9 pm – 5 pm shift supervisor must maintain a minimum staffing number of 14 to ensure all posts are staffed appropriately. When staffing levels fall below the 13 (14 with the Overflow Unit), the shift supervisor will make every attempt to ensure appropriate staffing coverage with either call days or overtime.”

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

DOCR commit resources to ensure the staffing plan is maintained, to include a Human Resource Officer, Administrative Captain, Shift Captain, Chief of Security, Deputy Wardens and the Warden. These resources ensure compliance in the following manner:

“The Human Resource officer ensures that all potential applicants are clear of any behaviors that may affect employment eligibility under PREA guidelines. This staff member also monitors and advises administrative staff on disciplinary action that may involve PREA related issues.

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

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

The Chief of Security monitors the shift supervisor and administrative captain to ensure the overall staffing plan numbers and the facility security measures are being met. The Chief of Security also makes adjustments to staffing allocations to ensure identified coverage numbers are maintained.

The Deputy Wardens monitor and address systemic issues and monitor the overall inmate well-being through either programs or operations. The Deputy Wardens identify risk and need and deploy resources to minimize risk or fulfill needs. These resources may be in the form of additional security equipment or staffing allocations.

The Warden reviews requests or patterns identified by the aforementioned staff and makes overall facility decisions based on recommendations. These decisions may be addressed through directives, policy and procedure changes or staffing requests.”

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

Based on the number of allocated positions, 42 staff members are needed to fully staff one shift during standard operational hours when frequent inmate movement occurs to effectively detect, prevent altercations, physical or sexual abuse, self-harm, general misconduct and escape. When staffing levels fall below 42, the shift supervisor will fill openings with call days or overtime. If still unable to fill the shift, the shift supervisor will consider limiting recreation opportunities for the inmate population to ensure the overall safety and security of the facility. The recreation opportunities may include visitation, main outdoor recreation yard, library or in-unit recreation, such as dayroom or unit outdoor recreation yards. The shift

supervisor may also choose to utilize Case Managers, Unit Managers or other administrative staff to provide inmate supervision. During the overnight shift, 14 staff members are needed to ensure all posts are staffed appropriately.

NDSP documents deviations from the staffing plan on a standardized form. The reason for the deviation (*Adverse Weather, Employee Sick Leave, Institutional Emergency, Annual Leave, Mandatory Training, Other*), the total number of staff on duty and the efforts made to prevent the deviation (*Call day, Overtime, SORT, Case Management staff, Previous Shift Hold Over, Mandatory OT, Other*) are documented. After documenting the deviation, the captain forwards the form to the Chief of Security for review, and then to the Deputy Warden of Operations. The form is stored on the agency's P Drive, where the agency PREA Coordinator can reference it and watch for patterns. This auditor reviewed nine examples of deviations from the staffing plan.

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

(d) DOCR Policy & Procedures 3C-4 states on page nine, *"Intermediate or higher-level supervisors will conduct unannounced rounds of the facility to identify and deter staff sexual abuse and sexual harassment. The unannounced rounds are documented as an electronic log entry in ELITE. The entry will be logged as 'SUPERVISOR'S ROUND'. Unannounced rounds will be conducted on all shifts. Staff will not alert other staff members when a supervisor is conducting these unannounced rounds, unless such announcement is related to the legitimate operational functions of the facility."*

ELITE is the management information computer system utilized by adult and juvenile facilities in North Dakota.

This auditor reviewed 62 pages of documented unannounced rounds provided by the facility PCM with the PAQ that occurred between April and June of 2019. Unannounced rounds occurred on day, swing and night shifts. Interviews with intermediate or higher-level staff indicated they conduct unannounced rounds on all shifts to detect and deter any staff misconduct, including staff sexual abuse and sexual harassment.

Conclusion:

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

Standard 115.14: Youthful inmates

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

115.14 (a)

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

115.14 (b)

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

115.14 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

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

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

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

This auditor reviewed NDSP population reports and did not find any inmates under the age of 18 listed. No interviews of staff or inmates indicated a youthful inmate may have been housed at NDSP.

Conclusion:

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

Standard 115.15: Limits to cross-gender viewing and searches

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

115.15 (a)

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

115.15 (b)

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

115.15 (c)

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

115.15 (d)

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

115.15 (e)

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

115.15 (f)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3A-6
- Lesson Plan for *Clothed & Unclothed Body Searches*
- NDSP Inmate Handbook
- Written memorandum from Deputy Warden, dated January 29, 2020
- Interviews with random staff and random inmates
- Observation of facility operations while onsite
- Written directive from facility warden, dated March 11, 2020

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

This auditor reviewed the NDSP lesson plan and training curriculum for Body Searches. Page five of the presentation guide states, "*Females can conduct clothed body searches on any gender of person. Male staff members are not permitted to conduct clothed body searches on female residents absent exigent circumstances. PREA defines 'exigent circumstances' to mean 'any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.'* Why does this information apply to our institutions? At this time, we currently do house

residents who identify as female. Appropriate terminology for these residents is transgender female. If, through their work with the Behavioral Health department, these people are granted the accommodation of being searched by only female staff, both clothed and unclothed searches of these residents will be conducted by female staff."

(b) Because NDSP does not house female inmates, this provision of the standard is not applicable.

(c) DOCR Policy & Procedures 3A-6 states on page four, *"Employees will document in the electronic log all cross-gender unclothed searches and cross-gender visual body cavity searches."*

This auditor reviewed the NDSP lesson plan and training curriculum for Body Searches. Page five of the presentation guide states, *"Exigent Circumstance Cross Gender Search - Whenever possible, seek guidance and approval from your supervisor or department head prior to conducting the search. They may have information regarding additional staff, possible same gender staff availability, or have other alternatives. There should always be two staff present when conducting an opposite gender search. Preferably a supervisory staff. Always document the, who, what, when, where, and why the search needed to be conducted by a member of the opposite sex."* Page eight of the presentation guide states, *"Clothed and unclothed searches may include a visual body cavity inspection. This would include a visual inspection of the ears, nose, mouth, and depending on need the anus, and vagina. Cross-gender visual body cavity inspections, which mean a search of the anal or genital opening, may only be performed in exigent circumstances or by medical practitioners."*

The importance of allowing dignity, to the extent it is possible, conducting searches in a professional manner and remaining courteous and respectful is emphasized at multiple points in the training.

The facility documented one search during the audit period of a transgender female inmate that was searched by male staff. The facility provided documentation that verified this search occurred in conjunction with a use of force and the facility could not follow their usual protocol of having a female staff member conduct the search. Interviews with staff and inmates did not indicate that cross-gender unclothed searches have occurred, nor did the audit team observe any cross-gender unclothed searches while onsite at NDSP.

(d) DOCR Policy & Procedures 3A-6 states on page two, *"Adults in custody will be allowed to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell/dorm checks."*

During the physical plant review, the audit team looked for potential blind spots in areas accessible to inmates, and areas where cross-gender viewing may occur. The facility took immediate action to begin correcting deficiencies or creating a plan to correct deficiencies, to include:

- Portions of the showers in the West Cell House could be viewed from the adjacent hallway (see below for compliance resolution).
- The south showers could not be viewed for security reasons without entering them. During the corrective action period, the identification board was removed from the wall, allowing access to the windows. The windows have miniblinds that obscure the windows when they are not actively being used.
- In the Behavioral Intervention Unit, the shower doors on B, C, D and E tiers required additional obstruction across the lower part of the door's upper window (completed prior to the issuance of the Interim Report, as reviewed by the auditor through photographs on April 20, 2020).

On December 7, 2021, the facility PCM notified this auditor that installation was complete and provided six photographs documenting the completion of the project. After reviewing the photographs, this auditor was satisfied that showering inmates could no longer be viewed from the corridor doorway and found the facility compliant with the PREA standards on December 28, 2021.

The audit team made the following recommendations, to include:

- Removing paint from the West Unit Property Officer's office door (completed while the audit team was onsite);
- Adding security mirrors to the television room and bunk areas of the Overflow Unit;
- Adding the Infirmary Control Center to the gender-restricted list of posts, as it allows viewing into the observation cells behind it; and,
- Evaluating if the case manager's office in the MTU requires a solid door and miniblinds on the window for privacy reasons.

NDSP has designated some posts as gender-specific, to include the Behavioral Intervention Unit (BIU) Control, as its position provides direct view into cells outside of tier checks. BIU Control was designated as a gender-restricted post on January 29, 2020 in a written memorandum from the Deputy Warden.

DOCRC Policy & Procedures 3A-6 states on page two, *"Female staff will announce 'Female on the floor' when entering a resident's housing unit where residents may be seen using the shower, toilet, or different states of undress. This announcement will be documented as an electronic log entry in ELITE; for each security shift daily. The entry will be logged as 'Cross-Gender Supervision'. Non-uniformed female staff will announce prior to entering an inmate's housing unit where residents may be seen using the shower, toilet, or different states of undress. Signage will be posted in conspicuous areas for those residents who may have been absent from the housing unit when the announcement was made."*

Cross-gender announcements were consistently observed when the audit team entered housing units, however, interviews with random staff and inmates indicated the announcement is usually only made at the beginning of the shift over the intercom system. As part of corrective action, this auditor requested the warden issue a written directive regarding cross-gender announcements to all staff. The directive was issued on March 11, 2020, while the audit team was still onsite:

"During our recent PREA audit, the auditors found cross-gender announcements are not being consistently utilized throughout the facility. In order to clarify the requirement, a number of examples, the PREA standard, and the section of DOCRC policy covering the requirement have been included below.

Examples:

- 1) A female officer is working in a housing unit. (This means an area where the residents sleep and groom.) A male officer enters the area to cover a break and the female leaves. When the female officer returns or another female officer enters, an announcement must be made.*
- 2) A female officer is working in a housing unit. Another uniformed female officer enters the unit. An announcement does not need to be made.*
- 3) A female non-uniformed staff member enters into a housing unit. An announcement must be made.*

PREA Standard §115.15 (c) states, 'The facility shall implement policies and procedures that enable inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and

procedures shall require staff of the opposite gender to announce their presence when entering an inmate housing unit.'

DOCR Policy 3C-4 states, 'Female staff will announce 'Female on the Floor' when entering a resident's housing unit where residents may be seen using the shower, toilet, or different stages of undress. Non-uniformed female staff will announce prior to entering an inmate's housing unit where residents may be seen using the shower, toilet, or different stages of undress.'

