

## Prison Rape Elimination Act (PREA) Audit Report Community Confinement Facilities

Interim       Final

**Date of Interim Audit Report:** 9/11/2020       N/A

*If no Interim Audit Report, select N/A*

**Date of Final Audit Report:** 11/9/2020

### Auditor Information

**Name:** Adam T. Barnett, Sr.

**Email:** Adam30906@gmail.com

**Company Name:** Diversified Correctional Services, LLC

**Mailing Address:** P.O. Box 20381

**City, State, Zip:** Augusta, Ga. 30906

**Telephone:** 706-414-6579

**Date of Facility Visit:** August 26-27, 2020

### Agency Information

**Name of Agency:** South Carolina Department of Corrections

**Governing Authority or Parent Agency (If Applicable):** State Government

**Physical Address:** 4444 Broad River Road

**City, State, Zip:** Columbia, SC 29210

**Mailing Address:** P.O. Box 21787

**City, State, Zip:** Columbia, SC 29210

**The Agency Is:**

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

**Agency Website with PREA Information:** [www.doc.sc.gov/preaweb/](http://www.doc.sc.gov/preaweb/)

### Agency Chief Executive Officer

**Name:** Bryan P. Stirling

**Email:** Stirling.Bryan@doc.sc.gov

**Telephone:** 803-296-8555

### Agency-Wide PREA Coordinator

**Name:** Kenneth L. James

**Email:** James.Kennethl@doc.sc.gov

**Telephone:** 803-896-6436

<b>PREA Coordinator Reports to:</b> Salley Elliott, Deputy Director Legal and Compliance	<b>Number of Compliance Managers who report to the PREA Coordinator:</b> 0
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**Facility Information**

**Name of Facility:** Manning Reentry and Work Release Center

<b>Physical Address:</b> 502 Beckman Road	<b>City, State, Zip:</b> Columbia, SC 29203
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<b>Mailing Address (if different from above):</b> same	<b>City, State, Zip:</b> same
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<b>The Facility Is:</b>	<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 Website with PREA Information:** [www.doc.sc.gov/preaweb/](http://www.doc.sc.gov/preaweb/)

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

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

ACA  
 NCCHC  
 CALEA  
 Other (please name or describe: [Click or tap here to enter text.](#))  
 N/A

**If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:**  
Internal Security Audit

**Facility Director**

**Name:** Wilfredo Martell

<b>Email:</b> Martell.Wilfredo@doc.sc.gov	<b>Telephone:</b> 803-935-5930
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**Facility PREA Compliance Manager**

**Name:** Brenda Scott-Hickmon

<b>Email:</b> scott-hickmon.brenda@doc.sc.gov	<b>Telephone:</b> 803.935-5069
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**Facility Health Service Administrator**  N/A

**Name:** Yvette Copeland

<b>Email:</b> Copeland.Yvette@doc.sc.gov	<b>Telephone:</b> 803-935-6055
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Facility Characteristics	
Designated Facility Capacity:	837
Current Population of Facility:	235
Average daily population for the past 12 months:	600
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:	20 - 80
Average length of stay or time under supervision	180 days
Facility security levels/resident custody levels	Minimum
Number of residents admitted to facility during the past 12 months	939
Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:	927
Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:	874
Does the audited facility hold residents for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>Select all other agencies for which the audited facility holds residents: Select all that apply (N/A if the audited facility does not hold residents for any other agency or agencies):</p>	<input type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> U.S. Marshals Service <input type="checkbox"/> U.S. Immigration and Customs Enforcement <input type="checkbox"/> Bureau of Indian Affairs <input type="checkbox"/> U.S. Military branch <input type="checkbox"/> State or Territorial correctional agency <input type="checkbox"/> County correctional or detention agency <input type="checkbox"/> Judicial district correctional or detention facility <input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail) <input type="checkbox"/> Private corrections or detention provider <input checked="" type="checkbox"/> Other - please name or describe: SLED <input checked="" type="checkbox"/> N/A
Number of staff currently employed by the facility who may have contact with residents:	148
Number of staff hired by the facility during the past 12 months who may have contact with residents:	24

Number of contracts in the past 12 months for services with contractors who may have contact with residents:	21
Number of individual contractors who have contact with residents, currently authorized to enter the facility:	13
Number of volunteers who have contact with residents, currently authorized to enter the facility:	115
<b>Physical Plant</b>	
<p><b>Number of buildings:</b></p> <p>Auditors should count all buildings that are part of the facility, whether residents 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 residents, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.</p>	13
<p><b>Number of resident housing units:</b></p> <p>Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house residents 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 residents to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.</p>	10
Number of single resident cells, rooms, or other enclosures:	23
Number of multiple occupancy cells, rooms, or other enclosures:	0
Number of open bay/dorm housing units:	9
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

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

### Investigations

#### Criminal Investigations

<b>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:</b>	<b>45</b>
<b>When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-resident or resident-on-resident), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.</b>	<input type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input checked="" type="checkbox"/> An external investigative entity
<b>Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)</b>	<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 checked="" type="checkbox"/> Other (please name or describe: <b>SLED</b> ) <input checked="" type="checkbox"/> N/A

#### Administrative Investigations

<b>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?</b>	<b>49</b>
<b>When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-resident or resident-on-resident), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply</b>	<input checked="" type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
<b>Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)</b>	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> ) <input checked="" type="checkbox"/> N/A

# Audit Findings

## Audit Narrative

### Methodology:

The PREA audit of Manning Reentry and Work Release Center (MRWRC) was conducted 8/26/20 thru 8/28/20. The South Carolina Department of Corrections (SCDC) operates the Manning Reentry and Work Release Center. The Manning Reentry and Work Release Center hereinafter maybe referred to as facility.

The auditor uses a triangular approach, by connecting the PREA audit documentations, on-site observation, tour, facility practice, interviewed staff and residents, local and national advocates, etc. to make determinations for each standard. Each standard and/or provision is designed with documentation reviewed, PREA Audit: Pre-Audit Questionnaire, overall findings and interview results.

**Note:** Due to the COVID-19, the facility on-site audited date was rescheduled and there have been adjustments made to the process. In addition, it is recommended that this facility receive credit for PREA cycle 8/19/19 thru 8/20/20 to maintain it overall agency compliance with PREA Standard 115.401.

The facility warden advised the auditor at the entrance conference that three buildings are quarantined/isolated due to COVID-19. Auditor did not enter these buildings.

### Site Review Location:

The site review for this audit took place at Manning Reentry and Work Release Center 502 Beckman Road, Columbia, S.C. 29203-3273. The auditor conducted per-audit work prior to arrival at the facility.

### Pre-Audit Preparation:

#### Agency/Facility Houses Residents For:

- South Carolina Department of Corrections (SCDC)

#### SCDC Institutions Review:

The original correctional system in South Carolina was established in 1866 when the South Carolina Legislature passed an act that created the first state-level prison for felons that were housed in county facilities. In 1960, the Governor of South Carolina decided to end the abuses of the correctional system and therefore created a new state agency. The agency was named

the South Carolina Department of Corrections. Today, the Department of Corrections is still a state agency, reporting directly to the Governor.

The Department of Corrections has 21 institutions and they are categorized into four distinct security levels: high security (level 3), medium security (level 2), minimum security (level 1B), and community-based pre-release/work centers (level 1A). The architectural design of the institution, type of housing, operational procedures, and the level of security staffing determine an institution's security level. Residents are assigned to institutions to meet their specific security, programming, medical, educational, and work requirements.

The Manning Reentry and Work Release Center is listed as minimum security (level 1B). The Manning Reentry and Work Release Center only houses residents for the South Carolina Department of Corrections. Manning Correctional Institution was renamed Manning Reentry and Work Release Center in 2016.

This facility is audited as a community confinement facility. PREA Standard 115.5 general definitions states that a community confinement facility means a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry release centers), other than a juvenile facility, in which individuals reside as part of a term of imprisonment or as a condition of pre-trial release or post-release supervision, while participating in gainful employment, employment search efforts, community services, vocational training, treatment, educational programs, or similar facility-approved programs during nonresidential hours.

The South Carolina Department of Corrections contracts with Core Civic for the housing of certain SCDC residents in confinement. Core Civic must also comply with the PREA standards.

#### SCDC 2019 Annual Report Summary:

In calendar year 2019, SCDC received 265 reported allegations of sexual abuse/sexual harassment. SCDC Police Services investigated 195 (74%) allegations of sexual abuse/sexual harassment for criminal intent. Seventy allegations (26%) were investigated by institutional investigators. In total, there were 99 allegations (37%) of resident-on-resident abuse and 68 allegations (26%) of staff-on-resident abuse. Of the 265 allegations, 17 allegations (6%) were substantiated, 144 allegations (54%) were unsubstantiated, 55 allegations (21%) were unfounded, and 49 allegations (19%) cases are ongoing.

#### Audit Notice Posting:

During the pre-onsite audit phase, the facility received instructions to post the required PREA Audit Notice of the upcoming audit prior to the on-site visit for confidential communications on 1/14/2020; but because of rescheduling, the facility changed the on-site dates. The facility posted the notices in English and Spanish. The auditor received an email, pictures confirming the posted notices and observed the posted notices on-site.

As of 8/23/20, there were no communications from residents or staff.

### Pre-Audit Questionnaire (PAQ):

In order to prepare for the audit process, email correspondence occurred with the agency PREA coordinator and facility PREA compliance manager. The Pre-Audit Questionnaire was completed and sent to the auditor as required. As a part of the on-site visit, the auditor requested that the facility PREA compliance manager review and revised the Pre-Audit Questionnaire to reflect updated information to include the current population.

The auditor completed a documentation review using the Pre-Audit Questionnaire, website review, policies and procedures review sent from the agency headquarters, and additional documentation provided. Phone conversations and email exchanges occurred with the facility and the agency PREA coordinator.

The following documentation was requested for on-site visit:

- Resident roster (100%)
- Youthful resident roster (100%), if any (none)
- Notice of Auditor Post Time Stamp (English & Spanish)
- List of residents with Disabilities
- List of residents who are Limited English Proficient (LEP)
- List of LGBTI residents (100%)
- List of residents in segregated housing (PREA Related), If any
- List of residents who reported sexual abuse
- List residents who reported sexual victimization during risk screening
- Staff roster (100%)
- List of specialized staff
- Staff Personnel (Documentation)
- Resident Documentations
- Contractors who have contact with residents (if any)
- Volunteers who have contact with residents (if any)
- PREA screening to be taken with the auditor
- PREA reassessments, to be taken with the auditor
- Allegations of sexual abuse and sexual harassment reported for investigation in the 12 months (100%) to be taken with the auditor
- All hotline calls made during the 12 months
- A summary of all incidents within the past 12 months (log)
- Unannounced rounds documentation to be taken with the auditor

### Website Reviews:

Prior to the onsite portion of the audit, the auditor conducted a website review of the facility/agency. The reviewed content included but was not limited to:



- Annual PREA Report (8/29/19)
- Institutions (Categorizations)
- Statewide Partnerships with Sexual Assault Centers
- OP-21-12, "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment," SCDC Policy
- Anonymous PREA Tip Reporting
- Statistics
  - Correctional Officer Staffing and Salary Information
  - Resident and Bed Counts of SCDC Institutions
  - Yearly Comparison of Resident Bed Counts
  - Average Daily Resident Population – Fiscal Years 1970-2019
  - Admissions to and Release from SCDC Population
  - Resident Assaults of Employees, FY 2011-2019
- Victim Services
  - Victim Notification (Community)
  - Victim Registration
  - Impact of Crimes Classes
  - Victim Assistance Links
  - Statewide Automated Victim Information and Notification System (SAVIN)
- Information Regarding Core Civic (Private Facility)
- Let's Talk About Safety -SCDC (Male Prisoners)
- Let's Talk About Safety – SCDC (Female Prisoners)
- Family information
  - Sending Mail
  - Sending Electronic Messages
  - Telephones Calls
  - Visitation
- Programs
  - Volunteers
  - Resident Services
  - Palmetto Unified School District
  - Division of Industries
  - Behavioral Health and Substance Abuse
- News/Press Releases
- Newsletter
- Fugitives
- Employee News
- Petition to Jam Cell Phones
- Legislative Audit Council
- Report Sexual Abuse or Sexual Harassment
- Report Offender Usage of Cell Phones/Social Media

## Agency/Facility Policies Submitted

- SCDC Policy ADM-11.04 Employee Corrective Action
- SCDC Policy ADM-11.17 Employee Conduct
- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Policy ADM-11.28 Applicant Selection Process
- SCDC Policy ADM-11.34 Employee Resident Relations
- SCDC Policy ADM-11.39 Staff Sexual Misconduct with Residents
- SCDC Policy ADM-17.01 Employee Training Standards
- SCDC Policy GA-01.12 Resident Grievance System
- SCDC Policy GA-06.04 Request to Staff Member
- SCDC Policy GA-06.09 Care and Custody of Transgender Residents and Residents Diagnosed with Gender Dysphoria
- SCDC Policy HS-19.04 Mental Health Services – General Provisions
- Mental Health Reception and Evaluation Flow Chart
- Columbia-Suicide Severity Rating Scale
- SCDC Policy OP-21.04 Resident Classification Plan
- SCDC Policy OP-22.14 Resident Disciplinary System
- SCDC Policy OP-22.47 Prison Management Expectations
- SCDC Policy OP-22.48 Institutional Weekly Rounds
- SCDC Policy POL-23.01 Investigation
- SCDC Policy POL-23.12 Case File Requirements
- SCDC Policy Number: OP 22.39 Young Offender Parole and Reentry Services
- SCDC Policy PS-10.04 Volunteer Services Programs
- SCDC Policy PS-10.08 Resident Correspondence Privileges
- SCDC Policy ADM 11.27 Post Assault Information Resource Assistance (PAIR)
- SCDC Policy ADM 11.12 Post/Shift Assignments
- SCDC Policy Number: GA 01.07 Access to The General Counsel
- SCDC Policy Number: PS 10.08 Resident Correspondence Privileges
- SCDC Policy Number: HS 18.15 Level of Care
- SCDC Policy Number: HS 18.13 Health Screening and Exams
- SCDC Policy Number: OP 22.19 Searches of Residents
- SCDC Policy Number: OP 22.23 Statewide Protective Custody
- SCDC Policy Number: ADM 11.15 South Carolina Whistleblower Act
- SCDC Policy Number: HS 18.07 Resident Health Records
- Agency Retention Schedule

## **On-site Audit Phase:**

### Entrance Conference:

On 8/26/20, the on-site audit started with meeting the warden, facility PREA compliance manager and the agency PREA coordinator. The entrance conference was held and attended by:

- Adam Barnett, USDOJ Certified PREA Auditor
- Debbie Carter, Associate
- Kenneth James, SCDC Agency PREA Coordinator
- Wilfredo Martell, Warden
- Brenda Scott-Hickmon, Associate Warden/New Facility PREA Compliance Manager
- Sharon Patterson, Associate Warden/Old Facility PREA Compliance Manager
- Sam Ray, Major
- Alvin Graber, Jr., Associate Warden/Operations
- Timothy Burnell, Administration Captain

Welcome was given by the facility warden and PREA coordinator. The auditor introduced himself and provided a brief description of his experiences, qualifications, correctional and auditing background. The auditor introduced associate Debbie Carter and provided a brief description of her experiences and qualifications. Mrs. Carter served as a regional director and assistant deputy commissioner for the Georgia Department of Juvenile Justice in the Division of Secure Facilities. Mrs. Carter is currently retired from Georgia Department of Juvenile Justice.