Facility captains were instructed to include this directive in their briefing notes for each shift.

(e) DOCR Policy & Procedures 3A-6 states on pages four and five, *"Staff will not search or physically examine a transgender or intersex adult in custody for the sole purpose of determining the adult in custody's genital status. If the adult in custody's genital status is unknown, it may be determined through conversation with the adult in custody, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner."*

This auditor reviewed the NDSP lesson plan and training curriculum for Body Searches. Page six of the presentation guide reminds staff of the prohibition to search or physically examine a transgender or intersex inmate for the sole purpose of determining genital status. Interviews with random staff indicated they are aware that searches to determine genital status are prohibited by standard and agency policy. An interview with a transgender inmate did not indicate they had been subjected to unclothed searches to determine genital status.

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

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

An interview with a transgender inmate indicated agency policy and procedure has been followed during their searches, and they are searched by the gender of security staff they prefer. Interviews with random staff indicated they were knowledgeable of proper pat-down search techniques.

Conclusion:

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

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

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

115.16 (a)

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

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

115.16 (b)

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

115.16 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- *DOCR Facility Handbook* (English and Spanish)
- DOCR Contract with Language Link and Voiance Language Services, LLC
- Interview with the PREA Coordinator
- Interview with the PREA Compliance Manager
- Interviews with random staff and random inmates

- Interviews with inmates with disabilities

(a-b) DOCR Policy & Procedures 3C-4 states on pages 10-11, *“The following services have been established to provide disabled and limited English proficient residents equal opportunity to participate in or benefit from all aspects of the agency’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment. All resident education materials will be in formats accessible to all adults in custody in accordance with Title II of the Americans with Disabilities Act, 28 CFR 35.164. [115.16 (a)-1] [115.16 (b)-1].”* The policy lists the interpreter services for the deaf, blind or hard of hearing inmates, and those with limited-English proficiency. (This auditor has omitted the information from this report as it contains the contact information and account number for the agency.) The contract with Language Link and Voiance Language Services, LLC includes on-demand remote interpreting and document translation. All staff have access to the instructions for utilizing this service.

The facility PREA Compliance Manager provided a written memorandum indicating that facility Behavioral Health Services staff members are utilized to assist inmate with disabilities or limited reading skills. Interviews with random staff and random/targeted inmates indicated that inmates with disabilities are afforded additional accommodation to ensure their access to all aspects of the agency’s PREA program.

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

Interviews were conducted with the following targeted populations:

- Two inmates with physical disabilities
- One inmate who is blind, deaf or hard of hearing

The facility did not have any inmates with limited-English proficiencies or cognitive disabilities. All interviews with targeted populations indicated they were able to receive information in a format they were able to understand. No interviews indicated another inmate had been used to assist in their comprehension. Interviews with random staff indicated they would not use another inmate as an interpreter.

Conclusion:

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

Standard 115.17: Hiring and promotion decisions

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

115.17 (a)

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

115.17 (b)

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

115.17 (c)

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

115.17 (d)

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

115.17 (e)

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

115.17 (f)

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

115.17 (g)

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

115.17 (h)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- North Dakota Century Code 12-60-24
- DOCR Policy & Procedures 3C-4
- DOCR Policy & Procedures 1C-14
- *Criminal Record Check – Contractor/Intern/Volunteer* forms
- Employee file reviews
- Interview with the warden
- Interview with Human Resource staff
- Interview with agency PREA Coordinator

(a) DOCR Policy & Procedures 3C-4 states on page 11, *"The DOCR will not hire or promote anyone who may have contact with adults in custody, and will not enlist the services of any contractor or volunteer who may have contact with adults in custody, who: has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or has been civilly or administratively adjudicated to have engaged in the activity described in paragraph a or b of this section."*

While preparing for the audit of NDSP, the agency discovered it was not asking the required questions of contractors. The agency revised the *Criminal Record Check – Contractor/Intern/Volunteer* form as reflected in the discussion of standard subsection (f) to ask the required questions. The contractors/interns/volunteers were noted as "inactive" in the database until a new document was obtained and verified.

After the database was updated, the agency PREA Coordinator provided this auditor with a current list of all contractors and volunteers. This auditor selected 20 names from an alphabetical listing and reviewed forms to ensure compliance.

(b) DOCR Policy & Procedures 3C-4 states on pages 11 and 12, *"The DOCR considers all incidents of sexual harassment when determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with adults in custody."* Interviews with the warden and Human Resource staff indicated the policy is implemented in practice. The warden indicated he would likely not enlist the services of a contractor who had allegations of sexually harassing inmates.

While preparing for the audit of NDSP, the agency discovered it was not asking the required questions of contractors. The agency revised the *Criminal Record Check – Contractor/Intern/Volunteer* form as reflected in the discussion of standard subsection (f) to ask the required questions. Because the questions were not being asked, the agency was unable to verify they were properly considering prior incidents of sexual harassment. The contractors/interns/volunteers were noted as "inactive" in the database until a new document was obtained and verified.

After the database was updated, the agency PREA Coordinator provided this auditor with a current list of all contractors and volunteers. This auditor selected 20 names from an alphabetical listing and reviewed forms to ensure compliance.

(c) DOCR Policy & Procedures 3C-4 states on page 12, *“Before hiring new employees, who may have contact with adults in custody, the DOCR will: perform a criminal record check; and, consistent with federal, state and local law, make the best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.”*

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

(d) DOCR Policy & Procedures 3C-4 states on page 12, *“The DOCR will conduct a criminal record check before enlisting the service of any contractor or volunteer who may have contact with adults in custody.”* File reviews indicated criminal record checks are completed for all contractors and volunteers.

(e) DOCR Policy & Procedures 3C-4 states on page 12, *“Criminal record checks will be conducted by NCIC trained staff at least every five years on all current employees, volunteers, and contractors who may have contact with residents.”* Interviews with Human Resource staff and the agency PREA Coordinator indicated these checks take place as required.

(f) DOCR contractor applicants are required to fill out a *Criminal Record Check – Contractor/Intern/Volunteer*. The form requires applicants to answer questions related to the misconduct in paragraph (a) of this section. Employees of DOCR do not conduct self-evaluations. DOCR Policy & Procedures 1C-14 is applicable to all employees and guides performance reviews. Employee performance reviews are conducted annually, based on the job-related requirements and performance for the previous year. Performance reviews are completed by the employee’s supervisor and approved by the supervisor’s manager.

(g) DOCR Policy & Procedures 3C-4 states on page 12, *“Material omissions regarding such misconduct or the provision of materially false information shall be grounds for termination of employment.”* An interview with Human Resource staff indicated disciplinary action, including termination, is taken when material omissions are discovered.

(h) DOCR Policy & Procedures 3C-4 states on page 12, *“Unless prohibited by law, the DOCR shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer with whom the employee has applied to work.”* This auditor reviewed examples of information provided to institutional employers regarding substantiated allegations of sexual abuse or sexual harassment involving former employees.

Conclusion:

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

Standard 115.18: Upgrades to facilities and technologies

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

115.18 (a)

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

115.18 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

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

(a) DOCR Policy & Procedures 3C-4 states on page 12, *“The DOCR will consider the effect of the design, acquisition, expansion, or modification in reference to the agency’s ability to protect adults in custody from sexual abuse during any planned expansions, modifications, or video equipment updates to the facility.”* Interviews with the agency head/designee, agency PREA Coordinator, warden and facility PREA Compliance Manager confirmed the agency has not designed or acquired any new facilities, nor planned a substantial expansion or modification of NDSP. During the site review, the audit team did not observe any areas that appeared to be under construction for a substantial expansion or modification.

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

Interviews with the warden and facility PREA Compliance Manager confirmed that the prevention of sexual abuse and sexual harassment was a factor in determining camera placement and if an upgrade for a specific camera was necessary to aid in detection. Cameras can be moved or augmented upon request by the facility PCM or agency PREA Coordinator.

Conclusion:

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

RESPONSIVE PLANNING

Standard 115.21: Evidence protocol and forensic medical examinations

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

115.21 (a)

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

115.21 (b)

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

115.21 (c)

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

115.21 (d)

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

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

115.21 (e)

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

115.21 (f)

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

115.21 (g)

- Auditor is not required to audit this provision.

115.21 (h)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- North Dakota Century Code 12.1-34-07
- DOCR Policy & Procedures 3C-4
- Interview with the PREA Compliance Manager
- Interview with SAFE/SANE
- Interviews with medical staff
- Interviews with random staff and random inmates

(a, f) DOCR Policy & Procedures 3C-4 states on page 13, *"The DOCR is responsible for conducting administrative investigations into allegations of sexual abuse. The North Dakota Highway Patrol conducts criminal investigations of sexual abuse for the DOCR."* The North Dakota Highway Patrol follows the provisions of paragraphs (a) through (e) of this section of the standards.

(b) DOCR Policy & Procedures 3C-4 states on page 13, *"The North Dakota Highway Patrol's evidence protocol will be based on the North Dakota Sexual Assault Evidence Collection Protocol 5th edition adapted from the Sexual Assault Protocol developed by the United States Department of Justice."* While the protocol is developmentally appropriate for youth, NDSP does not house youthful inmates. Interviews with a facility investigator indicated they are knowledgeable on obtaining usable physical evidence.

(c) DOCR Policy & Procedures 3C-4 states on page 13, *"All victims of sexual abuse will be offered access to forensic medical examinations. Forensic medical examinations will be offered without financial cost to the victim. Forensic examinations will be conducted at Sanford Health...unless exigent circumstances exist. Forensic medical exams are conducted by a SAFE or SANE within 120 hours of the incident. When a SAFE or SANE is not available, the examination may be performed by other qualified medical practitioners. The DOCR medical staff will document its efforts to provide a SAFE or SANE."*

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

All forensic medical exams are provided offsite by Sexual Assault Nurse Practitioners, as verified through interview. The PAQ indicated there was one forensic medical exam provided during the audit period, but that inmate was no longer housed at NDSP. Interviews with medical staff verified inmates are not financially responsible for forensic medical exams.

(d) DOCR Policy & Procedures 3C-4 states on pages 13-14, *"The PREA Coordinator will attempt to make a victim advocate from a rape crisis center available to the victim in person or by other means. The PREA Coordinator will document MOU's or efforts to obtain them. The DOCR medical staff will contact the*

designated medical provider, who will initiate the Sexual Assault Response Team and request a victim advocate.”