The auditor explained the onsite role of Mrs. Debbie Carter as:

1. Conducting interviews with residents
2. Conducting interviews with correctional officers
3. Conducting interviews with some specialized staff
4. Documentation collection

The second associate Sonya Love, Mrs. Love is a Certified DOJ PREA Auditor for Adults and Juvenile. Before retiring, she served as the director of Administrative Services-Secure Detention, for the Georgia Department of Juvenile Justice.

As a second associate Mrs. Love interviewed the South Carolina Department of Corrections agency headquarters staff as a part of serving as lead auditor for another SCDC facility. The interview results were shared with the auditor (Adam T. Barnett, Sr.). The interview information shared by Mrs. Love will be documented as “pervious”. Mrs. Love interviewed the following SCDC management team members:

1. Chief legal and compliance officer (Designated for the SCDC agency director)
2. Classification and resident records administration (Headquarters)
3. Mental health services (Headquarters)

4. Assistant director of human services (Headquarters)
5. Assistant deputy director of Police Services (Investigator)
6. Agency PREA coordinator

The auditor provided an overview of the expectations during the onsite audit and transparency to discuss any identified issues or concerns. The auditor established a process to make corrections on-site and if necessary, post on-site follow ups.

The audit agenda was reviewed and discussed, to include resident population based on 1<sup>st</sup> day of the on-site audit and the 2<sup>nd</sup> day planned activities.

The auditor requested an updated list of all staff work schedules during the on-site visit, sorted by shift. The facility operates two 12 hours shift. The auditor provided the facility with a list of random and specialized staff and random and targeted residents who would be interviewed.

#### Site Review/Tour:

On the first day of the audit after the entrance conference, the auditor conducted a comprehensive toured of the facility. It was requested that when the auditor paused to speak to a resident or staff, that staff on the tour please step away so the conversation might remain private. This request was well respected.

The following staff accompanied the auditor on tour and responded to the auditor's questions concerning the facility operations:

- Adam Barnett, USDOJ Certified PREA Auditor
- Kenneth James, SCDC Agency PREA Coordinator
- Brenda Scott-Hickmon, Associate Warden/New Facility PREA Compliance Manager
- Sharon Patterson, Associate Warden/Old Facility PREA Compliance Manager
- Sam Ray, Major
- Alvin Graber, Jr., Associate Warden/Operations
- Timothy Burnell, Administration Captain

During the tour, the auditor reviewed PREA related documentation and materials located on bulletin boards. The auditor observed camera surveillance, physical supervision, and electronic monitoring capabilities throughout the facility. Other areas of focus during the tour included, but were not limited to, levels of staff supervision, and limits to cross-gender viewing.

The auditor informally interviewed staff and residents regarding PREA issues and feeling safe at this facility.

The facility housing units toured:

- Ward 1 Design Capacity 80 Prerelease Residents
- Ward 2 Design Capacity 80 Prerelease Residents

- Ward 3 Design Capacity 80 Prerelease Residents
- Ward 4 Design Capacity 80 Prelease Residents
- Ward 5 Design Capacity 80 Prelease Residents
- Ward 6 Design Capacity 80 Prelease Residents
- Restricted Housing Design Capacity 23 RHU Unit

When reviewing the video camera system, there were no cameras that have direct viewing of the resident's toilet or showers. During the tour, the auditor observed locations of resident's toilet and showers.

The Manning Reentry and Work Release Center has 11 cameras located in and around the facility that are monitored and recorded at all time. The cameras in the facility cover the main sections of the building to include visitation. The outside cameras cover the surrounding areas, exits, and entrances to the facility. There are no cameras in general population or in the holding cells.

Review of the staffing plan, shows blind spots within the facility that are accessible to offenders. To ensure the safety of the offenders in these areas, officers are directed to be observant and position themselves in these areas. Officers are briefed on the locations of all blind spots and those identified areas are checked during supervisory security checks and unannounced rounds.

PREA posters were posted in English and Spanish to include phone numbers. In 2017, SCDC developed a resident educational brochure, which was previously provided on hardcopy to residents. During the tour the auditor requested a demonstration of the residents PREA information through the use of the GTL (Global Tel Link) Kiosk System. The GTL Genesis in-pod kiosk allows residents to receive and send electronic messages to family and friends that have created an account on OffenderConnect.com. During the tour, the auditor observed residents using their tablets. All residents were issued tablets.

During the tour the auditor observed residents with new tablets. Demonstration of the tablet showed an app for PREA video for resident review for refresher education. The tablets allow residents to call their family members.

There are telephones in the units. Family members and friends of residents are given the option of setting up prepaid calling accounts using credit cards, checks, money orders or Western Union. Calls that may otherwise be blocked are now completed through GTL's Advance Pay Program. Residents can call the appropriate center for the prison they are housed in by dialing \*63 or \*22 on the resident phone. This call is not recorded, and the resident does not have to put in their resident Personal Identification Number (PIN) to make the call.

If a resident chooses not to call, the residents are provided with the mailing address of the sexual assault center. According to the SCDC History, 2010-2019: Sentencing Reform and Changing Resident Population (*page 25*) resident requests included an Automated Request to Staff (ARTSM) system for residents which began March 31, 2014. The ATRSM allows residents through kiosks at each prison, to enter complaints or requests which are directly routed to the

applicable SCDC personnel. Residents then receive responses to the request via the same system. SCDC is one of the first prisons in the country to institute an electronic resident request system.

The agency website provides a “Anonymous PREA Tips” line that is open to the public (resident’s families, friends, etc.).

The auditor was provided unimpeded access to all parts of the facility, to include residents living areas and storage areas in the facility as requested. While inspecting the facility, doors and offices were checked consistently to ensure they are secured and locked. The auditor observed the location of staff. Informal dialogue occurred with residents and staff, asking PREA related questions and agency procedures and safety consideration. Residents that engaged in conversation with the auditor discussed feeling safe at the facility.

The auditor did observed announcements of female staff entering the male living areas. The auditor had opportunities to view resident and staff interaction. There was also ample time to observe the nature and quality of resident supervision throughout the on-site audit process, and in all instances the auditor observed appropriate respect on the part of both residents and staff.

The PREA standards require the auditor to tour the facility to verify compliance with the standards. The following areas and locations were visit.

<b>Locations &amp; Observations</b>	<b>Check</b>
Facility physical designed	✓
Cameras and surveillance technology deployment	✓
Resident housing units	✓
Cross-gender announcements when entering living areas	✓
Observe for blind spots	✓
Notices of the PREA audit posted in English and Spanish	✓
Phones	✓
Residents files in secured area	✓
Staff personnel files in secured area (HR office of site)	✓
PREA information posted English & non-English	✓
Bathroom and shower procedures	✓
Cameras does not have a line of sight into resident toilets and showers	✓
New and/or renovated areas observed (none)	✓
Residents program areas	✓
Facility was orderly in appearance (resident behavior)	✓
Grounds was average	✓
Reactions between residents and staff	✓
Admissions/Intake area	✓
Administration area	✓
Storage rooms & closets	✓
Mail room	✓
Laundry	✓

Cafeteria/Dining area	✓
Kitchen	✓
Visitation area	✓
Library	✓
Inside recreation area	✓
Outside recreation area	✓
Grievance Box	✓
Medical area	✓
Classification area	✓
Maintenance area (storage)	✓
Control room	✓
Sally ports	✓
Education	✓
Brick Masonry	✓
Carpentry	✓
Commissary	✓

Staff Interviewed:

The auditor conducted interviews with the following agency leadership, which are counted in the totals. Below are the staff interviewed previously, written, by lead auditor, associate, on-site, or by telephone.

The facility reported a total of 175 positions. There are 140 positions that are currently filled, 35 vacancies, and no part-time positions. The auditor or the associate conducted the following staff interviews on-site or via phone:

Category of Staff Interviewed	#Interviews Conducted
Random Staff <i>Selected from All Shifts</i>	15
Specialized Staff (Total) / (Staff Interviewed for more than one category counted only once)	21
Staff Informally Interviewed during Facility Tour	2
Staff Refused to interview	0
<b>Total Staff</b>	<b>38</b>
<b>Breakdown of Specialized Staff Interviews</b>	
✓ Agency head - Designee (previous) & agency contract administrator - deputy director of Legal and Compliance	1
✓ Deputy director of Police Services	1
✓ Warden	1
✓ Staff on the sexual abuse incident review team	
✓ Agency PREA coordinator	1
✓ Facility PREA compliance manager	1

✓ Intermediate or higher-level facility staff responsible for conducting and documenting unannounced rounds to identify and deter staff sexual abuse and sexual harassment	
✓ Line staff who supervise youthful residents (if applicable):	0
✓ Education and program staff who work with youthful residents (if applicable)	0
✓ Medical staff	1
✓ Mental health staff	0
✓ Non-Medical staff involved in cross-gender strip or visual searches	1
✓ Non-security staff first responder	
✓ Administrative (Human Resources) staff -Facility	1
✓ Administrative (Human Resources) Headquarters	1
✓ Sexual Assault Forensic Examiner (Safe) or Sexual Assault Nurse Examiner (SANE) staff – Off Site	0
✓ Volunteers who have contact with residents	2
✓ Contractors who have contact with residents	1
✓ Investigative staff responsible for conducting administrative investigations (Facility)	1
✓ Investigative staff responsible for conducting criminal investigations. (Agency and Outside Agency)	1
✓ Investigator – Assistant Deputy Director of Police Services	1
✓ Staff who perform screening for risk of victimization and abusiveness	2
✓ Staff who supervise residents in segregated housing/residents in isolation	1
✓ Non-security staff first responder	1
✓ Intake staff	1
✓ Staff who handle grievances	1
<b>Total Specialized Staff Interviews</b>	<b>21</b>

Interviews with random and specialized staff confirmed that the facility’s staff understood the agency’s position regarding the Prison Rape Elimination Act (PREA). Random and specialized staff were all knowledgeable about their roles in the prevention, reporting, and detection of sexual abuse and sexual harassment, and their responsibilities in the event of a PREA related incident, particularly as a first responder.

Residents Interviewed:

On the first day of the audit, the facility designated capacity was 837. The number of residents housed during the first day of the audit was 234. The auditor conducted the following resident interviews during the on-site phase of the audit:



Category of Residents	#Interviews Conducted
Random residents ( <i>Selected from all living areas</i> )	26
Targeted residents	0
Residents Informally Interviewed during Facility Tour	2
Residents Refused to Interview	0
<b>Total Residents Interviewed</b>	<b>28</b>
<b>Breakdown of Targeted Resident Interviews</b>	
✓ Youthful residents (if applicable)	0
✓ Resident with a Physical Disability	0
✓ Residents who are Blind, Deaf, or Hard of Hearing	0
✓ Residents with Cognitive Disability	0
✓ Residents who are Limited English Proficient (LEP) Spanish	0
✓ Residents who Identify as Transgender or Intersex	0
✓ Residents who Identify as Lesbian, Gay, or Bisexual	0
✓ Residents who Reported Prior Sexual Abuse while at this facility	0
✓ Residents in Segregated Housing for High Risk of sexual Victimization	0
✓ Residents who disclosed prior sexual victimization during risk screening	0
<b>Total Number of Targeted Residents Interviews</b>	<b>0</b>

Interviews with residents revealed that they understand PREA safeguards and the facility’s zero-tolerance policy. Comprehensive resident PREA education is provided in written form during resident orientation, and through handbook, tablet, kiosks, personal instruction, videos, and posters.

Advocacy Organizations:

The PREA Auditor’s manual pages 37 and 38 requires the auditor to conduct outreach to relevant national and local advocacy organizations and to communicate with community-based or victim advocates who may have insight into relevant conditions in the facility. The following national advocacy, state, and/or community advocacy organizations were contacted.

- Just Detention International (JDI) – is a health and human rights organization that seeks to end sexual abuse in all forms of detention. Founded in 1980, JDI is the only organization in the U.S. – and the world – dedicated exclusively to ending sexual abuse behind bars. We (they) hold government officials accountable for prisoner rape; challenge the attitudes and misperception that all sexual abuse to flourish; and make sure that survivors get the help they need.
- National Sexual Violence Resource Center (NSVRC) – is the leading nonprofit in providing information and tools to prevent and respond to sexual violence. NSVRC translates research and trends into best practices that help individuals, communities and

service providers achieve real and lasting change. NSVRC also work with the media to promote informed reporting.

- South Carolina Sexual Trauma Services – SCDC has a statewide partnership agreement with multiple sexual assault center across the state. The ten sexual assault centers provide hundreds of hours of support to victim sexually assault, including individual face-to-face contacts, group sessions, written correspondence, and phone calls through toll-free hotline support.

According to the South Carolina Department of Corrections website, residents are provided with access to outside victim advocates for emotional support services for residents related to sexual abuse whether it occurred in prison or before they became incarcerated. The Sexual Trauma Services of the Midlands serves the Manning Reentry and Work Release Center.

The following national advocacy, State, and/or community advocacy organizations were contacted.

Advocacy Organization	Contact Information	Comments
Sexual Trauma Services of Midland Center of the Midlands	Phone call on 9/03/20 @9:52AM 803-790-8208	<ul style="list-style-type: none"> <li>✓ Prompt #4: Message to return call.</li> <li>✓ On 9/04/20 @ 10:00 AM STS return call and will check database and send an email of results.</li> <li>✓ On 9/04/20 @ 4:03PM received email</li> </ul>
Justice Detention International (JDI)	Just Detention International Wilshire Blvd., Suite 340 Los Angeles, CA 90010	Email sent: 7/10/20 Response Received: 7/13/20 – No Concerns
National Sexual Violence Resource Center (NSVRC)	National Sexual Violence Resource Center 2101 N Front Street Governor’s Plaza North, Building #2 Harrisburg, PA 17110	Email sent: 7/10/20 Response Received: 7/15/20 – No Concerns
South Carolina Coalition Against Domestic Violence and Sexual Assault	2711 Middleburg Dr, Columbia, SC 29204 (803) 393-4448	Call 9/22/20 @ 11:28AM the Organization stated that they work with the local Rape Crisis Centers and the Centers Provides Services to the SCDC Prisons and Work Release Centers.

The auditor seeks the following information from the local and/or national advocacy organizations:

- Does your organization provide emotional support services to residents?
- Does the facility use your organization for residents reporting PREA issues?

- How many SAFE or SANE referrals did the organization received in the last 12 months?
- Can the residents remain anonymous, upon request, when making a report?
- Who does the organization notify at the facility regarding reports?
- How many reports has the organization received in the past 12 months for advocacy services?
- How many residents reported sexual abuse and/or sexual harassment?
- Who is your contact at the facility?
- Is there any additional information you would like to share regarding this facility?

PREA Risk Screening

According to the SCDC’s Notable Milestones, the PREA Risk Screening now has added features such as a “List Menu” with dropdown categories added to include:

- “Initial Assessment List”
- “Reassessment List”
- “Location Search which can provide staff with information regarding a certain dorm and if a certain category of resident is housed there.
- “One-to-One Compatibility Search”- tool whereby staff can input two resident SCDC numbers to determine if two residents can safely be housed together.
- A search tool that lets staff know where vulnerable residents are currently housed to include dorm, room and bunk information.

These features further enhance the commitment to provide safe housing, bed, and programming/educational assignments to the residents at each institution.

Investigation

It should be noted that any sexual abuse and/or sexual harassment grievances are automatically sent for an investigation.

PREA investigations are internal and external. Internally, the agency/facility has regional PREA investigators that completed the required specialized training.

	<b>Allegations Type by Category</b>	<b>#</b>
<b>1</b>	<b>Resident-on-Resident Sexual Abuse</b>	
	Substantiated	0
	Unsubstantiated	1
	Unfounded	0
	Investigation Ongoing	1
<b>2</b>	<b>Resident-on-Resident Sexual Harassment</b>	<b>#</b>
	Substantiated	0
	Unsubstantiated	0
	Unfounded	9
	Investigation Ongoing	0

<b>3</b>	<b>Staff-on-Resident Sexual Abuse</b>	<b>#</b>
	Substantiated	0
	Unsubstantiated	0
	Unfounded	0
	Investigation Ongoing	0
<b>4</b>	<b>Staff-on-Resident Sexual Harassment</b>	<b>#</b>
	Substantiated	0
	Unsubstantiated	0
	Unfounded	5
	Investigation Ongoing	0
<b>Total</b>		<b>16</b>

Currently, SCDC Police Services statewide has forty-five (45) investigators, who are Class 1 police officers. These investigators are assigned to a region in the state. Using a regional approach, the state is divided into four (4) regions. Each region has five (5) investigators assigned with one supervising manager for each respective region. Each region is tasked with the responsibility of performing a variety of types of investigations to include PREA investigations.

**Interviewed Staff:** The agency PREA coordinator indicated that the reason why one sexual abuse cases is still open and needed an extended period of time to close is due to DNA evidence that is collected and being sent to the SC Law Enforcement Division (SLED). SLED does the DNA checks that is submitted from the SCDC Police Services Division and or from the local hospitals regarding sexual abuse cases along with all other evidence needed for criminal cases from all over the state. This massive number of requests causes a backlog which extends the time needed to process cases.

Incident Reporting:

The facility maintains a comprehensive incident reporting system that is monitored on an ongoing basis for immediate corrective action, as well as trending, on an annual basis for the purpose of quality improvement to minimize risk and staff training needs.

Disciplinary Procedures:

The purpose of the Resident Disciplinary System is to provide all residents with a fair and impartial hearing when they are accused of violating an agency or institutional rule. This system is also designed to promote order and maintain the security and safety of the Institution.

Informational Consolidation:

The auditor communicated with the agency PREA coordinator frequently throughout the three days to the on-site audit to consolidate information and ensure that the interviews, documentation, and facility observations supported compliance determinations for the required

PREA standard. When additional information was requested to establish compliance, the facility management team was responsive and made every effort to deliver documentation, explanations or clarifications. The facility staff was receptive to addressing identified areas of concern during the facility site visit of the audit regarding noted concerns.

#### Exit Conference:

The auditor conducted an exit meeting on 8/28/20 during which preliminary findings of the review were discussed with the facility and agency leadership team. The attendees, in addition to the state agency staff, participated in the exit briefing. During the exit, the auditor provided a verbal list of identified non-compliant items and described how these related to the standards and or provisions. For resolution of issues following the exit, the auditor indicated that outstanding issues should be provided with proof of compliance and practice.

The following staff attended the exit conference.

- Adam Barnett, USDOJ Certified PREA Auditor
- Debbie Carter, Associate
- Kenneth James, SCDC Agency PREA Coordinator
- Wilfredo Martell, Warden
- Brenda Scott-Hickmon, Associate Warden/New Facility PREA Compliance Manager
- Sharon Patterson, Associate Warden/Old Facility PREA Compliance Manager
- Sam Ray, Major
- Alvin Graber, Jr., Associate Warden/Operations
- Timothy Burnell, Administration Captain

Facility officials were very open and receptive to an honest discussion of areas where PREA compliance needed to be strengthened or non-compliance. The auditor indicated that an interim report will be sent within 45 days with standards or provisions details.

#### **Post Audit Phase**

Upon completion of the on-site phase of the audit, the auditor, agency PREA coordinator, and facility PREA compliance manager agreed to communicate by email and telephone during the post audit phase, regarding any identified need for additional documentation, as well as clarification of questions that arose while collating data. Further, the agency PREA coordinator indicated they would provide the auditor with proof of practice on an ongoing basis, as related to correction of identified deficiencies to ensure that practices have become institutionalized.

Communication with the agency PREA coordinator and designated facility staff was ongoing, with efficient, timely, and thorough responses provided consistently both by email and telephone.

### Audit Section of the Compliance Tool:

The auditor uses the required Prison Rape Elimination Act (PREA) Audit Report Community Confinement Standards report to enter collected information. Detailed information from the audit interviews were integrated into relevant sections of the standards. In order to ensure all standards were analyzed, the auditor proceeded standard by standard and provision by provision, to determine compliance or non-compliance.

### Interim Report:

The auditor submitted the facility an interim report on 9/11/2020.

### Final Audit Report:

The final 2020 PREA audit report was submitted to the facility on 11/9/2020.

## **Facility Characteristics**

*The auditor's description of the audited facility should include details about the facility type, demographics and size of the Resident, 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.*

### Demographics:

Designated Capacity:837

Current Population of Facility 1<sup>st</sup> Day: 235

Population Gender: Male

Facility Security Level: Minimum

Perimeter Fence: Yes

Shifts: Four 12 Hours Shifts that work 2 on 2 off, 3 on 3 off staff arrive at 5:45 for Briefing. C

Card 8am – 4pm Monday thru Friday, weekends and holidays off.

### Facility Description/Background:

Manning Correctional Institution is renamed Manning Reentry and Work Release Center. The institution serves as SCDC's centralized Pre-Release Center for male offenders who are within 180 days of release. A work release program and labor crew provide work opportunities for offenders who do not participate in the Pre-Release Program. The Pre-Release Program is a two-component system:

1. 150-day program in which the offender can work in an educational, vocational, or certificate program and attend life skills classes, and
2. 30-day program dedicated to outside community resources, skill enhancement in the area of employment, and preparation for release.

SCDC Works partnership provides post-release series that include instructions on basic computer skills, resume preparation, refining interviewing skills, developing a career profile, information on criminal record expungement, and employment referrals statewide. SCDC adds to its website a Released Offender Skills which gives transparency to employers regarding rehabilitation efforts of the resident prior to release.

Manning Reentry and Work Release Center Mission:

“The Institution serves as the agency’s centralized Pre-Release Center for male offenders who are within 180-days of release back into their respective communities. A work release program and labor crews provide work opportunities for offenders who do not participate in the Pre-Release Program.”

Community Services:

- Offender labor crews work with the South Carolina Fire Academy, Richland County Public Works, the Department of Juvenile Justice, Forestry Commission, State House, Lexington DOT #2, National Guard, Newberry DOT, Richland County DOT #'s 1, 2, 3, 4. SLED, and the Department of Public Safety-Highway Patrol. A correctional officer-supervised litter crew picks up trash along interstate highways five days per week.

### 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.*

#### Standards Exceeded

**Number of Standards Exceeded:** 1  
**List of Standards Exceeded:** 115.286 – Sexual Abuse Incident Reviews

#### Standards Met

**Number of Standards Met:** 40

Prevention and Planning:

- 115.211- Zero Tolerance of Sexual Abuse and Sexual Harassment: PREA Coordinator
- 115.212 – Contracting with Other Entities for the Confinement of Residents
- 115.213 – Supervision and Monitoring
- 115.215 – Limits to Cross-Gender Viewing and Searches
- 115.216 – Resident with Disabilities and Resident who are Limited English Proficient
- 115.217 – Hiring and Promotion Decisions

115.218 – Upgrades to Facilities and Technology

Responsive Planning:

115.221 – Evidence Protocol and Forensic Medical Examinations

115.222 – Policies to Ensure Referrals of Allegations for Investigations

Training and Education:

115.231 – Employees Training

115.232 – Volunteer and Contractor Training

115.233 – Resident Education

115.234 – Specialized Training: Investigations

115.235 – Specialized Training: Medical and Mental Health Care

Screening and Risk of Sexual Victimization and Abusiveness:

115.241 – Screening for Risk of Victimization and Abusiveness

115.242 – Use of Screening Information

Reporting:

115.251 – Resident Reporting

115.252 – Exhaustion of Administrative Remedies

115.253 – Resident Access to Outside Confidential Support Services

115.254 – Third-Party Reporting

Official Response Following and Resident Report:

115.261 – Staff and Agency Reporting Duties

115.262 – Agency Protection Duties

115.263 – Reporting to Other Confinement Facilities

115.264 – Staff First Responder Duties

115.265 – Coordinator Response

115.266 – Preservation of Ability to Protect Residents from Contact with Abusers

115.267 – Agency Protection Against Retaliation

Investigation:



- 115.271 – Criminal and Administrative Agency Investigations
- 115.272 – Evidentiary Standard for Administrative Investigations
- 115.273 – Reporting to Residents

Discipline:

- 115.276 – Disciplinary Sanctions for Staff
- 115.277 – Corrective Action for Contractors and Volunteers
- 115.278 – Disciplinary Sanctions for Residents

Medical and Mental Care:

- 115.282 – Access to Emergency Medical and Mental Health Services
- 115.283 – Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers

Data Collection and Review:

- 115.287 – Data Collection
- 115.288 – Data Review for Corrective Action
- 115.289 – Data Storage, Publication, and Destruction

Audits and Correction Action:

- 115.401 – Frequency and Scope of Audits
- 115.403 – Audit Contents and Finding

**Standards Not Met**

**Number of Standards Not Met:** 0  
**List of Standards Not Met:** 0

**Summary of Corrective Action (if any)**

The following is standards/provisions that was categorized as “Does Not Meet,” documentation to support the finding can be found in the narrative section of the applicable standard. Furthermore, a finding of “Does Not Meet” will include a detailed description of the facility corrective action process and the status of the correction action.

**Corrective Actions:**

## 115.213 Supervision and Monitoring

**Concern:** During the facility tour the following observation was noted.

1. Blind spots in the commissary and canteen buildings.

Facility Corrective Actions: The blind spots in the commissary and cafeteria has been corrected by installing a total of three (3) security mirrors. The facility provided the auditor with images uploaded onto Microsoft Teams. Compliant.

2. During the documentation review and interview with staff, the facility unannounced rounds are being conducted, however, the documentation is need detail of the unannounced rounds. The agency policy contains SCDC Form 19-164A *Unannounced Rounds Logs*.

Facility Corrective Actions: SCDC has updated Form 19-173, "Duty Warden's Checklist" to include a section for PREA Rounds. The facility uploaded a copy in the Microsoft Team for the auditor review. Additionally, a memo from Warden Martell was sent to all staff that are required to make unannounced rounds to document in the security log book any concerns during times when not serving as duty staff. Compliant.

## 115.251 Resident Reporting

**Concern:** During the facility tour the following resident reporting system (phone) was not operable.

1. Dorm: 1 phone \*22 and \*65 PREA lines did not work.

Facility Corrective Action: On September 17, 2020, Lt John Robinson conducted a check of the inmate phones in Ward 1 and found that all phones were operable for dialing \*22 and \*63. The facility submitted a copy of the incident report from Lt. John Robinson. Compliant.

## 115.267 Agency Protection Against Retaliation

**Concern:** The standard requires the agency shall establish a policy to protect all residents 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 and shall designate which staff members or departments are charged with monitoring retaliation. The facility reported 16 PREA investigations, documentation needs to be provided.

Facility Correction Action: As of August 26, 2020, all reported 16 PREA investigation cases were either transferred or released. As of August 27, 2020, SCDC Form 19-182, Sexual Abuse Retaliation Monitoring, will be used to indicate any retaliation monitoring going forward. Compliant.

Corrective actions, specific detail about deficiencies or concerns regarding findings may appear in the standard-by-standard discussions in the main body of the report. If the facility does not correct the stated concerns within 45 days, the auditor will release an interim report that will start the corrective action process. If the facility completes stated concerns within the 45 days and the auditor agrees, then the final report will be released.

## REVENTION PLANNING

### Standard 115.211: Zero tolerance of sexual abuse and sexual harassment; PREA coordinator

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

#### 115.211 (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

#### 115.211 (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

#### 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.*

### **Documentation**

- Facility Organizational Chart
- Agency Organizational Chart
- PREA Audit: Pre-Audit Questionnaire for Community
- Staffing Plan (Definitions)
- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- Staff Interviews

### **115.211 (a)**

An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct.

The agency also has a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct. Policy Number: OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment indicates that sexual abuse by staff on residents or by one resident to another resident is strictly prohibited.

The agency elected to take a zero-tolerance position against sexual abuse and sexual harassment of residents in their custody. The South Carolina Department of Corrections has instituted a zero-tolerance policy in relation to PREA within all 21 correctional Institutes under its supervision. This policy indicates that sexual abuse by staff on residents or by one resident to another resident is strictly prohibited. Additional policies have been put into place to prevent, detect, and respond to sexual abuse and sexual harassment.

PREA standard 115.6 Definitions related to sexual abuse and sexual harassment, give guidance to the agency and facility on defining sexual abuse and harassment. SCDC Policy OP-21.12 has a list of definitions that includes the guidance from the PREA standard.

**PAQ:** The agency has a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment in facilities it operates directly or under contract.

**115.211 (b)**

An agency shall employ or designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities.

The agency employs an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all its facilities.

The South Carolina Department of Corrections (SCDC) employs and designated an agency wide PREA coordinator. The PREA coordinator, is responsible for the oversight of one PREA compliance manager (PCM) at each facility in the SCDC system. The position of PREA coordinator position is in the upper level of the SCDC agency hierarchy. The position of PREA coordinator reports directly to the chief legal and compliance officer/director's PREA designee. The new PREA coordinator assumed his position as PREA coordinator in April 2019.

**Interviewed Specialized Staff:** Agency PREA coordinator indicated and confirmed that he has sufficient time and resources to coordinate all PREA activities. He has sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all facilities.

**PAQ:** The PAQ indicated that the PREA coordinator has sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its community confinement facilities.