DOCR has a written and signed Memorandum of Understanding (MOU) with Abused Adult Resource Center (AARC) that was executed on October 25, 2018. The term of the MOU is for 24 months, ending on October 31, 2020. Through the agreement, AARC provides sexual assault advocacy services to sexual assault victims who are incarcerated in NDSP and Missouri River Correctional Center. AARC provides full-time PREA services to residents who are victims of sexual assault; develops a protocol to provide PREA services to sexual assault victims; disseminates information about the 24-hour PREA hotline to DOCR to be available to sexual assault victims at NDSP; and, provides a written complaint form for incarcerated sexual assault victims to file with the facility PREA Compliance Manager.

If a confidential, community-based advocate is not available, the facility utilizes a staff member from Behavior Health Services to provide counseling and support.

(e) DOCR Policy & Procedures 3C-4 states on page 14, *“If requested by the victim, a victim advocate, qualified agency staff member, or qualified community-based organization staff member will accompany and support the victim through the forensic medical examination process and investigatory interviews and provides emotional support, crisis intervention, information and referrals.”* AARC provides access to advocates via phone, mail, and in-person, when resources and staff availability permit.

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

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

Conclusion:

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

Standard 115.22: Policies to ensure referrals of allegations for investigations

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

115.22 (a)

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

115.22 (b)

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

115.22 (c)

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

115.22 (d)

- Auditor is not required to audit this provision.

115.22 (e)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

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

(a-c) DOCR Policy & Procedures 3C-4 states on page 14, *"The DOCR will ensure an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. The DOCR Director will ensure criminal allegations of sexual abuse or sexual harassment are referred to the North Dakota Highway Patrol unless the allegation does not involve potentially criminal behavior. The PREA Investigator will document all referrals to the North Dakota Highway Patrol in the investigative report. This information will be forwarded to the PREA Coordinator."*

The DOCR adult PREA policy is available on the DOCR website at <https://www.docr.nd.gov/sites/www/files/documents/prea/PREA%20Adult.pdf>. It reiterates the agency's zero-tolerance policy and outlines the process for investigations and referrals.

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

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

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

Conclusion:

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

TRAINING AND EDUCATION

Standard 115.31: Employee training

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

115.31 (a)

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

115.31 (b)

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

115.31 (c)

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

115.31 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

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

(a) DOCR Policy & Procedures 3C-4 states on pages 14-15, "The DOCR trains all employees during orientation and every two years thereafter, on the following matters: zero-tolerance policy for sexual abuse and sexual harassment; how to fulfill employee responsibilities under DOCR sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures; residents' right to be free from sexual abuse and sexual harassment; the right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment; the dynamics of sexual abuse and sexual harassment in confinement; the common reactions of sexual abuse and sexual harassment victims; how to detect and respond to signs of threatened and actual sexual abuse; how to avoid inappropriate relationships with adults in custody; how to communicate effectively and professionally with adults in

custody, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents; and, how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.”

A minimum of 120 training hours is provided to all new correctional officers. The plan is reviewed periodically and adjusted based on institutional needs. Training consists of a combination of web-based, classroom, Field Training Officer (FTO) training and on-the-job training. Clerical and support staff receive 16 hours of training during their first year, in addition to new employee orientation. Annual training is mandated for all staff. Staff supervisors may designate additional mandatory training for any staff member under their supervision.

This auditor reviewed all curriculum to ensure a comprehensive training program that provides detailed information on all ten required elements. Rosters documenting attendance for all employees were provided for calendar years 2019, 2018 and 2017.

(b) DOCR’s training is tailored for male, female and trans genders, as verified through curriculum review by this auditor.

(c) DOCR Policy & Procedures 3C-4 states on page 15, *“Employees are provided with information about current policies regarding sexual abuse and sexual harassment policies through: DOCR PREA training; coordinated response posters; PREA materials posted throughout the facility; and, annual performance evaluations require acknowledgement of the PREA policy.”*

(d) DOCR Policy & Procedures 3C-4 states on page 15, *“The DOCR documents that employees understand the training they have received through employee signature of electronic verification.”* Staff who attend classroom-based PREA training must pass a written test. Each staff member signs a training roster that states, *“By signing this roster, I acknowledge that I understand and will comply with all PREA requirements as presented in this training.”*

Interviews with random staff indicated they received and understood training.

Conclusion:

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

Standard 115.32: Volunteer and contractor training

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

115.32 (a)

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

115.32 (b)

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

115.32 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- Volunteer and Contractor Training Curriculum
- Volunteer and Contractor training records
- Interview with warden
- Interviews with volunteers and contractors

(a-b) DOCR Policy & Procedures 3C-4 states on pages 15-16, "The PREA compliance manager of the respective facility will ensure all volunteers and contractors who have contact with adults in custody will

be trained on their responsibilities regarding sexual abuse and sexual harassment with residents. The type and level of training is based on the services they provide and the level of contact they have with adults in custody. Unescorted or unsupervised contractors or volunteers will receive classroom training on PREA. Escorted or supervised contractors will review and acknowledge understanding of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents by signing the PREA Acknowledgement Form."

PREA classroom training is provide only when a volunteer or intern will have direct, unsupervised contact with adults in custody, and is repeated by volunteers and interns every two years.

(c) DOCR Policy & Procedures 3C-4 states on page 16, *"Administrative services of the respective facility shall maintain documentation confirming volunteers and contractors understand the training they have received and document in ELITE each contractor or volunteer has completed the PREA training and signed the acknowledgement form, based on their level of contact with adults in custody."*

Volunteers and contractors sign a PREA Acknowledgement form that states, *"By signing this form, I acknowledge that I understand and will comply with all PREA requirements presented during training."* Documentation for each volunteer/contractor is maintained by the facility PCM. This auditor reviewed a random sample of files to ensure forms have been completed, while onsite.

In an interview with the warden, he indicated he would immediately discontinue the services of any volunteer that he believed violated security procedures, to include engaging in sexual abuse and/or sexual harassment. Interviews with volunteers and contractors indicated they are aware of the agency's zero-tolerance policy and their reporting responsibilities.

Conclusion:

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

Standard 115.33: Inmate education

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

115.33 (a)

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

115.33 (b)

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

115.33 (c)

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

115.33 (d)

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

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

115.33 (e)

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

115.33 (f)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- *DOCR Facility Handbook*
- DOCR inmate postings within the facility
- Inmate file reviews
- Interview with intake staff
- Interviews with inmates having limited English proficiency or disabilities
- Interviews with random inmates

(a-b) DOCR Policy & Procedures 3C-4 states on page 16, "*Within 30 days of the intake, facility staff will provide comprehensive education to all adults in custody by showing the video, 'PREA: What You Need to Know' and providing a verbal comprehensive explanation of the video. The comprehensive education will explain the following: The DOCR's zero-tolerance policy regarding sexual abuse and sexual harassment; their right to be free from sexual abuse or sexual harassment; how to report incidents or suspicions of sexual abuse or sexual harassment; their right to be free from retaliation; the agency's policies and procedures for responding to such incidents. An Orientation PREA Information fact sheet is provided to each adult in custody in their property bag during orientation, with information on definitions and reporting methods.*"

The *DOCR Facility Handbook* states on page six, “*The DOCR maintains zero tolerance of all forms of sexual abuse and sexual harassment of inmates by other inmates, staff, contractors or volunteers.*”

This auditor reviewed the DOCR Inmate PREA Training. The presentation utilizes the video produced by Just Detention International “*What You Need to Know*”. The video is broken into sections and reinforced by the facilitator after each section. Section 2 of the video explains “zero tolerance” in detail, and the presentation guide notes that zero tolerance is at the foundation of the PREA standards and even one incident of sexual abuse or sexual harassment is too many. After Section 2 of the video is finished, the facilitator is prompted to say, “*The PREA standards require all detention facilities to have a written zero-tolerance, and that includes this facility. ‘Zero-tolerance’ means that no sexual abuse or sexual harassment is tolerated, including abuse by inmates and staff.*” The instructor reads the DOCR’s zero-tolerance policy, and distributes copies of it, with the name and section number of the policy highlighted. The handout provided to inmates includes ways to report and internal and external reporting options.

(c, e) The facility PCM maintains a spreadsheet that documents each inmate’s name, identification number, date of arrival and date they received comprehensive PREA education. The difference between date of arrival and date of education ranged from one to nine days. This auditor checked the education date for each inmate that was selected for a targeted or random interview. Each inmate had received the required comprehensive education within 30 days. All inmates interviewed indicated they had received the required information.

(d) The video has audio, for those that are visually impaired, and subtitles are available for those who are deaf. The training is also available in print format. The DOCR Inmate PREA Training video has been translated into Spanish for inmates with limited-English proficiency. The contract with Language Link and Voiance Language Services, LLC includes on-demand remote interpreting and document translation. All staff have access to the instructions for utilizing this service, if an inmate speaks a language other than English or Spanish.

Interviews with inmates having limited English proficiency or disabilities indicated they had received PREA-related information in formats they were able to understand.

(f) The *DOCR Facility Handbook* is provided to each inmate upon arrival to NDSP. Pages six through eight of the *Facility Handbook* contains information about the Prison Rape Elimination Act, to include definitions, reporting options, the zero-tolerance policy and the right to be free from retaliation for reporting sexual abuse and sexual harassment. Key information is also continuously and readily available on posters throughout the facility.

Conclusion:

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

Standard 115.34: Specialized training: Investigations

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

115.34 (a)

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

115.34 (b)

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

115.34 (c)

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

115.34 (d)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

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

(a-b) DOCR Policy & Procedures 3C-4 states on page 17, *"Investigators who investigate allegations of sexual abuse are trained in conducting sexual abuse investigations in confinement settings. This includes: Department of Justice approved PREA investigator training; techniques for interviewing sexual abuse victims; proper use of Miranda and Garrity Warnings; sexual abuse evidence collection in confinement settings; criteria and evidence required to substantiate a case for administrative action or for prosecution referral."* DOCR Policy & Procedures 3A-12 outlines the procedures for obtaining and preserving evidence. Facility and agency investigators conduct administrative investigations. Investigations involving potentially criminal behavior are referred to the North Dakota Highway Patrol.

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

(c) DOCR Policy & Procedures 3C-4 states on page 17, *"The DOCR Training Department maintains documentation agency investigators have completed the required specialized training in conducting sexual abuse investigations."* NDSP has six facility investigators and DOCR has eight agency investigators (two in Field Services and six in Central Office). This auditor reviewed training certificates for all 14 staff to ensure the required training was received.

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

Conclusion:

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

Standard 115.35: Specialized training: Medical and mental health care

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

115.35 (a)

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

115.35 (b)

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

115.35 (c)

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

115.35 (d)

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

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

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

(a, d) DOCR Policy & Procedures 3C-4 states on page 18, *"All DOCR medical and behavioral health care practitioners are trained in their respective disciplines: DOCR approved PREA training as well as specialized National Institute of Corrections training (PREA Behavioral Health Care for Sexual Assault Victims in a Confinement Setting and PREA Medical Care for Sexual Assault Victims in a Confinement Setting); how to detect and assess signs of sexual abuse and sexual harassment; how to preserve physical evidence of sexual abuse; how to respond effectively and professionally to victims of sexual abuse and sexual harassment; and how and to whom to report allegations or suspicions of sexual abuse and sexual harassment."* This auditor reviewed the curriculum to ensure a comprehensive training program that provides detailed information on how to detect and assess signs of sexual abuse and sexual harassment; how to preserve physical evidence of sexual abuse; how to respond effectively and professionally to victims of sexual abuse and sexual harassment; and how and to whom to report allegations or suspicions of sexual abuse and sexual harassment. Interviews with medical and mental health staff indicated they were knowledgeable of the required elements.

(b) DOCR Policy & Procedures 3C-4 states on page 17, *"Forensic exams will be conducted at Sanford Health (Bismarck) and Jamestown Regional Medical Center (Jamestown)."* As the agency does not employ medical staff to conduct forensic medical examinations, this subsection of the standard does not apply.

(c) DOCR Policy & Procedures 3C-4 states on page 18, *"The DOCR Training Department maintains documentation medical and behavioral health practitioners have received the training as mentioned in this standard."*

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

This auditor reviewed the training certificates for all 20 mental health services staff and all 14 medical staff.

Conclusion:

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

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.41: Screening for risk of victimization and abusiveness

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

115.41 (a)

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

115.41 (b)

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

115.41 (c)

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

115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?
☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent?
☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective

determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes? ☒ Yes ☐ No

115.41 (e)

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

115.41 (f)

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

115.41 (g)

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

115.41 (h)

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

115.41 (i)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- DOCR *Prison Rape Elimination Act (PREA) Assessment/Re-assessment* form
- DOCR *PREA Rating Assessment Manual*
- Interview with PREA coordinator
- Interview with PREA compliance manager
- Interviews with staff responsible for conducting risk screening
- Interviews with randomly selected inmates
- Inmate file reviews

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

DOCR has created a *PREA Rating Assessment Manual* that outlines the purpose of the screening:

"The North Dakota DOCR's PREA Intake/Admission screening (NDSP Only), PREA Temporary Leave/Transfer Screening, PREA Assessment/Reassessment, and PREA Parole Violator Assessment Forms are designed to complement the security classification system and enhance the agency's ability to internally manage the resident population. The primary objective of the PREA forms are to reduce the occurrence of institutional victimization by identifying known victims and potential victims of sexual abuse as well as known sexual aggressors and potential aggressors. The information derived from the PREA forms shall be used to inform housing, bed, work, education and program assignments for each resident, with respect to their potential for aggressive behavior and vulnerability to sexual abuse."

Screening staff complete the screening tool in ELITE. The electronic PREA screening form that contains all ten considerations to assess an inmate's risk for sexual victimization as described in the standard. The second part of the PREA screening form assesses an inmate's aggressive/predatory factors.

(f) DOCR Policy & Procedures 3C-4 states on page 19, *"Prison Rape Elimination Act (PREA) Assessment/Reassessment Screening form will be utilized by transitional planning staff or designee within 30 days of the inmate's intake in the Orientation Unit and/or before the resident transfers from the orientation unit, whichever comes first. This form will also be utilized to conduct reassessments annually by an assigned case manager or designee at the same time the resident undergoes custody level reclassification. A reassessment should also be completed when there is a triggering event such as a substantiated PREA related incident or the adult in custody self-discloses an act of sexual predation or victimization. If an adult in custody is identified as transgender or intersex, a reassessment shall be completed by the assigned counselor or designee every six (6) months. If a reassessment is warranted because of a referral, request, or receipt of additional information that bear on the resident's risk of sexual victimization or abusiveness. Any staff member may refer an adult in custody for reassessment."*

This auditor reviewed the 72-hour and 30-day screenings completed for every inmate selected for a targeted or random interview. Each inmate had 72-hour and 30-day screenings completed in a timely manner. Interviews with randomly selected inmates indicated they had been asked the screening questions.

(g) DOCR Policy & Procedures 3C-4 states on page 19, *"A resident's risk level must be reassessed when warranted because of a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness. Any staff may refer an adult in custody for reassessment."* This auditor reviewed examples of new screening tool assessments made in conjunction with investigative reports to verify completion.

(h) DOCR Policy & Procedures 3C-4 states on page 20, *"Adults in custody may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked during screening or assessment."* Interviews with staff who conduct risk screening indicated that if an inmate refused to answer questions, they would complete the screening with information otherwise available to them. There were no interviews of inmates that indicated they had been disciplined for refusing to answer screening questions.

(i) DOCR Policy & Procedures 3C-4 states on page 20, *"DOCR maintains information within ELITE and FileNet that limits access to DOCR staff and ensures information is not exploited to the resident's detriment by staff or other adults in custody. Staff [are] required to follow the DOCR confidentiality agreement."* Interviews with screening staff indicated they are aware that information obtained during the screening process is to remain confidential unless there is a legitimate need to know.

Conclusion:

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

Standard 115.42: Use of screening information

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

115.42 (a)

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

115.42 (b)

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

115.42 (c)

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

115.42 (d)

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

115.42 (e)

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

115.42 (f)

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

115.42 (g)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- DOCR Policy & Procedures 4B-7
- Interview with PREA coordinator
- Interview with PREA compliance manager
- Interview with staff responsible for risk screening
- Interview with inmates who identify as transgender, intersex, gay, bisexual
- Inmate file reviews
- Observation of facility operations while onsite

(a) DOCR Policy & Procedures 3C-4 states on page 20, *"All adult in custody work, education, and program assignments will be adequately supervised. Prior to housing and bed assignments, staff will review alerts within ELITE to keep separate residents who have been identified as potential victims or known victims from known aggressors or potential aggressors."*

Once the score is calculated on the risk screening tool, each inmate is assigned an appropriate designator

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

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

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

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

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

Information from the screening form is considered in the final determination of the inmate's housing and program assignments. Known or potential victims are only housed with other known victims, potential victims or inmates identified as unrestricted. Known or potential aggressors are only housed with other known or potential aggressors, or inmate identified as unrestricted. Inmates identified as unrestricted can be housed with any other inmate. Known and potential victims may participate in programming and work assignments with known and potential aggressors if there is adequate staff supervision.

(b) DOCR Policy & Procedures 3C-4 states on page 20, *"The facility shall make individualized determinations about how to ensure the safety of each resident by utilizing alerts within ELITE."*

The screening tool has a section at the bottom of the form for *"other factors"*, for the staff person to document other factors related to aggressive/vulnerability that may be significant, but not otherwise addressed in the scored questions. There may be special circumstances indicated by the inmate's

behavior, criminal history, needs, or medical/mental health status that have not been addressed adequately and warrant placement in a living unit other than what has been indicated. Staff are instructed to provide detailed information about the circumstances and source of the information reviewed.

Overrides can be requested to change an inmate's housing consideration from a lower or a higher level. Overrides are encouraged when an inmate's score does not seem to be an accurate reflection of their actual risk of sexual victimization or abusiveness. When an override is requested, detailed justification shall be provided, and it will then be submitted to the facility PREA compliance manager who will consult with the Warden and both shall approve or disapprove.

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

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

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

(d-e) DOCR Policy & Procedures 3C-4 states on page 20, *"Placement and programming assignments for each transgender or intersex resident shall be reassessed at least twice each year to review any threats to safety experienced by the resident. A transgender or intersex resident's own view with respect to his or her own safety shall be given serious consideration."*

At the time of the onsite review, there was one inmate who identified as transgender. Upon being interviewed, they indicated that they met with the facility PCM regularly, and their views with respect to their own safety had been considered.

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

At the time of the onsite review, there was one inmate who identified as transgender. Upon being interviewed, they indicated they have the opportunity to shower separately from other inmates.

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

Conclusion:

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

Standard 115.43: Protective Custody

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

115.43 (a)

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

115.43 (b)

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

- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the reasons for such limitations? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.) ☒ Yes ☐ No ☐ NA

115.43 (c)

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

115.43 (d)

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

115.43 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- Inmate housing records

- Interview with warden
- Interview with staff who supervise segregated housing
- Interviews with random inmates

(a) DOCR Policy & Procedures 3C-4 states on page 21, *“Adults in custody at high-risk for sexual victimization may not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made and a determination has been made there is no available alternative means of separation from likely abusers. If assessment can’t be completed immediately, the resident may be held in involuntary segregated housing for less than 24 hours while assigned staff completes the assessment.”*

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

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

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

The facility’s review every seven days for the first two months, and then 30 days thereafter, exceeds this subsection of the standard.

NDSP has not used involuntary segregation as a means of separation or protection for inmates at high risk for sexual victimization. While onsite, this auditor reviewed housing records of those inmates determined to be at high risk of sexual victimization and confirmed that none had been assigned to protective custody housing based on their high risk. There were no inmate interviews that indicated this had been done in the past. Interviews with the warden and staff who supervise segregated housing indicated they were not aware of any times that an inmate at high risk of sexual victimization has been placed in restrictive housing as a means of separation.

Conclusion:

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

REPORTING

Standard 115.51: Inmate reporting

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

115.51 (a)

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

115.51 (b)

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

115.51 (c)

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

115.51 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- *Friends & Family* poster
- DOCR inmate postings/paintings within the facility
- DOCR staff poster
- *Notice of Prison Rape Elimination Act Allegation* forms
- *DOCR Facility Handbook*
- Interview with PREA Compliance Manager
- Interviews with random staff
- Interviews with random contractors and volunteers
- Interviews with random inmates

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

Internal and external reporting options are readily available to inmates on the permanent PREA signs (in English and Spanish) posted throughout the facility.