The agency operates 21 facilities and each facility has a designated PREA compliance manager. When questioned whether or not the facility PREA compliance manager has sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards, the facility compliance manager indicated that she does have enough time to complete her PREA related responsibilities. At this facility the PREA compliance manager position is associate warden.

The facility PREA compliance manager was questioned regarding whether she has enough sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards. The facility compliance manager indicated that she does have enough time to complete the PREA related items that are a part of her responsibility. At this facility the PREA compliance manager position is associate warden.

**Interviewed Specialized Staff:** The facility PREA compliance manager indicated that she has been in this position for about one month. The facility PREA compliance manager is a part of her duties as associate warden. The former facility PREA compliance manager assisted her in preparing for the PREA audit and worked with her during the site visit.

## Standard 115.212: Contracting with other entities for the confinement of residents

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

### 115.212 (a)

- If this agency is public and it contracts for the confinement of its residents 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 residents.)  Yes  No  NA

### 115.212 (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 residents.)  Yes  No  NA

### 115.212 (c)

- If the agency has entered into a contract with an entity that fails to comply with the PREA standards, did the agency do so only in emergency circumstances after making all reasonable attempts to find a PREA compliant private agency or other entity to confine residents? (N/A if the agency has not entered into a contract with an entity that fails to comply with the PREA standards.)  Yes  No  NA
- In such a case, does the agency document its unsuccessful attempts to find an entity in compliance with the standards? (N/A if the agency has not entered into a contract with an entity that fails to comply with the PREA standards.)  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.*

## **Documentation**

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- PREA Audit: Pre-Audit Questionnaire for Community
- Letter from Deputy Director, Division of Legal and Compliance Confirming the Agency PREA Coordinator as PREA Compliance Monitor (June 25, 2019)
- Addendum: Core Civic Private Contractor of SCDC Inmate Confinement (September 16, 2019).
- SCDC 2019 Site Visit Report: Tallahatchie County Correctional Facility (Core Civic)
- Core Civic 2018 PREA Annual Report
- Core Civic 2019 PREA Audit Report
- Inmate Housing Agreement Between SCDOC and Core Civic, Inc.
- Staff Interviews

A public agency that contracts for the confinement of its residents with private agencies or other entities, including other government agencies, shall include in any new contract or contract renewal the entity's obligation to adopt and comply with the PREA standards.

Manning Reentry Work Release Center does not contract for the confinement of residents. However, the South Carolina Department of Corrections does contract for the confinement of residents with a private entity.

**PAQ:** The Pre-Audit Questionnaire also documented the facility does not contract for the confinement of residents.

The State of South Carolina Department of Corrections has contracted for the confinement of residents with Core Civic, private entity. The PREA coordinator provided the auditor with a fully executed copy of the contract between SCDC and Core Civic. Review of the contract showed that PREA language requiring the facility to become and maintain compliance with all PREA standards was included. Documentation confirmed that the SCDC agency PREA coordinator monitors Core Civics' PREA compliance activities.

The Office of Legal and Compliance provided an addendum to the Annual PREA Report dated 9/16/19 regarding requirements of the Core Civic Safety – Tallahatchie County Correctional Facility (TCI) Annual Report files.

**Interviewed Specialized Staff:** The agency head designee indicated that the agency includes a provision in the contract with Core Civic mandating compliance with PREA standards and the agency PREA coordinator communicates with and monitors compliance with PREA standards.

The agency head designee also indicated that private contracts are to assist the agency with a specific resident population. The agency entered discussion with Core Civic after compliance with PREA standards was a requirement of the contract.

**Interviewed Specialized Staff:** The agency PREA coordinator/contract monitor indicated that he monitors the Core Civic PREA program by receiving and reviewing a copy of their DOJ Certified PREA Audit report. SCDC has 19 inmates housed at the Tallahatchie County Correctional Institution in Mississippi. TCI is a contracted facility ran by Core Civic. He also indicated that he visits the institution each year as a part of the monitoring effort to ensure their compliance with the PREA standards.

The agency PREA coordinator provided the auditor a copy of the 2019 report regarding Tallahatchie County Correctional Institution site visit in Mississippi.

### **115.212 (b)**

Any new contract or contract renewal shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.

The auditor received a memorandum from deputy director of Legal and Compliance to the warden of Core Civic on 6/25/19 stating that Kenneth James is the South Carolina Department of Corrections PREA coordinator. As such, he will monitor Core Civics' PREA compliance to ensure SCDC's compliance of the same.

**Interviewed Staff:** Agency PREA coordinator reports to the Director of Legal and Compliance which oversees the agency's contracts and ensure compliances.

### **115.212 (c)**

Only in emergency circumstances in which all reasonable attempts to find a private agency or other entity in compliance with the PREA standards have failed, may the agency enter into a contract with an entity that fails to comply with these standards. In such a case, the public agency shall document its unsuccessful attempts to find an entity in compliance with the standards.

See section (a) response.

## **Standard 115.213: Supervision and monitoring**

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



### 115.213 (a)

- Does the facility have a documented staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect residents against sexual abuse?  
 Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The physical layout of each facility?  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 resident population?  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

### 115.213 (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

### 115.213 (c)

- In the past 12 months, has the facility 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 assessed, determined, and documented whether adjustments are needed to prevailing staffing patterns?  Yes  No
- In the past 12 months, has the facility 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 assessed, determined, and documented whether adjustments are needed to the resources the facility has available to commit to ensure adequate staffing levels?  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.*

### **Documentation**

- Staffing Plan
- Daily Population Report 1<sup>st</sup>, 10<sup>th</sup>, and 20<sup>th</sup> day for the past 12 months
- Population Breakdown by Age
- Schematic (Layout) of facility
- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- SCDC Policy Number 22.24 Post Orders
- SCDC Policy ADM 11.12 Post/Shift Assignments
- SCDC Policy ADM-17.01 Employee Training Standards
- SCDC Policy GA-06.09 Care and Custody of Transgender Inmates and Inmates Diagnosed with Gender Dysphoria
- SCDC Policy OP-21.04 Inmate Classification Plan
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- Lesson Plan: Supervision of Offenders (3 Hours): Page 18, Announce the Presence of Opposite Sex
- Unannounced Rounds: SCDC Form 19-164A "Unannounced Rounds Logs" (Past 12 Months)
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews

### **115.213 (a)**

For each facility, the agency shall develop and document a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, agencies shall take into consideration:

- (1) The physical layout of each facility.
- (2) The composition of the resident population.
- (3) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
- (4) Any other relevant factors.

The South Carolina Department of Corrections ensures that each facility it operates develop, document, and make its 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 residents against sexual abuse.

The facility provides a Daily Population Report for the 1<sup>st</sup>, 10<sup>th</sup>, and 20<sup>th</sup> day of each month.

A review of Manning Reentry Work Release Center Institution Staffing Plan indicated the following:

- Physical Plant

The MRWRC consists of 22 areas accessible to residents which are included in the facility layout. The facility has 9 housing units with wards 1 – 7 being open bay and wards 8 and 9 being double occupancy cubes and RHU being single occupancy equaling a total of 839 beds. The facility currently houses resident between the ages of 17 to 80 years old. The facility currently employs 149 security officers, medical personnel, classification case workers, and administration personnel.

- Staff Patterns

The MRWRC requires 112 FTE personnel to operate safely and efficiently on a daily basis. The chart listed below data comes from the MRWRC staffing plan.

Location	# of Officers Needed	Days Per Week	Hours Per Day
Armory	4	7	24
Front Gate	2	7	12
Main Control	4	7	24
Operations	2	5	8
Shakedown	1	5	8
Transportation	7	6	Varies
Visitation	2	2	8
Medical	1	7	8
Cafeteria	4	7	3
Yard (Lower Gate)	2	5	12
Vehicle Gate	2	7	12
Horticulture	1	5	8
Wards ½	4	7	24

### Minimum Staffing

- The MRWRC requires 20 correctional officers 5 days per week, Monday through Friday, to minimally cover a weekday shift at the MRWRC. Day shift requires a minimum of 19 officers

and night shift requires 16 officers. The staffing numbers provided auxiliary staff needed to perform administrative functions.

The MRWRC is assigned 112 full time security employee (FTE) positions and 104 full time non-security employee positions.

**Interviewed Specialized Staff:** The PREA coordinator confirmed that all PREA staffing plans are reviewed and responded to by him at least annually, and not the Division of Security. The Division of Security is responsible for review of facility post orders previously termed staffing plans and the Master POST Chart. SCDC has since then made changes in other policies to better align with PREA terminology and to reduce confusion of terms.

**Interviewed Specialized Staff:** The facility warden indicated that he and the facility PREA compliance manager review the facility's need for staff along with the post charts to determine how many staff are adequate and where the mandatory posts are when developing the facility staffing plan. This is also in conjunction with ensuring that the facility has staff where they have historically had PREA allegations.

The facility warden indicated that there have not been any instances of non-compliance, but if there were, the facility would document it on an incident report and file it with the staffing plan along with how the facility intend to correct the issue.

SCDC Policy Number: OP 22.24 Post Orders policy statement – In order to promote consistent and uniform operations within SCDC, the Division Director of Security will be responsible for the development and publication of agency Post Orders which are designed to specify the duties and responsibilities for officers assigned to security posts within the agency.

SCDC Policy ADM 11.12 Post/Shift Assignments policy statement – In order to promote the safety and security of the agency, the public, employees, and residents; to ensure adequate supervision of all residents; and to meet the operational needs of institutions and divisions/offices, the Agency will develop and implement consistent and uniform procedures governing post and shift assignments and days off for SCDC employees.

The PREA standards outline 11 items that must be taken into consideration and included in the development of all staffing plans. A review of the staffing plan included all 11 items. The staffing plan also included consideration of blind spots.

**PAQ:** Since 8/20/12, or last PREA audit, whichever is later, the average daily number of residents on which the staffing plan was predicated was 837.

### **115.213 (b)**

In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan.

**Interviewed Staff:** Staff indicated that if they deviated from the staffing plan that the facility will document.

### **115.213 (C)**

Whenever necessary, but no less frequently than once each year, for each facility shall assess, determine, and document whether adjustments are needed to:

- The staffing plan established pursuant to paragraph (a) of this section.
- Prevailing staffing patterns.
- The facility's deployment of video monitoring systems and other monitoring technologies;
- The resources the facility has available to commit to ensure adherence to the staffing plan.

**Interviewed Specialized Staff:** The facility warden indicated that once each year, for each facility the agency operates, in consultation with the PREA coordinator required by standard 115.11, the agency assesses, determines, and documents whether adjustments are needed that meets the 3 items above.

The Division of Security is responsible for developing all staffing plans for each facility. Once the staffing plan has been developed, the deputy director forwards the plan to the facility's warden for review. The warden may make comments in response to the plan, the final version is determined by the Division of Security. The PREA coordinator is required to be one of the signatories on the final approved staffing plan.

**Interviewed Specialized Staff:** The PREA coordinator confirmed that all PREA staffing plans are reviewed and responded to by him at least annually, and not the Division of Security. The Division of Security is responsible for review of facility post orders previously termed staffing plans and Master Post Chart.

**PAQ:** The PAQ indicated that at least once every year the facility, reviews the staffing plan to see whether adjustments are needed.

**Unannounced Rounds:** The facility conducts and documents unannounced rounds. The unannounced rounds are conducted by intermediate-level and higher-level supervisors. These unannounced rounds identify and deter staff sexual abuse and sexual harassment.

**Interviewed Specialized Staff:** The facility PREA compliance manager indicated that unannounced rounds are conducted during the night shifts as well as day shifts. Staff are prohibited from alerting other staff members that these supervisory rounds are occurring.

Unannounced rounds are documented using SCDC Form 19-164A, *Unannounced Rounds Logs*.

**Corrective Actions:**

**Concern:** During the facility tour the following observation was noted.

1. Blind spots in the commissary and canteen buildings.

Facility Corrective Actions: The blind spots in the commissary and cafeteria has been corrected by installing a total of three (3) security mirrors. The facility provided the auditor with images uploaded onto Microsoft Teams. Compliant.

2. During the documentation review and interview with staff, the facility unannounced rounds are being conducted, however, the documentation is need detail of the unannounced rounds. The agency policy contains SCDC Form 19-164A *Unannounced Rounds Logs*.

Facility Corrective Actions: SCDC has updated Form 19-173, "Duty Warden's Checklist" to include a section for PREA Rounds. The facility uploaded a copy in the Microsoft Team for the auditor review. Additionally, a memo from Warden Martell was sent to all staff that are required to make unannounced rounds to document in the security log book any concerns during times when not serving as duty staff. Compliant.

**Standard 115.215: Limits to cross-gender viewing and searches**

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

**115.215 (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

**115.215 (b)**

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

### 115.215 (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 residents? (N/A if the facility does not have female residents).  Yes  No  NA

### 115.215 (d)

- Does the facility have policies that enable residents 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 have procedures that enables residents 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 area where residents are likely to be showering, performing bodily functions, or changing clothing?  Yes  No

### 115.215 (e)

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

### 115.215 (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 residents 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.*

### **Documentation**

- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Policy Number: OP 22.19 Searches of Inmates
- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- SCDC Policy ADM-17.01 Employee Training Standards
- SCDC Policy GA-06.09 Care and Custody of Transgender Inmates and Inmates Diagnosed with Gender Dysphoria
- Guidance in Cross-Gender and Transgender Pat Searches (MOSS Group – February 2012)
- Lesson Plan: Supervision of Offenders (3 Hours), Pages 16 – 20 /Employees Acknowledgement Statement or Roster with staff signatures (30)
- PREA Audit: Pre-Audit Questionnaire for Community
- SCDC Deviance Documentation (Past 12 Months) Staff Report No Deviance
- Staff Interviews
- Inmates Interviews

### **115.215 (a)**

The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.

The facility does not conduct cross-gender strip searches or cross-gender visual body cavity searches except in exigent circumstances or when performed by medical practitioners.

Policy HS-18.13 Health Screening and Exams section 5 – Body Cavity Searches: A resident body cavity search will be conducted by Agency medical trained personnel when authorized in writing using SCDC Form 19-29A, *Incident Report*, by the Warden or designee.



Policy also requires only physicians or specially trained nursing personnel may perform body cavity searches. SCDC trained nursing personnel will have this special training documented on the computer-generated training record, a copy of which will be filed in their respective personnel files.

SCDC Policy GA-06.09 Care and Custody of Transgender Residents and Residents Diagnosed with Gender Dysphoria, Section 4.1 states, Transgender residents and residents with gender dysphoria will be allowed to indicate in writing which gender they feel most comfortable being searched by to include frisk (pat) searches and strip searches. This preference will be recorded in the resident's individualized accommodation plan and classification screen as well as intake documentation if the preference is expressed at that time. Absent exigent circumstances, this preference will be accommodated when possible, considering employee, security, and safety concerns and consistent of the Prison Rape Elimination Act.

**Interviewed Random Staff:** Interviews with random staff indicated that the facility does not conduct cross-gender strip searches or cross-gender visual body cavity searches except in exigent circumstances or when performed by medical practitioners.