(b) DOCR Policy & Procedures 3C-4 states on page 22, adults in custody can report sexual abuse or sexual harassment to the North Dakota Highway Patrol's Administrative Services Division. The DOCR Facility Handbook states on page eight, *"Subsection (b) of Section 115.51 of 28 C.F.R. Part 115 requires the DOCR to provide a means for inmates to report sexual abuse or harassment to another entity that is not a part of the DOCR and is able to receive and immediately forward reports of sexual abuse and harassment to DOCR officials and provide anonymity to the inmate if requested by the inmate. The DOCR has entered into a Memorandum of Understanding with the North Dakota Highway Patrol to receive these reports. All reports will be reviewed by the North Dakota Highway Patrol and forwarded to the DOCR for appropriate action. Please complete the Notice of Prison Rape Elimination Act Allegation form found in your housing unit. After completing this form, it should be forwarded to the following address:*

Administrative Services Division
North Dakota Highway Patrol
600 East Boulevard Avenue - Dept. 504
Bismarck, ND 58505-0240.”

DOCR has entered into a written memorandum of understanding with the North Dakota Highway Patrol (NDHP) as an external reporting mechanism, as follows:

“The NDHP agrees that it will receive written reports of sexual abuse and harassment of inmates in the legal and physical custody of the DOCR in a format approved by both agencies at [NDHP address]. The DOCR will have the address posted in applicable facilities in visible locations with advice to the inmates on how to report sexual abuse and harassment to the NDHP and that, if the inmate requests, the NDHP will assure the anonymity of the inmate. When the NDHP receives a report of sexual abuse or harassment from an inmate in the legal and physical custody of the DOCR, it will immediately forward the report to a designated officer of the DOCR for investigation. If the inmate has requested to remain anonymous, the NDHP shall advise the DOCR that the report is an anonymous report. It is the responsibility of the DOCR to conduct any necessary or appropriate investigation upon receipt of the report from the NDHP.”

DOCR and NDHP have developed a form, *Notice of Prison Rape Elimination Act Allegation*, for inmates in DOCR facilities to use when making a report to NDHP.

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

NDSP does not house inmates detained solely for civil immigration purposes.

(c) The DOCR Facility Handbook states on page eight, *“You may report incidents of sexual harassment or sexual abuse by any inmate, staff, contractor or volunteer to any DOCR staff verbally, in writing, anonymously, through third party reporting or to an outside agency such as Just Detention International at the following address:*

*Just Detention International
3325 Wilshire Blvd., Suite 340
Los Angeles, CA 90010.”*

NDSP has posted a *“Friends & Family”* notification (in English and Spanish) at the entrance and in visiting areas of the facility with the following information:

“Anyone who suspects or has knowledge of any sexual harassment, sexual assault or sexual misconduct should report it. Anyone who receives a report of sexual abuse in any confinement setting must send it up the chain of command for investigation and disposition. The ND DOCR has a ZERO tolerance policy for any sexual assaults made or attempted by any inmate or staff member in a ND DOCR facility. Reports can be made anonymously by friends or family members at any time. Nobody deserves to be a victim of sexual violence.”

The physical address, email address and phone number for the agency PREA Coordinator, the facility PCM and the facility warden are listed on the bottom of the poster.

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

(d) Staff Reporting posters are visible in areas of the facility where staff may gather or work. The posters state, *“All staff must report any knowledge, suspicion, or information regarding an incident of sexual*

abuse or sexual harassment that occurred in a facility; retaliation against inmates or staff who reported such an incident, and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.” The poster outlines internal and external reporting options for staff, including an option to remain anonymous.

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

Conclusion:

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

Standard 115.52: Exhaustion of administrative remedies

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

115.52 (a)

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

115.52 (b)

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

115.52 (c)

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

115.52 (d)

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

- If the agency claims the maximum allowable extension of time to respond of up to 70 days per 115.52(d)(3) when the normal time period for response is insufficient to make an appropriate decision, does the agency notify the inmate in writing of any such extension and provide a date by which a decision will be made? (N/A if agency is exempt from this standard.)
☐ Yes ☐ No ☒ NA
- At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, may an inmate consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

115.52 (e)

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

115.52 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA
- After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.)
☐ Yes ☐ No ☒ NA
- After receiving an emergency grievance described above, does the agency provide an initial response within 48 hours? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA
- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)
☐ Yes ☐ No ☒ NA
- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

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

115.52 (g)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

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

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

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

Conclusion:

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

Standard 115.53: Inmate access to outside confidential support services

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

115.53 (a)

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

115.53 (b)

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

115.53 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- NDSP Memorandum of Understanding with

- *DOCR Facility Handbook*
- *DOCR Prison Rape Elimination Act (PREA) Resource Guide for Inmates*
- Interview with confidential community-based advocate
- Interview with PREA Compliance Manager
- Interviews with random inmates

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

The policy provides the address for writing to Just Detention International and the toll-free number for calling Abused Adult Resource Center (AARC). The number for AARC is noted to be a non-recorded line. The permanent inmate PREA postings throughout the facility list the toll-free number for the National Sexual Assault Hotline, and notes it is not recorded and confidential in nature.

(b) DOCR Policy & Procedures 3C-4 states on page 22, *“Staff shall inform adults in custody, prior to giving them access to outside victim advocates, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.”*

The policy provides the address for writing to Just Detention International and the toll-free number for calling Abused Adult Resource Center (AARC). The number for AARC is noted to be a non-recorded line. The permanent inmate PREA postings throughout the facility list the toll-free number for the National Sexual Assault Hotline, and notes it is not recorded and confidential in nature.

(c) DOCR Policy & Procedures 3C-4 states on page 23, *“The DOCR maintains or attempts to enter into memorandum of understanding or other agreements with community service providers able to provide adults in custody with confidential emotional support services related to sexual abuse. The DOCR shall maintain copies of these agreements or documentation showing attempts to enter into such agreements.”*

DOCR has entered into a written Memorandum of Understanding with Abused Adult Resource Center (AARC) to provide sexual assault advocacy services to sexual assault victims who are incarcerated in NDSP and the Missouri River Correctional Center (MRCC). AARC has agreed to provide full-time PREA services to inmates who are victims of sexual assault, disseminate information about the 24-hour PREA hotline to DOCR to be available to sexual assault victims incarcerated at NDSP and MRCC, and provide a written complaint form for incarcerated sexual assault victims to file with the facility PCM. The memorandum of understanding is valid through October 30, 2020.

Conclusion:

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

Standard 115.54: Third-party reporting

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

115.54 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR inmate postings/paintings within the facility
- *DOCR Facility Handbook*
- DOCR website

(a) DOCR Policy & Procedures 3C-4 states on page 23, “*The DOCR publicly distributes, on its website, information on how to report adult in custody sexual abuse or sexual harassment on behalf of adults in custody.*” The DOCR website lists the contact information for the PREA Compliance Manager and the warden of each facility, as well as the agency PREA Coordinator at <https://www.docr.nd.gov/prea-information>.

Page eight of the DOCR Facility Handbook states, “You may report incidents of sexual harassment or sexual abuse by any inmate, staff, contractor or volunteer to any DOCR staff verbally, in writing, anonymously, through third-party reporting or to any outside agency...” The DOCR Facility Handbook is available to the public on the agency’s website at https://www.docr.nd.gov/sites/www/files/documents/friends_family/INMATE%20HANDBOOK.pdf.

NDSP has posted a “*Friends & Family*” notification (in English and Spanish) at the entrance and in visiting areas of the facility with the following information:

“Anyone who suspects or has knowledge of any sexual harassment, sexual assault or sexual misconduct should report it. Anyone who receives a report of sexual abuse in any confinement setting must send it up the chain of command for investigation and disposition. The ND DOCR

has a ZERO tolerance policy for any sexual assaults made or attempted by any inmate or staff member in a ND DOCR facility. Reports can be made anonymously by friends or family members at any time. Nobody deserves to be a victim of sexual violence."

Conclusion:

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

OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

Standard 115.61: Staff and agency reporting duties

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

115.61 (a)

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

115.61 (b)

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

115.61 (c)

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

115.61 (d)

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

115.61 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- DOCR PREA training curriculum
- Interview with warden
- Interview with PREA coordinator
- Interviews with random staff
- Interviews with medical and mental health staff

(a) DOCR Policy & Procedures 3C-4 states on page 23, "All DOCR staff are required to report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the DOCR... Staff shall immediately notify the security shift supervisor of any verbal report of sexual abuse or sexual harassment against residents or staff. Documentation of resident verbal reports will be completed and turned in to the security shift supervisor by the end of shift. All DOCR employees shall immediately report any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation."

NDSP has posted a "Friends & Family" notification (in English and Spanish) at the entrance and in visiting areas of the facility with the following information:

"Anyone who suspects or has knowledge of any sexual harassment, sexual assault or sexual misconduct should report it. Anyone who receives a report of sexual abuse in any confinement setting must send it up the chain of command for investigation and disposition. The ND DOCR has a ZERO tolerance policy for any sexual assaults made or attempted by any inmate or staff member in a ND

DOCR facility. Reports can be made anonymously by friends or family members at any time. Nobody deserves to be a victim of sexual violence."

DOCR staff training directs, *"DOCR employees, contractors, and volunteers shall report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation."*

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

(b) DOCR Policy & Procedures 3C-4 states on page 23, *"Apart from reporting to designated supervisors or officials, staff may not reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions."*

DOCR staff training directs, *"Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, other security and management decisions."*

Interviews with random staff indicated they are aware of their responsibility to keep information related to sexual abuse confidential, as required by agency policy, staff training and the standard.

(c) DOCR Policy & Procedures 3C-4 states on page 23, *"Unless otherwise precluded by federal, state, or local law, medical and behavioral health practitioners shall report sexual abuse and inform residents of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services."*

DOCR-mandated training for all staff directs, *"All professional and licensed DOCR employees, contractors, and volunteers must report sexual abuse allegations in accordance with state law. Professional licensed DOCR staff include but are not limited to: Behavioral Health, medical, education and licensed peace officers."*

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

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

(e) DOCR Policy & Procedures 3C-4 states on page 24, *"The PREA compliance manager or PREA coordinator shall assign an investigator for all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports."* Investigations are assigned to one of six facility investigators or one of eight agency investigators.

Conclusion:

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

Standard 115.62: Agency protection duties

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

115.62 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- DOCR PREA training curriculum
- Interviews with random staff

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

Interviews with random staff indicated they are aware of their responsibility to take immediate action if they learn an inmate is subject to substantial risk of imminent sexual abuse.