Fifteen (15) random staff, representing staff from all shifts, were interviewed. All 15 staff could recall receiving specialized training at the academy on searches of transgender and intersex residents in a professional and respectful manner. Staff also stated they are receiving training yearly during their annual in-services training. However, staff reported that they have not experienced working with any transgender or intersex residents at the facility.

One hundred percent of the staff reported that residents can dress, shower, and use the toilet without being viewed by staff of the opposite gender and that female officers announced their presence on the housing units.

No female residents are housed at this facility.

**Interviewed Specialized Staff:** Interview with specialized staff confirmed that the facility does not conduct cross-gender strip or cross-gender visual body cavity search, except in exigent circumstances or when such viewing is incidental to routine cell checks.

**Interviewed Random Residents:** Twenty-six (26) male residents were interviewed. Twenty-five (25) residents reported that all staff of the opposite gender announce their presence when entering the housing areas. One resident stated that female staff do not announce their presence when entering the unit.

When asked, are you and other residents ever naked in full view of female staff? 100% stated no.

**PAQ:** The PAQ indicated in the past 12 months, the number of cross-gender strip or cross gender visual body cavity searches of residents was zero.

**PAQ:** The PAQ indicated in the past 12 months, the number of cross-gender strip or cross-gender visual body cavity searches of residents that did not involve exigent circumstances or were performed by non-medical staff was zero.

**115.215 (b)**

As of 8/20/15, or 8/20/17 for a facility whose rated capacity does not exceed 50 residents, the facility shall not permit cross-gender pat-down searches of female residents, absent exigent circumstances. Facilities shall not restrict female residents' access to regularly available programming or other out-of-cell opportunities to comply with this provision.

This facility's rated capacity does exceed 50 residents.

The facility only houses male residents. See section (a) response.

**115.215 (c)**

The facility shall document all cross-gender strip searches and cross-gender visual body cavity searches and shall document all cross-gender pat-down searches of female residents.

Policy Number: OP 22.19 Searches of Residents section 4.3 – Strip searches will be performed by employees of the same sex as the person being searched, except in extreme emergencies approved by the Major (or Captain at those institutions without a Major) or other higher authority, or when the search is performed by medical practitioners. Facilities shall document all cross-gender strip searches.

Interviewed Random Staff: Interviews with randomly selected staff indicated that if they were to conduct cross-gender strip searches they would document and that such searches would be only in exigent circumstances.

**115.215 (d)**

The facility shall implement policies and procedures that enable residents 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 area where residents are likely to be showering, performing bodily functions, or changing clothing.

Policy requires the facility to implement policies and procedures that enable residents 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 require staff of the opposite gender to announce their presence when entering a resident housing unit.

SCDC Policy GA-06.09 Care and Custody of Transgender Residents and Residents Diagnosed with Gender Dysphoria, Section 3. Housing of Transgender Residents and Residents Diagnosed with Gender Dysphoria 3.1 states, in deciding whether to house transgender resident and residents with gender dysphoria in a facility for male or females, and in making other housing decisions (bathroom and shower access) and programming assignments, the Multidisciplinary Management and Treatment Team will consult with the Division of Operations as well as central classifications to create a plan with a reasonable outcome for the resident and institution as a whole. Safety concerns will be considered.

See section (a) response.

**115.215 (e)**

The facility shall not search or physically examine a transgender or intersex resident for the sole purpose of determining the resident's genital status. If the resident's genital status is unknown, it may be determined during conversations with the resident, by reviewing medical records, or if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

The South Carolina Department of Corrections prohibits facilities from searching or physically examining a transgender or intersex resident for the sole purpose of determining the resident's genital status. If the resident's genital status is unknown, it may be determined during conversations with the resident, by reviewing medical records, or if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

Policy Number GA-06.09 Care and Custody of Transgender Residents and Residents Diagnosed with Gender Dysphoria section 4.1 – indicated that Transgender Residents and Residents with gender dysphoria will be allowed to indicate in writing which gender they feel most comfortable being searched by to include frisk (pat) searches and strip searches. This preference will be recorded in the resident's individualized accommodation plan and classification screen as well as intake documentation if the preference is expressed at that time. Absent exigent circumstances, this preference will be accommodated when possible, considering employee, security, and safety concerns and consistent of the Prison Rape Elimination Act.

**115.215 (f)**

The agency shall train security staff in how to conduct cross-gender pat down searches, and searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

The facility has conducted training as required in standard. SCDC utilizes the training curriculum provided by the National PREA Resource Center titled Guidance in Cross-Gender and Transgender Pat Searches. This training was designed to be used in a 3.5-hour session. Through completing the training staff developed skill for performing cross-gender pat searches

and searches of transgender and intersex residents per PREA standards. The Guidance in Cross-Gender and Transgender Pat-Searches curriculum included:

- Learning the relevant PREA standards for cross-gender pat searches and for searches of transgender and intersex residents.
- Understanding and apply the definition of exigent circumstances.
- Learning and understanding key terms relevant to conducting appropriate searches and considerations for searches of transgender or intersex residents.
- Practicing the steps of cross-gender pat searches and searches of transgender or intersex residents.
- Observing, analyzing, and providing feedback to correctional peers on practical application of searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

Searches Training is provided in the Lesson Plan: Supervision of Offenders (3 Hours), employees Acknowledgement Statement.

See Section (a) response.

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

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

### **115.216 (a)**

- Does the agency take appropriate steps to ensure that residents 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: Residents who are deaf or hard of hearing?  Yes  No
- Does the agency take appropriate steps to ensure that residents 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: Residents who are blind or have low vision?  Yes  No
- Does the agency take appropriate steps to ensure that residents 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: Residents who have intellectual disabilities?  Yes  No

- Does the agency take appropriate steps to ensure that residents 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: Residents who have psychiatric disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that residents 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: Residents who have speech disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that residents 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 residents 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 residents with disabilities including residents 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 residents with disabilities including residents 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 residents with disabilities including residents who: Are blind or have low vision?  Yes  No

#### 115.216 (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 residents 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

#### 115.216 (c)

- Does the agency always refrain from relying on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in

obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties under §115.264, or the investigation of the resident'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.*

### **Documentation**

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- Lesson Plan: Supervision of Offenders (3 Hours) Page 31, Supervise Special Need Offenders
- Braille – English and Spanish
- SCDC School for the Deaf and the Blind
- List of Limited English Proficient Inmates (0)
- PREA Audit: Pre-Audit Questionnaire for Community
- Sign Language Interpreter (Central Office)
- Braille Documentation (Central Office)
- PREA Poster English and Spanish
- Inmate PREA Handbook: Let's Talk About Safety-SCDC Has Zero Tolerance
- Language Translation Via Telephone Instructions
- Language-line Interpretative Services Contract
- Staff Interviews
- Inmate Interviews

### **115.216 (a)**

The agency shall take appropriate steps to ensure that residents with disabilities (including, for example, residents who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the agency's effort to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with residents who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

In addition, the agency shall ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities, including residents who have intellectual disabilities, limited reading skill, or who are blind or have low vision. An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164.

The South Carolina Department of Corrections Policy Number: OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment section 1.1.3 states that, resident orientation and orientation materials will be provided in formats which are accessible to all residents, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to residents who have limited reading skills.

Specifically, SCDC, Policy OP-21.12, section 1.1.3 states that, resident orientation and orientation materials will be provided in formats which are accessible to all residents, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to residents who have limited reading skills. (4-4281-1).

**Interviewed Random Staff:** Fifteen (15) out of fifteen (15) staff could not recall residents requesting interpreters. However, staff stated that interpreters are available for residents if warranted. No residents with disabilities were interviewed during this audit.

**Interviewed Specialized Staff:** The agency head designee indicated that the South Carolina Department of Corrections has established procedures to provide residents with disabilities and of limited English proficiency equal opportunity to participate in PREA efforts. Residents who are of limited English proficiency are provided with an orientation video, brochures and PREA postage and signage in Spanish and other languages. They also have a sign language interpreter and braille available for residents with disabilities.

**Interviewed Specialized Staff:** Interviews with specialized staff indicated when residents with intellectual or psychiatric disabilities are referred to mental health professionals to evaluate the best method to provide PREA education to the residents.

## **115.216 (b)**

The agency shall 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 residents who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

SCDC, Policy OP-21.12, section states 1.1.6, in addition to the education, each SCDC facility will ensure that key information, including information about the right to be free from sexual abuse and sexual harassment, and how to make a report, is continuously and readily available or visible to residents through posters and other written formats.

PREA information has been added to the kiosk system (English and Spanish) that SCDC has put in place in all facilities. The kiosk system makes residents view the PREA information before they can continue to complete other tasks in the system. This ensures that all residents received PREA information and is used as resident PREA refresher.

PREA Spanish posters are in the housing units so that residents who were LEP and Spanish speaking would have information available in their own language. The agency provided a copy for the "language line" contract that provides translation services when needed.

#### **115.216 (c)**

The agency shall not rely on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties under 115.264, or the investigation of the resident's allegations.

The agency and facility have a contract with Language-Line Solutions to provide interpretive services for non-English speaking residents. The agency provided a copy for the "language line" contract that provide translation services when needed.

See section (a) response.

**Interviewed Random staff:** Indicated that the facility does not rely on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties under standard, or the investigation of the resident's allegations.

**PAQ:** The PAQ indicated that in the past 12 months, the number of instances where resident interpreters, readers, or other types of resident assistants have been used and it was not the case that an extended delay in obtaining another interpreter could compromised the resident's safety, the performance of first-response duties under 115.264, or the investigation of the resident's allegations was zero.

### **Standard 115.217: Hiring and promotion decisions**



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

**115.217 (a)**

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

**115.217 (b)**

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

**115.217 (c)**

- Before hiring new employees who may have contact with residents, does the agency: Perform a criminal background records check?  Yes  No
- Before hiring new employees who may have contact with residents, 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

#### 115.217 (d)

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

#### 115.217 (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 residents or have in place a system for otherwise capturing such information for current employees?  Yes  No

#### 115.217 (f)

- Does the agency ask all applicants and employees who may have contact with residents 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 residents 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

#### 115.217 (g)

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

#### 115.217 (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.*

## **Documentation**

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Section 24-3-950, South Carolina Code of Laws, 1976, as amended; Section VII (707.02), SC Office of Human Resources Regulations; Title VII of the 1964 Civil Rights Act; Article 7, Sections 8-13-700 through 8-13-795, Rules of Conduct; SC Code Ann. 8-11-170; Section 8-13-1110 of the South Carolina Code of Laws
- SCDC Policy ADM-11.28 Applicant Selection Process
- SCDC Policy ADM-11.34 Employee Inmate Relations
- SCDC Policy ADM-11.39 Staff Sexual Misconduct with Inmates
- SCDC Policy ADM-17.01 Employee Training Standards
- Employees Initial Criminal Record Background Checks Clearance - (24)
- Employees 5 Year Criminal Record Background Checks
- Contractors Initial Criminal Record Background Check (1)
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews

### **115.217 (a)**

The agency shall not hire or promote anyone who may have contact with residents, and shall not enlist the services of any contractor who may have contact with residents, 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.
- Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph a-2 of this section.

SCDC Policy 9.12, Applicant Criminal History, requires potential employees to report all arrests, court-ordered restraining orders (regarding a family member or a co-habitant) and/or convictions/dispositions on their original application. Successful applicants are checked through

the National Criminal Information Center (NCIC) before an official offer of employment is extended.

The policy indicates that any applicant with a felony conviction (s), drug related conviction (s) within 10 years will not be hired by the agency for any position. Language from standard 115.17 (a-b) is also included in Policy 9.12 Criminal History. The policy also states that any applicant that 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 (found liable) to have engaged in or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, coercion or if the victim did not consent or was unable to consent to refunded will not be hired by the agency for any position.

Documentation review of employee's applications for employment revealed the following questions contained in the employment application captured the spirit and intent of the standard.

- Question 22: I agree that as a condition of employment, I will report to the Director of Human Resources all arrests, within twenty-four (24) hours of the occurrence.
- Question 27: I understand and further authorize a complete background check as a condition of employment.
- Question 34: Have you ever been accused of or been found liable of sexual abuse/sexual misconduct/sexual harassment or resigned during a pending investigation of a sexual abuse/sexual misconduct/sexual harassment allegation with any previous employer?
- Question 42: Have you even been a resident in a SCDC Institution, Federal Institution, or Penal Institution of another jurisdiction, if yes, charge, dates, where and type of sentence?
- Question 49: I understand that I must update my application to reflect all arrests or charges that may be brought against me after filing this application.

### **115.217 (b)**

The agency shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents.

Prior to hiring any new employees, contractors, or volunteers, the SCDC Recruiting and Employment Services Branch completes criminal background checks to ensure that potential employees, contractors, or volunteers who may have contact with residents are cleared for hire.

**Interviewed Specialized Staff:** The agency assistant/recruiting & employment director indicated that each promotion must complete an application and background must be run before offer is made to any promotion/movement.

### 115.217 (c)

Before hiring new employees, who may have contact with residents, the agency shall:

- Perform a criminal background records check.
- 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.

The South Carolina Department of Corrections Policy Number: ADM-11.28 Applicant Selection Process, section 9.11 states, applicants must report all arrests, court-ordered restraining orders (regarding a family member or a co-habitant) and/or convictions/dispositions on their original application. Successful applicants will be checked through the National Criminal Information Center (NCIC) before an official offer of employment is extended.

Policy Number: ADM-11.28 section 9.12, requires all successful candidates will be finger-printed by the Recruiting and Employment Services Branch staff before establishing a hire date. Fingerprints will be sent to the State Law Enforcement Division (SLED) and the Federal Bureau of Investigation (FBI) for processing.

**Interviewed Specialized Staff:** The agency assistant/recruiting & employment director indicated that the agency performs criminal record background checks and considers pertinent civil or administrative adjudication for all newly hired employees who may have contact with residents.

The agency assistant/recruiting & employment director also indicated that the agency conducts NICI checks as well as covering the PREA compliance questionnaire with all applicants in order to consider pertinent information for quality candidate. Prior to any access any employee or third-party employee has a NICI and fingerprints check before they have access to one of the agency facilities.

### 115.217 (d)

The agency shall also perform a criminal background records check before enlisting the services of any contractor who may have contact with residents.

**Interviewed Specialized Staff:** The agency assistant/recruiting & employment director indicated that all third-party contractors have a background check conducted and, if applicable, proof that any criminal history has been cleared, prior to granting authority to report inside one of the agency facilities.

### 115.217 (e)

The agency shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with residents or have in place a system for otherwise capturing such information for current employees.

The Recruiting and Employment Services Branch in conjunction with the State Law Enforcement Division (SLED), monitoring system screens all employees and contractors using fingerprints provided by the employee or contractor during the pre-employment process. The fingerprints are sent to the State Law Enforcement Division (SLED) and the Federal Bureau of Investigation (FBI) for processing. In an employee or contractor is engaging in a criminal misconduct the SLED database alerts the Agency that there has been an arrest or violation within 24 hours of the incidents.

**Interviewed Specialized Staff:** The assistant human resource manager detailed the criminal background verification process. The same system for verifying criminal histories was also confirmed by the agency PREA coordinator. The agency has a system in place to capture criminal background updates for all current employees on a continuous basis as opposed to every five years. If an employee or contractor is engaging in a criminal misconduct the State Law Enforcement Division (SLED) database alerts the Agency that there has been an arrest or violation within 24 hours of the incident. Types of misconduct notifications include arrest warrants, indictments, or restraining order (s). The disposition of the arrest warrant, indictment, or restraining order (s) must also be reported within 24 hours of the receipt of the disposition by the employee.

**Interviewed Agency PREA Coordinator:** An interview with the PREA coordinator indicated that South Carolina Department of Corrections uses an active background check system as described in the employee selection policy and the SC Law Enforcement Division (SLED) agreement in which all employees are fingerprinted digitally and shared with SLED. For the five (5) year background checks, if an employee of SCDC is arrested, loses a license, or otherwise involved in police investigations for alleged law enforcement infractions, SCDC is notified within 24 hours to make appropriate actions needed.

#### **115.217 (f)**

The agency shall ask all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.

The South Carolina Department of Corrections Policy Number: ADM-11.28 Applicant Selection Process, section 9.11.1 indicated that employees who move from a non-security to a security position, regardless of the reason for the move (promotion, demotion, reassignment, etc.) will be checked through the National Criminal Information Center (NCIC).

Employees who move from a security position to another security position, will not be checked through the National Criminal Information Center (NCIC) because these checks are conducted

during each security employee's three-year recertification cycle through the Division of Training and Staff Development.

**Interviewed Special Staff:** The agency assistant/recruiting & employment director indicated to her knowledge the agency Institutional leadership is encouraging and enforcing the agency Employee Conduct policy which reminds staff of the stiff penalties in doing something detrimental to the safety of the agency mission and the offenders who are in the agency care.

### **115.217 (g)**

Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

The South Carolina Department of Corrections Policy Number: ADM-11.28 Applicant Selection Process, section 9.11.4 indicated for falsification, omission, or misrepresentation of facts or information other than arrests, restraining orders, or convictions, consideration should be given to the type of information falsified, omitted, or misrepresented and whether or not an offer of employment would have been extended if the agency had been given accurate information initially. Intentional deception will automatically disqualify an applicant.

SCDC Policy ADM-11.17, Employee Conduct, 6.2., failure to report such information may result in corrective action up to and including termination from employment with the SCDC. During the course of an official investigation, employees are to cooperate fully by providing all pertinent information. Full cooperation requires truthfully responding to all questions and providing a signed statement or affidavit.

**Interviewed Specialized Staff:** According to the agency assistant director, recruiting & employment, should an applicant fail to report an arrest, court ordered restraining order, and/or conviction on their application, and it is found through NCIC check or otherwise, the selecting official may be contacted to further consideration whether she/he wishes an offer of employment to be extended. Intentional deception will automatically disqualify an applicant. Any applicant that has served time in any state, federal, county, or city penal system within five years will not be hired by the agency.

### **115.217 (h)**

Unless prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

**Interviewed Specialized Staff:** The agency assistant/recruiting & employment director indicated that when a former employee applies for work at another institution, the agency follows the employment verification policy. The agency also submits a PREA Questionnaire if they are prior corrections/Law Enforcement.

During interviews with staff, it was indicated that the office would provide this information to other confinement facilities if asked and if is not prohibited by law.

## Standard 115.218: Upgrades to facilities and technologies

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

#### 115.218 (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 residents 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

#### 115.218 (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 residents 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.*

### Documentation

- SCDC Policy OP-22.47 Prison Management Expectations
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Policy ADM-12-01, Procurement of Supplies and Services



- PREA Audit: Pre-Audit Questionnaire for Community
- Staffing Plan
- Staff Interviews

### 115.218 (a)

When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect residents from sexual abuse.

**Interviewed Specialized Staff:** The designated agency head indicated that their PREA coordinator meets frequently with wardens, institutional PREA compliance managers, and the agency facility management to tour the institutions, discuss PREA safety measures needs for each institution, and develop plans to enhance the ability to protect residents from sexual abuse. The agency PREA coordinator also consults, as needed, with the agency director of Compliance, Standards, and Inspections to ensure that renovations to institutions comply with state and national standards.

**Interviewed Specialized Staff:** The warden indicated that the facility has had expansion with the inclusion of classrooms. The building request was sent to and discussed with the PREA coordinator prior to the building being approved and built.

### 115.218 (b)

When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency shall consider how such technology may enhance the agency's ability to protect residents from sexual abuse.

**Interviewed Specialized Staff:** The designated agency head indicated that the agency has recently increased the number of cameras in many of the agency institutions to monitor activity within the institution. The cameras are monitored at the institutional level and they also have a central agency "Crow's Nest" with a bank of cameras showing real time activity in many of the agency institutions. These cameras are monitored around the clock. The camera footage is also an important tool when investigating PREA allegations.

**Interviewed Specialized staff:** The facility warden indicated that they use and previously have requested cameras to help with observation and investigations of resident. There have not been any additional cameras.

## RESPONSIVE PLANNING

### Standard 115.221: Evidence protocol and forensic medical examinations

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

#### 115.221 (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

#### 115.221 (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

#### 115.221 (c)

- Does the agency offer all residents who experience 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

#### 115.221 (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 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

### 115.221 (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

### 115.221 (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

### 115.221 (g)

- Auditor is not required to audit this provision.

### 115.221 (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.*

### Documentation

- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- Advocate MOU
- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- SCDC Policy OP-21.04 Inmate Classification Plan
- SCDC Policy POL-23.01 Investigation
- SCDC Policy/Procedure, GA-05.01 Investigations
- SCDC Policy POL-23.38 Evidence Protocol
- SCDC Contract Title: Confidential Support Services for Sexual Trauma to Inmates
- South Carolina Victim Assistance Network (SCVAN) Number of Staff Training as Advocates
- Sexual Trauma Services: Incarcerated Survivor Team Services (May 2020, June 2020, and July 2020)
- MOU Between South Carolina Law Enforcement Division (SCLED) and South Carolina Department of Correction (SCDOC)
- Critical Incident Stress Management (CISM) Team
- SAFEs or SANEs Documentation (Past 12 Months) (1)
- MOU with Sexual Trauma Services of the Midland
- Investigations: Additional Information and Support Services (Notification/Dispositions)
- SCDCDVASA Member Organizations and Services to Incarcerated Victims
- Employees Qualified to service as Victim Advocates for emotional support (2)
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews

### 115.221 (a)

To the extent the agency is responsible for investigating allegations of sexual abuse, the agency shall follow a uniform evidence protocol that maximizes the potential for an obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

SCDC Policy Number: OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment section 6.1 – All allegations of sexual abuse and sexual harassment, including threats and attempts, will be immediately and aggressively investigated. The Division of Investigations initiate the investigation, and notify South Carolina Law Enforcement Division (SLED) and the Inspector General's office when sexual misconduct by staff, contractors or volunteers is alleged, and conduct an internal investigation in accordance with SCDC Policy/Procedure GA-05.01 – Investigations.

**Interviewed Specialized Staff:** According to the assistant director of Police Services, South Carolina Department of Corrections follows a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

**Interviewed Random Staff:** Fifteen (15) out of fifteen (15) random staff were able to describe the process and steps required to protect physical evidence; which included securing the area, protecting the physical evidence, not allowing the victim to shower or brush teeth, etc., and immediately seeking medical attention. One hundred percent of the interviewed staff could articulate immediate notification to the supervisor, as the first process any usable evidence.

One hundred percent of the interviewed staff was well- informed of the staff responsible for internal investigations. All the staff could effectively communicate that the facility PREA compliance manager conducts some investigations.

**115.221 (b)**

The protocol shall be developmentally appropriate for youth where applicable, and, as appropriate, shall be 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.

See section (a) response.

**115.221 (c)**

The agency shall 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. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. The agency shall document its efforts to provided SAFEs or SANEs.

The medical staff do not conduct forensic medical examinations on site. The role of medical health providers in the event of a sexual assault is limited to triage, emergency stabilization, after care and follow-up services.

A memo from the director of Nursing for the SCDC dated 7/03/19 gives the Health Services – HCA-HN staff written guidance on the following PREA issues:

- SCDC medical staff are not trained to perform forensic medical examinations.
- Residents will be transferred to a local emergency department with staff qualified to perform forensic medical examinations.
- Residents will be provided information for a rape crisis center and other agency for support.

SCDC Policy Number: OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment section 7.1 – All alleged resident victims are taken to medical services area for an initial medical assessment. If medical personnel determine that a sexual assault may have occurred, the resident will be taken to an outside medical facility. The outside medical facility will perform a medical forensic exam, as appropriate, collecting all evidence and maintaining the chain of custody to preserve the evidence.

The agency works with the South Carolina Victim Assistance Network (SCVAN), a 501 (c) (3) organization, that was created in response to a mandate in the South Carolina Crime Victims Bill of Right for a network of service providers to be formed to better protect and serve victims of crime. In 2010, SCVAN created the Statewide Forensic Nurse Examiner Program (FNE), through a VAWA-funded grant, to coordinate and support existing and developing FNE programs by building alliances with services providers to promote victim-oriented medical response and treatment of sexual assault victims. The coordinator also assists with the development of Sexual Assault Response Teams across South Carolina to ensure victims are provided compassionate and comprehensive support and to increase the likelihood of successful prosecution of offenders. The specialized services offered by FNEs through the accurate collection of forensic evidence and providing testimony at trials, are essential to the prosecutor's case.

On 3/07/20, staff was informed that an inmate alleged he was sexually assaulted while housed in a ward. The staff spoke to the inmate and according to the inmate he was carried from this living area to the shower where he was rape by several inmates. The inmate was escorted to medical who directed us to transport the inmate to PRMH. The PREA compliance manager was notified of the alleged incident to include all other appropriate personal. The inmate was returned to Manning at approximately 5:15PM.

The auditor reviewed the documents and the results of any sexual assault was unconfirmed by the PRMH. The inmate was placed in RHU pending an investigation and a mental health review.

Documentation from the Prism Health Richland indicted that on 3/07/20 the inmate received PCR/Molecular Testing and the results are available.

A review of the Nurse Protocol document completed by medical indicated that copays are exempt with reason. The comment/requests to provider section indicated the reason for inmate visit to include date and time.

**Interviewed Specialized Staff:** The agency PREA coordinator indicated that the reason why the case involving the alleged rape on 3/07/20 is taking an extended period of time to close is due to DNA evidence that is collected being sent to the South Carolina Law Enforcement Division (SLED). SLED does the DNA checks that are submitted from the SCDC Police Services Division and/or from the local hospitals regarding sexual abuse cases along with all other evidence needed for criminal cases from all over the state. The mass number of requests causes a backlog which extends the time needed to process cases.

**PAQ:** The PAQ indicated that the number of forensic medical exams conducted during the past 12 months was one.

**PAQ:** The PAQ indicated that the number of exams performed by SANEs/SAEFs during the past 12 months was one.

**PAQ:** The PAQ indicated that the number of exams performed by a qualified medical practitioner during the past 12 months were zero.

#### **115.221 (d)**

The agency shall attempt to make available to the victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocates services, the agency shall make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member. Agencies shall document efforts to secure services from rape crisis centers. To this standard, a rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 1400043, to victims of sexual assault of all ages. The agency may utilize a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services.

SCDC has a statewide partnership agreement with multiple sexual assault centers across the state. The 10 sexual assault centers provide hundreds of hours of support to victim of sexual assault, including individual face-to-face contacts, group sessions, written correspondence, and phone calls through toll-free hotline support. All services provided by the center are completely free, completely confidential and the resident's safety is a priority according to the website.

The agency provided the auditor with a copy of the Memorandum of Understanding (MOU) with Sexual Trauma Services of the Midlands. SCDC intends to use the services of Sexual Trauma Services of the Midlands as a service provided to offer access to outside counseling services and support services to resident who are victims of sexual assault or abuse; increase incarcerated individual's knowledge and awareness as well as responsiveness to sexual assault and prevention strategies, and enhance training about sexual assault, trauma, and responsiveness among correctional officers and corrections staff. Justice Assistance Grant (No. 1GPR19001 awarded *October 1, 2019*).

#### **115.221 (e)**

As requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.

The facility has a Critical Incident Stress Management (CISM) Team. CISM is an intervention protocol developed specifically for dealing with traumatic events. It is a formal, highly structured, and professionally recognized process for helping those involved in a critical incident to share their experiences, vent emotions, learn about stress reactions and symptoms and gives referral

for further help if required. It is a confidential, voluntary, and educative process. If a resident request a staff advocate, one of the CISM will work with the resident.

The facility provided the auditor with a list of CISM/qualified employees that can provide victim advocate services if the resident requests someone for the facility.

The South Carolina Victim Assistance Network (SCVAN) as requested, the SCVAN resources to the facilities. The South Carolina Victim Assistance Network, a 501 (C) (3) organization, was created in response to a mandate in the South Carolina Crime Victims Bills of Right for a network of service providers to be formed to better protect and serve victims of crime.

To fulfill the SCVAN objectives, SCVAN advocates, on behalf of victims and witnesses of crime, maintain a communication network, enhances public awareness, facilitates research and evaluation, serves as technical support, facilitates quality training, provides education regarding legislative initiatives pertaining to crime issues, coordinates policy development, manages “one of a kind” programs and encourages citizen and victim participation in the justice process.

See section (c) response.

**Interviewed Specialized Staff:** The facility PREA compliance manager indicated that a victim advocate will be provided to a resident if the requests one for the facility. The facility victim advocates are trained.

See section (d) response.

#### **115.221 (f)**

To the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall request that the investigating agency follow the requirements of paragraphs (a) through (e) of this section.

SCDC Policy Number: OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment section 6.1 – All allegations of sexual abuse and sexual harassment, including threats and attempts, will be immediately and aggressively investigated. The Division of Investigations initiate the investigation, and notify South Carolina Law Enforcement Division (SLED) and the Inspector General’s office when sexual misconduct by staff, contractors or volunteers is alleged, and conduct an internal investigation in accordance with SCDC Policy/Procedure GA-05.01 – Investigations.

#### **115.221 (g)**

The requirements of paragraphs (a) through (f) of this section shall also apply to:

- Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in prisons or jails; and



- Any Department of Justice component that is responsible for investigating allegations of sexual abuse in prisons or jails.

See section (d) response.

### 115.221 (h)

For the purposes of this section, a qualified agency staff member or a qualified community-based staff member shall be an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general.

A qualified facility staff member is the Qualified Mental Health Professional (QMHP). The qualified community-based member is a part of the statewide partnership agreement with multiple sexual assault centers across the state.

## Standard 115.222: Policies to ensure referrals of allegations for investigations

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

### 115.222 (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

### 115.222 (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

### 115.222 (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 conducting criminal investigations. See 115.221(a).)  Yes  No  NA

### 115.222 (d)

- Auditor is not required to audit this provision.