Conclusion:

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

Standard 115.63: Reporting to other confinement facilities

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

115.63 (a)

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

115.63 (b)

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

115.63 (c)

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

115.63 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- Examples of prior confinement facility notifications from 2019 and 2020
- Interview with warden
- Interviews with investigative staff

(a-d) DOCR Policy & Procedures 3C-4 states on page 24, "Upon receiving an allegation that a resident was sexually abused while confined at another facility, the warden who received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. Such

notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. The DOCR shall document using the Risk Management Incident Report form 50508 it has provided such notification. The DOCR Director or Warden who receives such notification shall ensure the allegation is investigated in accordance with this policy.”

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

An interview with the warden and investigative staff confirmed notifications are taking place as required. This auditor reviewed four examples of a prior confinement notifications from the NDSP warden directly to another warden that was completed as required in 2019 and 2020.

Conclusion:

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

Standard 115.64: Staff first responder duties

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

115.64 (a)

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

115.64 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- DOCR PREA Training Curriculum
- Interviews with random staff

(a-b) DOCR Policy & Procedures 3C-4 states on pages 24 and 25, *"The first staff member responding to an allegation of sexual abuse must separate the alleged victim from the alleged abuser. Notify the shift supervisor of the alleged incident. Preserve and protect any crime scene until appropriate steps can be taken to collect evidence. If the alleged abuse occurred within the past 120 hours, request that the alleged victim not take any action that could destroy physical evidence including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, eating, or drinking. If the alleged abuse occurred within the past 120 hours, staff will ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate washing, brushing teeth, changing clothes, urinating, defecating, smoking, eating or drinking."*

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

Conclusion:

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

Standard 115.65: Coordinated response

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

115.65 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

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

(a) DOCR Policy & Procedures 3C-4 outlines the actions taken by facility staff in response to an incident of sexual assault on pages 24-30. The response includes when the initial disclosure is within 120 hours of a sexual assault incident, investigative actions, the forensic examination, after action and follow-up care, court referral/presentation and the after-action review. The policy was most recently revised on January 15, 2020.

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

Conclusion:

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

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

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

115.66 (a)

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

115.66 (b)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- Interview with agency head/designee
- Interview with warden

(a) DOCR Policy & Procedures 3C-4 states on page 30, "Standard § 115.66 does not apply to North Dakota since there are no collective bargaining agreements. North Dakota is a right to work state." Interviews with the agency head and facility warden confirmed they do not engage in any form of collective bargaining.

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

Conclusion:

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

Standard 115.67: Agency protection against retaliation

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

115.67 (a)

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

115.67 (b)

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

115.67 (c)

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

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

115.67 (d)

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

115.67 (e)

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

115.67 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- Interview with PREA Compliance Manager
- Review of investigative files

(a-e) DOCR Policy & Procedures 3C-4 states on pages 30-31, *“The DOCR PREA compliance manager at each DOCR facility protects all resident and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff. The PREA compliance manager in conjunction with the warden of the facility shall ensure multiple protection measures are available, including housing changes or transfers for victims or abusers, removal of alleged staff or abusers from contact with victims, and emotional support services for residents or staff that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. For at least 90 days following a report of sexual abuse, the PREA compliance manager shall monitor the conduct and treatment of residents or staff who reported the sexual abuse and of residents who were reported to have suffered sexual abuse to determine if there are changes that may suggest possible retaliation by residents or staff, and shall act promptly to remedy any such retaliation. Items the facility should monitor include adult in custody disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The DOCR shall continue monitoring beyond 90 days if the initial monitoring indicates a continuing need. In the case of residents, monitoring shall also include monthly status checks documented in case notes in ELITE. If any other individual who cooperates with an investigation expresses a fear of retaliation, the warden and compliance manager shall take appropriate measures to protect that individual against retaliation. DOCR’s obligation to monitor terminates if the DOCR determines that the allegation is unfounded.”*

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

The facility PCM provided a written memorandum stating that NDSP did not receive any allegations of retaliation during the audit period. Documents in investigative files did not reveal any allegations of retaliation. An interview with the facility PCM indicated they are knowledgeable of the requirements associated with retaliation monitoring.

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

Conclusion:

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

Standard 115.68: Post-allegation protective custody

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

115.68 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- Interview with PREA Compliance Manager
- Interviews with staff who supervise inmates in segregated housing

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

The facility PCM provided a written memorandum indicating NDSP did not use segregated housing to protect a victim during the audit period. Interviews with staff who supervise inmates in segregated housing indicated they were not aware of any victims placed in segregation to protect them.

Conclusion:

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

INVESTIGATIONS

Standard 115.71: Criminal and administrative agency investigations

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

115.71 (a)

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

115.71 (b)

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

115.71 (c)

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

115.71 (d)

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

115.71 (e)

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

115.71 (f)

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

115.71 (g)

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

115.71 (h)

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

115.71 (i)

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

115.71 (j)

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

115.71 (k)

- Auditor is not required to audit this provision.

115.71 (l)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- DOCR Policy & Procedures 1A-9
- DOCR Policy & Procedures 1A-27
- Interview with PREA Compliance Manager
- Interviews with investigative staff
- Review of administrative and criminal investigations

(a) DOCR Policy & Procedures 3C-4 states on page 31, *"When the DOCR conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall initiate a thorough and objective investigation for all allegations within 24 hours or as circumstances dictate, including third-party and anonymous reports."*

(b) DOCR Policy & Procedures 3C-4 states on page 31, *"Where sexual abuse is alleged, the DOCR shall utilize investigators who have received Department of Justice approved sexual abuse investigation training."*

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

NDSP has six facility investigators and DOCR has eight agency investigators (two in Field Services and six in Central Office). This auditor reviewed training certificates for all 14 staff to ensure the required training was received.

(c) DOCR Policy & Procedures 3C-4 states on page 31, *"Investigators shall gather and preserve direct and circumstantial evidence, including available physical and DNA evidence and available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator."*

DOCR Policy & Procedures 1A-27 states on pages eight states, *"DOCR criminal investigators conducting preliminary investigations shall: observe all conditions, events, and remarks surrounding the incident; locate and identify witnesses; interview complainants and witnesses; identify and question suspects; ensure the crime scene is secured and processed and all evidence is collected, preserved, and submitted for crime laboratory analysis when necessary; effect the arrest of suspects if there is probable cause; and, report the incident fully and accurately."*

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

(d) DOCR Policy & Procedures 3C-4 states on page 32, *“When the quality of evidence appears to support criminal prosecution, the DOCR investigator will stop the administrative investigation while the criminal investigation is being conducted, unless otherwise directed by the Director of the DOCR. Information obtained during the investigation will not be shared between the criminal and administrative investigators.”*

Interviews with investigative staff indicated they do not conduct compelled interviews; such interviews may be conducted by the North Dakota Highway Patrol.

(e) DOCR Policy & Procedures 3C-4 states on page 32, *“The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person’s status as adult in custody or staff. The DOCR may not require a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.”*

DOCR Policy & Procedures 1A-27 states on page nine, *“If a request is received for a polygraph examination of the victim of a sex crime, the following guidelines apply: a victim of a sex crime will not normally be tested unless there is credible information to indicate the victim is not being truthful about the incident under investigation. Under no circumstances may a victim and suspect be tested in the same facility at the same time. The victim must be advised the victim may request to stop the polygraph at any time. Examiners shall advise the victim of the results of the examination and provide the victim the opportunity to explain why the examiner detected deception.”*

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

(f-g) DOCR Policy & Procedures 3C-4 states on page 32, *“Administrative investigations: must include an effort to determine whether staff actions or failures to act contributed to the abuse; and, must be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. Criminal investigations must be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.”*

A review of investigative reports indicated investigators are documenting the required information.

(h) DOCR Policy & Procedures 3C-4 states on page 32, *“Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.”*

(i) DOCR Policy & Procedures 3C-4 states on page 32, *“The DOCR shall retain all administrative and criminal written reports referenced for as long as the alleged abuser is incarcerated or employed by the agency, plus five years or in accordance with state statute.”*

(j) DOCR Policy & Procedures 3C-4 states on page 32, *“Investigations are completed regardless of employee status or resident custody status.”*

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

(l) DOCR Policy & Procedures 3C-4 states on page 32, *“When the North Dakota Highway Patrol investigates sexual abuse, DOCR investigators shall cooperate with outside investigators and shall remain informed about the progress of the investigation.”*

Conclusion:

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

Standard 115.72: Evidentiary standard for administrative investigations

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

115.72 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

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

(a) DOCR Policy & Procedures 3C-4 states on page 32, "The DOCR may not impose a standard higher than a preponderance (More than 50 percent) of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated."

Interviews with the warden and investigative staff indicated they are aware of this standard in determining if allegations of sexual abuse or sexual harassment are substantiated, unsubstantiated or unfounded.

Conclusion:

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

Standard 115.73: Reporting to inmates

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

115.73 (a)

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

115.73 (b)

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

115.73 (c)

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

115.73 (d)

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

115.73 (e)

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

115.73 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- DOCR form 60658, *Notice of PREA Investigation Status*
- *DOCR Facility Handbook*
- Review of administrative and criminal investigations
- Interview with PREA Compliance Manager
- Interview with investigative staff

(a-b) DOCR Policy & Procedures 3C-4 states on page 33, "Following an investigation, the PREA investigator or staff member designated by the PREA investigator will inform the resident verbally whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. The investigator or designated representative will deliver in person a statement of findings which will require the signature

of the resident. If the resident refuses to sign the findings form, the investigator or designated representative will document the refusal. If the North Dakota Highway Patrol conducts an investigation, the DOCR shall request the relevant information in order to inform the adult in custody of the outcome of the investigation."

The *DOCR Facility Handbook* states on page eight, "You will be notified of the results of all investigations pertaining to substantiated or unsubstantiated allegations of sexual abuse or sexual harassment that either you have made or that have been made on your behalf."

DOCR and NDSP utilize form 60658, *Notice of Prison Rape Elimination Act (PREA) Investigation Status*, to make notifications to inmates. The information on the form includes the victim's name and identification number, the name of the investigator, identification numbers assigned to the case and the outcome of each allegation. Interviews with the agency PREA Coordinator, facility PCM and investigative staff indicated they obtain the appropriate information from investigative agencies in order to inform inmates.

(c) DOCR Policy & Procedures 3C-4 states on page 33, "If there has been a substantiated or unsubstantiated complaint of sexual abuse committed by a staff member against an adult in custody, the agency must subsequently inform the resident whenever: the staff member is no longer posted within the resident's unit; the staff member is no longer employed at the facility; the DOCR learns that the staff member has been charged or convicted on an offense related to sexual abuse within the facility."