### 115.222 (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.*

### Documentation

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Mental Health Reception and Evaluation Flow Chart
- SCDC Policy OP-21.04 Inmate Classification Plan
- SCDC Policy POL-23.01 Investigation
- MOU Between South Carolina Law Enforcement Division (SCLED) and South Carolina Department of Correction (SCDOC)
- Facility Investigator Training/NIC Certificates (1)
- Agency Investigator for This Facility Training/NIC Certificates
- List of Agency Investigators (45)
- Investigation Reports -All Investigation for the Past Months (16)
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews

### 115.222 (a)

The agency shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.

SCDC has policies that govern both criminal and administrative investigations. Policies also ensure that allegations of sexual abuse or sexual harassment are referred for investigation and completed on all administrative and criminal allegations.

SCDC Policy Number: OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment section 6.1 – All allegations of sexual abuse and sexual harassment, including threats and attempts, will be immediately and aggressively investigated. The Division of Investigations initiates the investigation, and notify South Carolina Law Enforcement Division (SLED) and the Inspector General's office when sexual misconduct by staff, contractors or volunteers is alleged, and conduct an internal investigation in accordance with SCDC Policy/Procedure GA-05.01 – Investigations.

SCDC Policy Number: POL-23.01 Investigations section 5.1.2 – Administrative cases may originate from citizens, residents, employees, or anonymous compliant, other governmental agencies; facts detected during the normal course of business; or following a serious incident.

According to policy, an administrative investigation may or may not be conducted in conjunction with, or in addition to, a criminal investigation. The deputy director of Police Services/designee ensures that administrative case assignments do not impact criminal case assignment. Which means in some instances, two cases may be conducted independent of each other.

**Interviewed Specialized Staff:** The designated agency head indicated that South Carolina Department of Corrections has a formal process in place to ensure administrative and criminal investigations are completed for allegations of sexual abuse and sexual harassment.

The Designee also indicated that all PREA allegations are reported to the institutional PREA compliance manager. Incident reports and statements from the victim and any witnesses are collected and forwarded to the agency PREA coordinator who will determine whether the matter warrants a criminal investigation or whether the matter will be referred to the PCM for administrative review. The PREA compliance manager investigates all resident on resident sexual harassment allegations. The agency Police Services Office investigates all allegations of a criminal nature and all administrative allegations concerning staff or volunteer sexual abuse or sexual harassment of residents. The resident who reported the PREA allegation is informed of the results of the investigation. Allegations that result in substantiated and unsubstantiated dispositions are the subject of incident reviews with an attorney from General Counsel's Office and the institutional staff after each incident to discuss circumstances surrounding the PREA incident, the investigation conducted, and recommendations for future action.

**Interviewed Specialized Staff:** The deputy director of Police Services indicated that SCDC Policy OP-21.12 requires that all allegations of sexual abuse or sexual harassment are investigated.

The deputy director of Police Services also indicated that SCDC Police Services has full State authority to conduct investigations and make arrests. SCDC Police has an MOU with South Carolina Law Enforcement Division (SLED) that allows for SLED to be the lead investigative

agency if necessary. The PREA compliance staff conduct reviews of resident on resident harassment as these are non-criminal issues that do not involve staff.

**PAQ:** The PAQ indicated that during the past 12 months, the number of allegations of sexual abuse and sexual harassment that was received was sixteen.

**PAQ:** The PAQ indicated that during the past 12 months, the number of allegations resulting in an administrative investigation was nine.

**PAQ:** The PAQ indicated that during the past 12 months, the number of allegations referred for criminal investigation were seven.

### **115.222 (b)**

The agency shall have in place a policy 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. The agency shall publish such policy on its website or, if it does not have one, make the policy available through other means. The agency shall document all such referrals.

When allegations are made at the facility, information is collected by staff, then forwarded to the facility PREA compliance manager for review and recommendation to the PREA coordinator. The PREA coordinator determines if an allegation should be forward to Police Services to initiate a criminal investigation. Criminal investigations are documented in the Police Case Management System. Incidents not determined to be criminal in nature are referred to the facility for the completion of an administrative investigation. Administrative investigations are documented in investigative files at the facility and maintained by the PREA compliance manager.

SCDC Policy Number: OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment section 6.3, if allegations of conduct that appears to be criminal are substantiated, referral will be made to the appropriate solicitor for prosecution. Additionally, staff will be subject to agency corrective action up to and including termination, and residents may be charged through the agency Disciplinary System.

A review of the MOU Between South Carolina Law Enforcement Division and the SCDC indicated that the MOU constitutes an agreement to establish guidelines relating to the investigation of criminal cases and the notification of certain events that occur on property controlled by SCDC.

Section 5.2 of the MOU includes any case that involves sexual assault of an SCDC employee or private citizen by a resident. Additionally, SLED will be the primary investigative agency as requested by the director of SCDC or the SCDC inspector general at his discretion.

### **115.222 (c)**

If a separate entity is responsible for conducting criminal investigations, such publication shall describe the responsibilities of both the agency and the investigating entity.

**Interviewed Specialized Staff:** The facility PREA compliance manager indicated that outside entity SLED is aware of the agency sexual abuse policy of investigations.

The agency has developed a policy for the investigation of sexual abuse and sexual harassment which is reported to the SCDC. The policy number: OP-21-12: Prevention, Detection and Response to Sexual Abuse/Sexual Harassment is published on the agency's website at <http://doc.sc.gov/preaweb/>

The primary mission of the State Law Enforcement Division (SLED) "is to provide quality manpower and technical assistance to law enforcement agencies and to conduct investigations on behalf of the state as directed by the Governor and Attorney General." All related documentation is captured in the Police Case Management System. Facility administrative investigations are maintained in files at the facility and secured by the PREA compliance manager.

**Interviewed Specialized Staff:** The agency PREA coordinator indicated that the reason why one sexual abuse case is still open and needed an extended period of time to close is due to DNA evidence that is collected being sent to the SC Law Enforcement Division (SLED). SLED does the DNA checks that is submitted from the SCDC Police Services Division and or from the local hospitals regarding sexual abuse cases along with all other evidence needed for criminal cases from all over the state. This mass number of requests causes a backlog which extends the time needed to process cases.

#### **115.222 (d)**

Any State entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations.

The agency has developed a policy for the investigation of sexual abuse and sexual harassment which is reported to the SCDC. The policy number: OP-21-12: Prevention, Detection and Response to Sexual Abuse/Sexual Harassment is published on the agency's website at <http://doc.sc.gov/preaweb/>

#### **115.222 (e)**

Any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations.

See section (e) response.

## TRAINING AND EDUCATION

### Standard 115.231: Employee training

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

#### 115.231 (a)

- Does the agency train all employees who may have contact with residents on: Its zero-tolerance policy for sexual abuse and sexual harassment?  Yes  No
- Does the agency train all employees who may have contact with residents 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 residents on: Residents' right to be free from sexual abuse and sexual harassment  Yes  No
- Does the agency train all employees who may have contact with residents on: The right of residents 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 residents on: The dynamics of sexual abuse and sexual harassment in confinement?  Yes  No
- Does the agency train all employees who may have contact with residents on: The common reactions of sexual abuse and sexual harassment victims?  Yes  No
- Does the agency train all employees who may have contact with residents 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 residents on: How to avoid inappropriate relationships with residents?  Yes  No
- Does the agency train all employees who may have contact with residents on: How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents?  Yes  No
- Does the agency train all employees who may have contact with residents on: How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities?  Yes  No

#### 115.231 (b)

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

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

#### 115.231 (c)

- Have all current employees who may have contact with residents 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

#### 115.231 (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.*

#### Documentation

- SCDC Policy Number: OP 21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Policy ADM-11.28 Applicant Selection Process

- SCDC Policy ADM-17.01 Employee Training Standards
- PREA Lesson Plan
- Agency Orientation & New Employee Onboarding (NEO) Program
- PREA – New Employee On-Boarding /Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment (OP-21-12) with Employee Signature (15)
- Employee Policy Acknowledgement Form /PREA and Retaliation
- Lesson Plan: Supervision of Offenders (3 Hours)
- 2020 Agency Orientation Checklist (Live Stream) – All Staff for the past 12 Months or (15)
- SCDC Personnel System/Employee Training System/Employee Meeting Criteria (Workshop 1073.30V PREA) Curriculum
- SCDC Personnel System/Employee Training System Electronic Signature (30)
- Guidance in Cross-Gender and Transgender Pat Searches (Moss Group)
- PREA Training Section 1800 Curriculum
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews

**115.231 (a)**

The agency shall train all employees who may have contact with residents on:

- Its zero-tolerance policy for sexual abuse and sexual harassment.
- How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures.
- The resident’s 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 threatened and actual sexual abuse.
- How to communicate effectively and professionally with residents, 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.

The agency provides training for all staff working at its facilities. The South Carolina Department of Corrections Policy Number: OP-21.12 section 2 requires PREA training to be provided to all agency/facility staff during the individual orientation programs as well as the mandatory in-service annual training. The training includes, but is not limited to:

- SCDC policy provisions pertaining to resident sexual abuse and sexual harassment prevention, detection, reporting and response, and how staff are to fulfill their responsibilities under these policies and procedures.



- The requirement that staff report immediately any knowledge or information regarding sexual abuse or sexual harassment.
- Zero tolerance for the sexual abuse or sexual harassment of residents.
- Resident's right to be free from sexual abuse and sexual harassment, and the right of residents and staff to be free from retaliation for reporting such abuse.
- The dynamics of sexual abuse and sexual harassment in confinement, recognition of signs of threatened and actual sexual abuse, common reactions of sexual abuse victims and sensitivity to resident reports of sexual abuse, confidentiality, recognition of signs of predatory residents and residents who are vulnerable to sexual abuse.
- How to avoid inappropriate relationships with residents.
- How to comply with relevant laws to mandatory reporting of sexual abuse to outside authorities.

SCDC provided a great deal of training for all employees who work in the facilities. Staff received PREA training thru:

- New Employee Orientation – one day (8 hours) which includes information regarding PREA.
- Attending a basic training at the Training Academy in Columbia, S.C. The training varies in length depending upon the position that the employee holds. All position's training includes PREA training.

The auditor reviewed the curriculum of all PREA related training and identify all elements of required topics.

**Interviewed Random Staff:** Fifteen (15) out of fifteen (15) random staff were able to articulate most of the topics covered in the PREA training. The staff could describe the training on Zero Tolerance, Resident and Staff Rights, Dynamics of Sexual Abuse and Sexual Harassment, Prevention and Response. Staff reported that they received PREA related training when initially hired and annual in-service.

### **115.231 (b)**

Such training shall be tailored to the gender of the residents at the employee's facility. The employee shall receive additional training if the employee is reassigned from a facility that house only male residents to a facility that houses only female residents, or vice versa.

All staff are required to completed New Staff Orientation which includes gender training.

### 115.231 (C)

All current employees who have not received such training shall be trained within one year of the effective date of the PREA standards, and the agency shall 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. In years in which an employee does not receive refresher training, the agency shall provide refresher information on current sexual abuse and sexual harassment policies.

**Interviewed staff:** Interviewed staff provided information regarding the yearly PREA training they are required to participate in as part of their annual mandatory training. All interviewed staff were consistent in providing information regarding the annual PREA training provided by the department.

**Interviewed staff:** interviewed staff also indicated that they also received monthly refresher training through staff briefings and meetings where they are reminded of PREA issues.

### 115.231 (d)

The agency shall document, through employee signature or electronic verification, that employees understand the training they have received.

The agency documents the PREA training using the Staff Sign-In Training Acknowledgement or Staff Rosters.

## Standard 115.232: Volunteer and contractor training

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

#### 115.232 (a)

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

#### 115.232 (b)

- Have all volunteers and contractors who have contact with residents 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 residents)?  Yes  No

### 115.232 (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.*

### Documentation

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Policy PS-10.04 Volunteer Services Programs
- Volunteers Orientation Training Power Point
- Volunteer Services Agreement with Signature (35)
- Contractor Training Records/Medical (3)
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews

### 115.232 (a)

The agency shall ensure that all volunteers and contractors who have contact with residents have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures.

Volunteers and contractors are provided PREA training and education relative to their duties and responsibilities.

The agency provided the auditor with the volunteer orientation power point presentation. The volunteer orientation topics included but were not limited to:

- South Carolina Department of Corrections Mission
- SCDC Resident Profile
- Types of Volunteer Services
- Volunteer Conduct
- Employee-Resident Relations
- Sexual Abuse, Harassment, and Misconduct
- Drug Free Environment
- Contact with News Media
- Appropriate Dress
- Unauthorized Items-Contraband
- Submission to Searches
- Photo Identification for Entry

**Interviewed Volunteers:** Interviews with volunteers indicated that they have been trained in the responsibilities regarding sexual abuse and sexual harassment prevention, detection, and response, per agency policy and procedures.

**Interviewed Contractors:** Interviews with contractors indicated that they have been trained in the responsibilities regarding sexual abuse and sexual harassment prevention, detection, and response, per agency policy and procedures.

**PAQ:** The PAQ indicated that the number of volunteers and individual contractors who have contact with residents who have been trained in agency policies and procedures regarding sexual abuse/harassment prevention, detection, and response were 251.

### **115.232 (b)**

The level and type of training provided to volunteers and contractors shall be based on the services they provided and level of contact they have with residents, but all volunteer and contractors who have contact with residents shall be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

A review of documentation (Volunteers Orientation Training Power Point and Volunteers Services Agreement with signature) indicated that this standard is compliant.

All staff working through a contract agency receive PREA training the first day they report to work and annually thereafter.

### 115.232 (c)

The agency shall maintain documentation confirming that volunteers and contractors understand the training they have received.

A memo from the director of Nursing for the SCDC dated 7/03/19 gives the Health Services – HCA-HN staff written guidance on the following PREA issues:

- All staff working through a contract agency will receive PREA training the first day they report to work and annually thereafter.
- Completion of training must be documented and indicated on the roster the nurse received and understood the training.

The agency documents the PREA training using the Staff Sign-In Training Acknowledgement.