Form 60658 includes checkboxes to indicate if the alleged staff member is no longer posted in the offender's living unit; is no longer employed at the facility; has been included as a suspect in the case, which was presented for prosecution to local authorities; and, not applicable. This auditor verified documentation of such notifications to inmates.

(d) DOCR Policy & Procedures 3C-4 states on page 33, "Following a resident's allegation that they have been sexually abused by another resident in a DOCR facility, the DOCR subsequently informs the alleged victim whenever: The DOCR learns that the alleged abuse has been indicted or convicted on a charge related to sexual abuse within the facility."

Form 60658 includes checkboxes to indicate if the alleged offender has been included as a suspect in the case which was presented for prosecution to local authorities; has been charged with a disciplinary violation institutionally; and, not applicable. This auditor verified documentation of such notifications to inmates.

(e) DOCR Policy & Procedures 3C-4 states on page 33, "All notifications or attempted notifications of the final determination of the allegation is documented and stored in PREA drive. The DOCR's obligation to report under this standard terminates if the resident is released from the DOCR's custody."

Form 60658 has a space for comments, and notes, "This letter is regarding the above-referenced case only. This case may be reopened in the future should additional evidence become available. Your cooperation in this investigation is appreciated." There is a place for the victim's signature and date, and the staff signature, title and date.

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

Conclusion:

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

DISCIPLINE

Standard 115.76: Disciplinary sanctions for staff

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

115.76 (a)

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

115.76 (b)

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

115.76 (c)

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

115.76 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

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

(a) DOCR Policy & Procedures 3C-4 states on page 33, *“Any sexual contact or sexual harassment between staff and resident, volunteer and resident, or contract personnel and resident, regardless of consent, is prohibited and subject to administrative disciplinary and criminal sanctions. Staff are subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Employees shall cooperate fully by providing all pertinent information during the investigation. Failure of an employee to answer any inquiry fully will be grounds for disciplinary action. Employees may not make any attempt to contact the victim from the time the allegation is first made, until the completion of the investigation.”*

The facility PCM provided this auditor with a written memorandum reflecting that NDSP has not had any instances of staff sexual abuse or staff sexual harassment during the audit period.

(b) DOCR Policy & Procedures 3C-4 states on page 34, *“Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse with an adult in custody or ward of the state of North Dakota.”*

(c) DOCR Policy & Procedures 3C-4 states on page 34, *“Disciplinary sanctions for violations of DOCR policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) must be commensurate with the nature and circumstances of the acts committed, the staff member’s disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.”*

(d) DOCR Policy & Procedures 3C-4 states on page 34, *“All terminations for violations of DOCR sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.”*

Conclusion:

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

Standard 115.77: Corrective action for contractors and volunteers

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

115.77 (a)

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

115.77 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

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

(a) DOCR Policy & Procedures 3C-4 states on page 34, "Any contractor 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."

The facility PCM provided this auditor with a written memorandum indicating that NDSP did not have any contractors or volunteers who engaged in the sexual abuse of an inmate during the audit period.

(b) DOCR Policy & Procedures 3C-4 states on page 34, *“The deputy warden shall take appropriate remedial measures, and shall consider whether to prohibit further contact with residents, in the case of any other violation of DOCR sexual abuse or sexual harassment policies by a contractor or volunteer.”*

The facility PCM provided this auditor with a written memorandum indicating that NDSP did not have any instances of remedial measures with contractors or volunteers during the audit period.

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

Conclusion:

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

Standard 115.78: Disciplinary sanctions for inmates

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

115.78 (a)

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

115.78 (b)

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

115.78 (c)

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

115.78 (d)

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

115.78 (e)

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

115.78 (f)

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

115.78 (g)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- DOCR Policy & Procedures 3C-2
- *DOCR Facility Handbook*
- Interview with warden
- Interviews with medical and mental health staff
- Inmate misconduct reports

(a) DOCR Policy & Procedures 3C-4 states on page 34, *“Adults in custody shall be subject to disciplinary sanctions pursuant to the DOCR disciplinary process following an administrative or criminal finding of guilt that the adult in custody engaged in resident-on-resident sexual abuse.”*

DOCR Policy & Procedures 3C-2 outlines the procedures to ensure the rules of conduct and sanctions and procedures for violations are defined in writing and communicated to all adults in custody and staff. Disciplinary procedures are carried out promptly and with respect for due process. Each inmate is provided with a *DOCR Facility Handbook*, which specifies acts prohibited within the institution and penalties that can be imposed for various degrees of violation. The handbook provides a written set of disciplinary procedures governing inmate rule violations. “Sexual harassment” is considered a Level II Infraction within DOCR, but may receive an enhancement to a Level III infraction in the event that *“the infraction has been committed in a way that displays a chronic failure to follow rules, creates a serious risk to the security or orderly running of the facility, or endangers any person or property.”* “Sexual abuse” is a Level III infraction.

(b) DOCR Policy & Procedures 3C-4 states on page 34, *“Sanctions must be commensurate with the nature and circumstances of the abuse committed, the inmate’s disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories.”*

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

(c) DOCR Policy & Procedures 3C-4 states on page 34, *“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.”*

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

(d) DOCR Policy & Procedures 3C-4 states on page 34, *“Behavior health staff shall consider, as a condition of access to programming or other benefits, whether to require the offending resident to participate in therapy, counseling or other interventions designed to address and correct underlying reasons or motivations for the abuse.”*

DOCR offers a group intervention for individuals that have perpetrated sexual offenses. The program runs for approximately seven months and is offered at NDSP. Individuals referred to the program may also be referred to the Sex Offender Maintenance Program (SOMP) for aftercare services.

(e) DOCR Policy & Procedures 3C-4 states on page 34, *“The DOCR may discipline an adult in custody for sexual contact with staff only upon a finding the staff member did not consent to the contact.”*

The facility PCM provided this auditor with a written memorandum that no instances of sexual contact with a staff member occurred during the audit period. NDSP inmates who are victim of staff sexual misconduct are not disciplined.

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

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

(g) “Sexual contact”, defined by DOCR as “touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or buttocks of any person to arouse or gratify the sexual desire of any person.” Sexual contact is prohibited between inmates, but it is not considered to be sexual abuse.

Conclusion:

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

MEDICAL AND MENTAL CARE

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

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

115.81 (a)

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

115.81 (b)

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

115.81 (c)

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

115.81 (d)

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

115.81 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

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

(a-c) DOCR Policy & Procedures 3C-4 states on page 35, "If the screening indicates an inmate has experienced prior sexual victimization or perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure the adult in custody is offered a follow-up meeting with a medical or behavioral health practitioner within 14 days of the intake screening."

If the screening indicates the inmate has experienced prior sexual victimization or perpetrated sexual abuse, a *Sexual Risk Notification* form is submitted to Behavior Health Services for follow up with the inmate.

(d) DOCR Policy & Procedures 3C-4 states on page 35, *"Disclosure of information related to sexual victimization or abuse that occurred in an institutional setting must be strictly limited to staff, as necessary, to make security and management decisions, including treatment plans, housing, bed, work, education, and program assignments, or as required by federal, state, or local law."*

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

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

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

Conclusion:

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

Standard 115.82: Access to emergency medical and mental health services

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

115.82 (a)

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

115.82 (b)

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

115.82 (c)

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

115.82 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

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

(a-c) DOCR Policy & Procedures 3C-4 states on page 35, *"Victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope determined by medical and behavioral health practitioners according to their professional judgment. If qualified medical or behavioral health practitioners are not on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim and shall immediately notify the appropriate medical and behavioral health practitioners. Victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis in accordance with professionally accepted standards of care where medically appropriate."*

There were no incarcerated survivors at NDSP who had received forensic medical exams within the audit period to be interviewed by the audit team. Interviews with medical staff indicated incarcerated survivors are offered sexually transmitted infection prophylaxis medication and treatment during the forensic medical exam and upon their return to the facility. There were no staff who had acted as a first responder during the audit period to be interviewed by the audit team. Medical and mental health referrals are documented in the investigation reports for each incident.

(d) DOCR Policy & Procedures 3C-4 states on page 35, *"Medical and behavioral health services shall be provided to the victim and abuser without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident."*

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

Conclusion:

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

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

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

115.83 (a)

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

115.83 (b)

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

115.83 (c)

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

115.83 (d)

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

115.83 (e)

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

115.83 (f)

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

115.83 (g)

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

115.83 (h)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

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

(a-c, f) DOCR Policy & Procedures 3C-4 states on page 36, *"The facility shall offer medical and behavioral health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. The evaluation and treatment of such victims must include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. The facility shall provide such victims with medical and behavioral health services consistent with the community level of care."*

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

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

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

(d-e) DOCR Policy & Procedures 3C-4 states on page 36, *"Victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. If pregnancy results from the conduct described in (4) above in this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services."*

NDSP does not have any female inmates or transgender inmates who may require pregnancy-related services.

(g) DOCR Policy & Procedures 3C-4 states on page 35, *"Victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis in accordance with professionally accepted standards of care where medically appropriate. Medical and behavioral health services shall be provided to the victim and abuser without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident."*

There were no incarcerated survivors at NDSP who had received forensic medical exams within the audit period to be interviewed by the audit team, to determine if they had been held financially responsible for any charges related to a forensic medical exam or STI prophylaxis or treatment. Interviews with medical staff indicated the usual inmate co-pay for medical exams is waived for these circumstances.

(h) DOCR Policy & Procedures 3C-4 states on page 36, *"Behavioral health staff will complete an evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when appropriate."*

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard of ongoing medical and mental health care for sexual abuse victims and abusers as it relates to PREA. Corrective action is required.

DATA COLLECTION AND REVIEW

Standard 115.86: Sexual abuse incident reviews

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

115.86 (a)

- Does the facility conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded? ☒ Yes ☐ No

115.86 (b)

- Does such review ordinarily occur within 30 days of the conclusion of the investigation? ☒ Yes ☐ No

115.86 (c)

- Does the review team include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners? ☒ Yes ☐ No

115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse? ☒ Yes ☐ No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility? ☒ Yes ☐ No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse? ☒ Yes ☐ No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts? ☒ Yes ☐ No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff? ☒ Yes ☐ No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager? ☒ Yes ☐ No

115.86 (e)

- Does the facility implement the recommendations for improvement, or document its reasons for not doing so? ☒ Yes ☐ No

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- Interview with the warden
- Interview with the PREA Compliance Manager
- Interview with an incident review team member

(a-c) DOCR Policy & Procedures 3C-4 states on page 36, *"The facility shall conduct a sexual abuse incident review pursuant to PREA Standard 115.87 at the conclusion of every sexual abuse investigation, including when the allegation has not been substantiated, unless the allegation has been determined to be unfounded. The review shall ordinarily occur within 30 days of the conclusion of the investigation. The review team may include PREA coordinator, facility PREA compliance manager, behavioral health staff, investigator, and assigned facility staff. The results of the review will be provided to the warden."*

(d) DOCR Policy & Procedures 3C-4 states on pages 36 and 37, *"The review team shall: consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility; examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; Assess the adequacy of staffing levels in that area during different shifts; assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and, prepare a report of its findings, including determinations and any recommendations for improvement and submit such report to the PREA compliance manager, PREA Coordinator, Warden, Director of Operations, and Director of DOCR."*

(e) DOCR Policy & Procedures 3C-4 states on page 37, *"The facility warden shall provide a written response to the Director of DOCR within 60 days of receiving the findings report of the review team. The warden's response must include an implementation plan of recommendations and the justification for not implementing recommendations. The report and response will be stored in the PREA drive."*

There were no sexual abuse incident reviews conducted by the facility during the audit review period. Interviews with the warden, facility PCM and other potential members of the incident review team indicated they were aware of the required considerations.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with and exceeds this standard of sexual abuse incident reviews as it relates to PREA

Standard 115.87: Data collection

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

115.87 (a)

- Does the agency collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions? ☒ Yes ☐ No

115.87 (b)

- Does the agency aggregate the incident-based sexual abuse data at least annually? ☒ Yes ☐ No

115.87 (c)

- Does the incident-based data include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice? ☒ Yes ☐ No

115.87 (d)

- Does the agency maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews? ☒ Yes ☐ No

115.87 (e)

- Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates? (N/A if agency does not contract for the confinement of its inmates.) ☒ Yes ☐ No ☐ NA

115.87 (f)

- Does the agency, upon request, provide all such data from the previous calendar year to the Department of Justice no later than June 30? (N/A if DOJ has not requested agency data.) ☒ Yes ☐ No ☐ NA

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR website
- 2015, 2016 and 2017 *PREA Annual Reports*

(a-f) DOCR Policy & Procedures 3C-4 states on page 37, *"The DOCR shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. The DOCR utilizes the Department of Justice, Bureau of Justice Statistics form SSV-2, Survey of Sexual Violence for State Prison Systems. In addition, data is collected in the State Risk Management Incident Report Data system. The DOCR PREA Coordinator shall aggregate the incident-based sexual abuse data at least annually. The DOCR shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. The PREA compliance manager will forward all completed PREA investigations to the PREA Coordinator. The PREA Compliance Manager will ensure the documentation is scanned into the P drive. The PREA Coordinator will compile data and statistics on the number of sexual abuse and sexual harassment incidents that occurred the prior calendar year. These statistics will be forwarded to the Department of Justice annually, upon request. The DOCR contract managers obtain incident-based and aggregated data from every contract facility with which it contracts for the confinement of its adults in custody. Contract facilities are to comply with SSV-2 reporting regarding content. Upon request, the DOCR shall provide the data from the previous calendar year to the DOJ no later than June thirtieth."*

This auditor reviewed the agency's Survey of Sexual Victimization for 2018. The annual reports for 2014, 2015, 2016, 2017, 2018 and 2019 are available on the agency website at <https://www.docr.nd.gov/prea-information/adult-prea-report>.

Conclusion:

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

Standard 115.88: Data review for corrective action

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

115.88 (a)

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas? ☒ Yes ☐ No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis? ☒ Yes ☐ No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole? ☒ Yes ☐ No

115.88 (b)

- Does the agency's annual report include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse? ☒ Yes ☐ No

115.88 (c)

- Is the agency's annual report approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means? ☒ Yes ☐ No

115.88 (d)

- Does the agency indicate the nature of the material redacted where it redacts specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility? ☒ Yes ☐ No

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR website
- 2017, 2018 and 2019 *DOCR PREA Annual Reports*

(a-d) DOCR Policy & Procedures 3C-4 states on pages 37 and 38, *"The PREA Coordinator in conjunction with the facility wardens shall review data collected and aggregated pursuant to PREA Standard 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training to include: identifying problem areas; taking corrective action on an ongoing basis; and preparing an annual report of its findings and corrective actions for each facility and the agency as a whole. The report must include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse. The DOCR's report shall be approved by the Director of DOCR and made readily available to the public through its website or other means. The DOCR may redact specific material from the reports when publication presents a clear and specific threat to the safety and security of a facility but must indicate the nature of the material redacted."*

DOCR collects and reviews data to assess and improve the effectiveness of its sexual abuse prevention, detection and response policies, practices and training in order to identify problem areas, take corrective action on an ongoing basis, compare the current year's data/corrective action with data/corrective action from previous years, and assess the agency's progress in addressing sexual abuse within its facilities. The report is prepared by the agency PREA Coordinator and signed by the DOCR Director.

The annual reports for 2014, 2015, 2016, 2017, 2018 and 2019 are available on the agency website at <https://www.docr.nd.gov/prea-information/adult-prea-report>.

Conclusion:

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

Standard 115.89: Data storage, publication, and destruction

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

115.89 (a)

- Does the agency ensure that data collected pursuant to § 115.87 are securely retained?
☒ Yes ☐ No

115.89 (b)

- Does the agency make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means? ☒ Yes ☐ No

115.89 (c)

- Does the agency remove all personal identifiers before making aggregated sexual abuse data publicly available? ☒ Yes ☐ No

115.89 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise? ☒ Yes ☐ No

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR Policy & Procedures 3C-4
- DOCR website
- 2017, 2018 and 2019 *DOCR PREA Annual Reports*
- Interview with Agency PREA Coordinator

- Interview with Human Resource staff
- Interview with PREA Compliance Manager
- Interviews with investigative staff

(a) DOCR Policy & Procedures 3C-4 states on page 38, *“The DOCR ensures that data collected pursuant to § 115.87 are securely retained by Administrative Services.”* The agency and facility utilize an electronic database to collect and secure data, and includes all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. The agency head authorizes access to for employees with a legitimate need to know.

(b) DOCR Policy & Procedures 3C-4 states on page 38, *“The DOCR shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website.”* Data from the agency’s public and privately-operated facilities is maintained in an electronic database. The annual reports for 2014, 2015, 2016, 2017, 2018 and 2019 are available on the agency website at <https://www.docr.nd.gov/prea-information/adult-prea-report>.

(c) DOCR Policy & Procedures 3C-4 states on page 38, *“Before making aggregated sexual abuse data publicly available, the DOCR shall remove all personal identifiers.”* The reports on the website do not contain any personal identifiers.

(d) DOCR Policy & Procedures 3C-4 states on page 38, *“The agency shall maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of initial collection, unless federal, state, or local law requires otherwise.”*

Conclusion:

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

AUDITING AND CORRECTIVE ACTION

Standard 115.401: Frequency and scope of audits

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

115.401 (a)

- During the prior three-year audit period, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (*Note: The response here is purely informational. A "no" response does not impact overall compliance with this standard.*) ☒ Yes ☐ No

115.401 (b)

- Is this the first year of the current audit cycle? (*Note: a "no" response does not impact overall compliance with this standard.*) ☒ Yes ☐ No
- If this is the second year of the current audit cycle, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited during the first year of the current audit cycle? (N/A if this is **not** the *second* year of the current audit cycle.) ☐ Yes ☐ No ☒ NA
- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? (N/A if this is **not** the *third* year of the current audit cycle.) ☐ Yes ☐ No ☒ NA

115.401 (h)

- Did the auditor have access to, and the ability to observe, all areas of the audited facility? ☒ Yes ☐ No

115.401 (i)

- Was the auditor permitted to request and receive copies of any relevant documents (including electronically stored information)? ☒ Yes ☐ No

115.401 (m)

- Was the auditor permitted to conduct private interviews with inmates, residents, and detainees? ☒ Yes ☐ No

115.401 (n)

- Were inmates permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel? ☒ Yes ☐ No

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR website
- Interview with Agency PREA Coordinator

(a) DOCR operates three public facilities and one private facility. The agency began receiving audit in the first year of the first cycle. All audits were completed by DOJ-certified auditors, and all final audit reports have been posted on DOCR's website, available to the public at <https://www.docr.nd.gov/prea-information/adult-prea-report>. During the prior three-year audit period, Cycle Two, the agency ensured that each facility under their control was audited at least once.

(b) This is the first year of Cycle Three.

(h, l, m, n) While onsite at NDSP, the audit team was provided with access to, and the ability to observe, all areas of the facility. The auditor received copies of all requested documents and the team was permitted to conduct private interviews with staff and inmates. Inmates were permitted to send confidential correspondence to the auditor, prior to the onsite review. There were no barriers to conducting the audit.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard.

Standard 115.403: Audit contents and findings

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

115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports. The review period is for prior audits completed during the past three years PRECEDING THIS AUDIT. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.) ☒ Yes ☐ No ☐ NA

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

- NDSP Pre-Audit Questionnaire (PAQ) responses
- DOCR website
- Interview with Agency PREA Coordinator

(f) DOCR operates three public facilities and one private facility. The agency began receiving audit in the first year of the first cycle. All audits were completed by DOJ-certified auditors, and all final audit reports have been posted on DOCR's website, available to the public at <https://www.docr.nd.gov/prea-information/adult-prea-report>.

Conclusion:

Based upon the review and analysis of all available evidence, the auditor has determined that the facility is fully compliant with this standard.

AUDITOR CERTIFICATION

I certify that:

- ☒ The contents of this report are accurate to the best of my knowledge.
- ☒ No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and
- ☒ I have not included in the final report any personally identifiable information (PII) about any inmate or staff member, except where the names of administrative personnel are specifically requested in the report template.

Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.¹ Auditors are not permitted to submit audit reports that have been scanned.² See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

Amanda van Arcken

January 5, 2022

Auditor Signature

Date

¹ See additional instructions here: <https://support.office.com/en-us/article/Save-or-convert-to-PDF-d85416c5-7d77-4fd6-a216-6f4bf7c7c110>.

² See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.