## Standard 115.233: Resident education

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

### 115.233 (a)

- During intake, do residents receive information explaining: The agency's zero-tolerance policy regarding sexual abuse and sexual harassment?  Yes  No
- During intake, do residents receive information explaining: How to report incidents or suspicions of sexual abuse or sexual harassment?  Yes  No
- During intake, do residents receive information explaining: Their rights to be free from sexual abuse and sexual harassment?  Yes  No
- During intake, do residents receive information explaining: Their rights to be free from retaliation for reporting such incidents?  Yes  No
- During intake, do residents receive information regarding agency policies and procedures for responding to such incidents?  Yes  No

### 115.233 (b)

- Does the agency provide refresher information whenever a resident is transferred to a different facility?  Yes  No

### 115.233 (c)

- Does the agency provide resident education in formats accessible to all residents, including those who: Are limited English proficient?  Yes  No
- Does the agency provide resident education in formats accessible to all residents, including those who: Are deaf?  Yes  No
- Does the agency provide resident education in formats accessible to all residents, including those who: Are visually impaired?  Yes  No
- Does the agency provide resident education in formats accessible to all residents, including those who: Are otherwise disabled?  Yes  No
- Does the agency provide resident education in formats accessible to all residents, including those who: Have limited reading skills?  Yes  No

#### 115.233 (d)

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

#### 115.233 (e)

- In addition to providing such education, does the agency ensure that key information is continuously and readily available or visible to residents through posters, resident 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.*

#### Documentation

- SCDC Form 18-18 Certification of Prison Rape Elimination Act
- SCDC Form 18-69 Certificate of Inmate Orientation
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- SCDC Policy GA-01.12 Inmate Grievance System
- SCDC Policy OP-22.14 Inmate Disciplinary System
- SCDC Policy PS-10.08 Inmate Correspondence Privileges
- PREA Audit: Pre-Audit Questionnaire for Community
- Inmate Handbook /Let's Talk About Safety - English and Spanish
- Announcement Before Clearing Count: To Inmates
- Certification of PREA Orientation (90)
- Pee Dee Coalition Against Domestic and Sexual Assault \*63 Poster
- PREA Playing Cards (JUST Detention)
- Tablet – APPS & Games (PREA Video)
- Inmate Kiosk System (Handbook English and Spanish)
- Posters English and Spanish
- Braille – English and Spanish
- SCDC School for the Deaf and the Blind
- Staff Interviews
- Inmate Interviews

### **115.233 (a)**

During the intake process, residents shall receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment, their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.

SCDC has created a resident brochure based on the Just Detention International grant. The brochure is entitled "Let's Talk About Safety". The brochure covers:

- Agency's Zero Tolerance Policy
- Sexual Safety Tips
- PREA Reporting Information
- Sexual Assault
- Resident Rights Regarding Sexual Abuse and Sexual Harassment
- South Carolina Law Enforcement Division (SLED) Mail Address

The South Carolina Department of Corrections Policy Number: OP-21.12 section 1.1, as a part of the initial intake process at the Reception and Evaluation (R&E) Center, all residents receive a thorough orientation on the agency's zero-tolerance policy regarding the sexual abuse of residents. Phase I: Intake education, which provided during the intake process (within 24 hours of the resident's arrival) and include an explanation of SCDC's zero-tolerance policy toward

sexual abuse and sexual harassment, and how to report incidents or suspicions of sexual abuse or sexual harassment.

**Interviewed Random Residents:** Twenty-six residents interviewed, all stated that they received information regarding sexual abuse and sexual harassment when they arrived in intake.

Twenty-six residents reported that they recalled watching a video explaining sexual abuse and harassment, how to report and their right not to be punished for reporting sexual abuse. They also reported that when they met with their case manager, they conducted orientation with them regarding sexual abuse and harassment.

All 26 resident that were interviewed, were transferred to the facility from another facility. Sixteen residents had entered the facility within the past 12 months.

### **115.233 (b)**

The agency shall provide refresher information whenever a resident is transferred to a different facility.

The South Carolina Department of Corrections Policy Number: OP-21.12 section 1.1, as a part of the initial intake process at the Reception and Evaluation (R&E) Center, all residents receive a thorough orientation on the agency's zero-tolerance policy regarding the sexual abuse of residents.

Phase II: Comprehensive education is provided within two weeks of the resident's arrival at R&E includes the following:

- SCDC Policy OP-21.12 "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment.
- Residents' right to be free from sexual abuse and sexual harassment as well as retaliation for reporting such incidents.
- Prevention.
- Tips for staying safe.
- How to report incidents or suspicions of sexual abuse or sexual harassment.
- SCDC's Policies and procedure for responding to sexual abuse and sexual harassment, including the availability of treatment and counseling for victimized residents; and
- Disciplinary actions for intentionally making a false allegation.

The facility provided the following resident educational methods.

- PREA Playing Cards (JUST Detention)
- English PREA Poster
- Spanish PREA Poster
- Resident Handbook- "Let's Talk About Safety"



- Resident Kiosk System (residents are required to view PREA information before they can further utilize the kiosks).
- Tablets (PREA Video)
- Video Tape

**Interviewed Special Staff:** The facility PREA compliance manager indicated that SCDC encourages employees and residents at all facilities to use and share all material and information pertaining to PREA. It is pertinent that everyone is aware of the policy and understands that SCDC has a zero-tolerance regarding sexual abuse and sexual harassment against residents. The residents are provided a deck of playing cards, Prison Rape Elimination Act, playing cards that they can use for playing card games. These cards provide the residents with information pertaining to sexual abuse and sexual harassment and how to report it. It explains to them that they can report anonymously and will be protected from retaliation, because SCDC is committed to their safety.

One section of the brochure provides residents with options to alert or others of sexual abuse or sexual harassment taking place in a SCDC correctional setting. These included:

- File a grievance
- File a report to investigations using a facility kiosk
- Request to visit medical and ask for help
- Ask a lawyer, a friend, or family member to request help
- Dial \*22 from any resident phone located in living units.
- Dial \*63 from any resident phone located in living units.

**Interviewed Specialized Staff:** The facility PREA compliance manager indicated that the tablets have allowed the residents access to contact family members, listen to music, watch movies, and read books online. They also have access to app and games which allows residents to view the PREA video.

### 115.233 (c)

The agency shall provide resident education in formats accessible to all residents, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to residents who have limited reading skills.

Policy OP 21.12 Section 1.1.5 states current residents who have not received the required education shall be educated as promptly as possible.

**Interviewed Specialized Staff:** The facility PREA compliance manager indicated that all residents have received the required education.

### 115.233 (d)

The agency shall maintain documentation of resident participation in these education sessions.

SCDC Policy requires residents to sign an acknowledgement of having received PREA information at both the intake and comprehensive education sessions initial intake process and at all institutional orientations on SCDC Form 18-78, "Certification of Prison Rape Elimination Act (PREA) Orientation", and SCDC Form 18-69 "Certificate of Resident Orientation". A copy of the forms is maintained in the resident's institutional record.

Documentation of the receipt of the resident handbooks, as well as a copy of the PREA pages of the handbook, were provided to the auditor to demonstrate compliance with this provision of the standard.

### **115.233 (e)**

In addition to providing such education, the agency shall ensure that key information is continuously and readily available or visible to residents through poster, resident handbooks, or other written formats.

Policy OP 21.12 Section 1.1.6, states in addition to the education outlined, each SCDC facility will ensure that key information, including information about the right to be free from sexual abuse and sexual harassment, and how to make a report, is continuously and readily available or visible to residents through posters and other written formats.

The facility provided the following available PREA information.

- PREA Playing Cards (JUST Detention)
- English PREA Poster
- Spanish PREA Poster
- Resident Handbook – "Let's Talk About Safety" Brochure
- Resident Kiosk System (residents are required to view PREA information before they can further utilize the kiosks).
- Video Tape
- Tablets
- File a grievance
- File a report to investigations using a facility kiosk
- Request to visit medical and ask for help
- Ask a lawyer, a friend, or family member to request help
- Dial \*22 from any resident phone located in living units.
- Dial \*63 from any resident phone located in living units.

## **Standard 115.234: Specialized training: Investigations**

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

### 115.234 (a)

- In addition to the general training provided to all employees pursuant to §115.231, 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 115.221(a).)  
 Yes  No  NA

### 115.234 (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 115.221(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 115.221(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 115.221(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 115.221(a).)  
 Yes  No  NA

### 115.234 (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 115.221(a).)  
 Yes  No  NA

### 115.234 (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.*

### Documentation

- Facility Investigator Training/NIC Certificates (1)
- Agency Investigator Training/NIC Certificates
- List of Agency Investigators (45)
- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Policy ADM-17.01 Employee Training Standards
- SCDC Policy POL-23.01 Investigation
- SCDC Policy POL-23.12 Case File Requirements
- Staff Interviews
- PREA Audit: Pre-Audit Questionnaire for Community
- Interviewed Staff

### 115.234 (a)

In addition to the general training provided to all employees pursuant to standard 115.31, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.

Currently, SCDC Police Services statewide has forty-five (45) investigators, who are Class 1 Police Officers. These investigators are assigned to a region in the state. Using a regional approach, the state is divided into four regions. Each region has five investigators assigned with one supervising manager for each respective region. Each region is task with the responsibility of performing a variety of types of investigations to include PREA investigations.

**Interviewed Specialized Staff:** The deputy director of Police Services indicated that agent's take Investigating Sexual Abuse in a Confinement Setting and Investigating Sexual Abuse in a Confinement Setting: Advance Investigations. These classes are taught by the National Institute of Corrections (NIC). Online courses dealing with investigating sexual assault inside prisons.

### 115.234 (b)

Specialized training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

**Interviewed Specialized Staff:** The assistant director of Police Services confirmed investigative training include the proper use of Miranda and Garrity warnings, sexual abuse evidence collection of crime scenes in correctional settings and the evidence and criteria needed to substantiate an incident for criminal or administrative proceeding. SCDC has 45 total investigators.

**Interviewed Specialized Staff:** The facility PREA investigator indicated that he has completed the NIC training and provided a certificate.

The investigators are required to complete the NIC online PREA Specialized Investigations training. The NIC online training include techniques for interviewing sexual abuse victim, proper use of Miranda and Garrity warning. The facility provided a list of individuals that completed the PREA Specialized training and verification by submitting the certificates at were received at the completion of course.

PREA Compliance Manager Comprehensive Investigative Training 2020: The PREA coordinator's office recently provided all PREA compliance managers and their supports with in-depth comprehensive investigative training at SCDC's training academy with 49 attendees. This full day of training consisted of a review of the PCM's role and included speakers from Police Services, the Grievance Branch, Office of General Counsel, and PCMs from audited institutions to share multidisciplinary information and expertise. An informal testing of the knowledge learned was provided to all attendees, which indicated the training was successful.

The National Institute of Corrections (NIC) online training "PREA: Investigating Sexual Abuse in a Confinement Setting" includes the following topics:

1. Initial Response
2. Investigation
3. Determination of the Findings
4. A Coordinated Response
5. Sexual Assault Response Team
6. A Systemic Approach
7. How Sexual Abuse Investigations Are Different
8. How Investigations in Confinement Settings Are Different
9. Criteria for Administrative Action
10. Criteria for Criminal Prosecution
11. Report Writing Requirements of an Administrative Report
12. Requirements for an Administrative Report
13. Requirements for a Criminal Report
14. The Importance of Accurate Reporting
15. Miranda and Garrity Requirement

- 16. Miranda Warning Considerations
- 17. Garrity Warning Considerations
- 18. The Importance of Miranda and Garrity Warnings
- 19. Medical and Mental Health Practitioner's Role in Investigations
- 20. PREA Standards for Forensic Medical Examinations

**115.234 (c)**

The agency shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations.

The agency provided a list of investigators that are responsible for investigating PREA at this facility. NIC verification of completion was provided.

PAQ: The number of investigators currently employed who have completed the required training 47 (3 at this facility).

PAQ: The PAQ indicated that the number of investigators currently employed who have completed the required training was 45.

**115.234 (d)**

Any State entity or Department of Justice component that investigates sexual abuse in confinement settings shall provide such training to its agents and investigators who conduct such investigations.

Interviewed Specialized Staff: Interviewed specialized staff indicated that at this time the facility has any DOJ component that investigates sexual abuse.

**Standard 115.235: Specialized training: Medical and mental health care**

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

**115.235 (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

#### 115.235 (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 does not employ medical staff or the medical staff employed by the agency do not conduct forensic exams.)  Yes  No  NA

#### 115.235 (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

#### 115.235 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.231? (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 and volunteering for the agency also receive training mandated for contractors and volunteers by §115.232? (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.*

## **Documentation**

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Policy ADM-17.01 Employee Training Standards
- NIC PREA Medical Health Training Certificate/PREA Medical Health Care (3)
- Mental Health Training Signature Acknowledgement/Roster (3)
- PREA 201 for Medical and Mental Health Practitioners (NIC)
- SCDC Policy GA-06.09 Care and Custody of Transgender Inmates and Inmates Diagnosed with Gender Dysphoria
- Staff Interviews PREA Audit: Pre-Audit Questionnaire Community
- Interviewed Staff

### **115.235 (a)**

The agency shall 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.
- 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.

The agency ensures that all full-and part-time, contract medical and mental health care professionals who work regularly in its facilities have been trained in the topics listed above.

**Interviewed Specialized Staff:** Medical staff indicated that they does not conduct forensic examinations and they has received PREA training online via the National Institutes of Correction (NIC). The topics covered were PREA reporting guidelines, Sexual Harassment, PREA for Healthcare Workers.

### **115.235 (b)**



If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.

**Interviewed Specialized Staff:** According to the facility PREA compliance manager, victims of sexual abuse would be taken to a local hospital that employs a qualified forensic examiner or SANE/SAFE staff.

**115.235 (c)**

The agency shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere.

The medical and mental health maintains documentation that there training is kept as electronic training records.

**115.235 (d)**

Medical and mental health care practitioners shall also receive the training mandated for employees under standard 115.31 or for contractors and volunteers under standard 115.32, depending upon the practitioner's status at the agency.

**Interviewed Specialized Staff:** The medical staff indicated that they have completed the required PREA training that is covered in standard 115.231.

<p style="text-align: center;"><b>SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS</b></p>
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**Standard 115.241: Screening for risk of victimization and abusiveness**

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

**115.241 (a)**

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

**115.241 (b)**

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

**115.241 (c)**

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

#### 115.241 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident has a mental, physical, or developmental disability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: The age of the resident?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: The physical build of the resident?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident has previously been incarcerated?  
 Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident's criminal history is exclusively nonviolent?  
 Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident 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 residents for risk of sexual victimization: Whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the resident about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the resident 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 residents for risk of sexual victimization: Whether the resident has previously experienced sexual victimization?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: The resident's own perception of vulnerability?  Yes  No

#### 115.241 (e)

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

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

#### 115.241 (f)

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

#### 115.241 (g)

- Does the facility reassess a resident's risk level when warranted due to a: Referral?  
 Yes  No
- Does the facility reassess a resident's risk level when warranted due to a: Request?  
 Yes  No
- Does the facility reassess a resident's risk level when warranted due to a: Incident of sexual abuse?  Yes  No
- Does the facility reassess a resident's risk level when warranted due to a: Receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness?  
 Yes  No

#### 115.241 (h)

- Is it the case that residents 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

#### 115.241 (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 resident's detriment by staff or other residents?  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.*

## **Documentation**

- SCDC Form 18-79 PREA Screening Checklist
- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- SCDC Policy GA-06.09 Care and Custody of Transgender Inmates and Inmates Diagnosed with Gender Dysphoria
- SCDC Policy OP-21.04 Inmate Classification Plan
- SCDC Form 18-79 PREA Screening Checklist
- PREA Audit: Pre-Audit Questionnaire for Community
- SCDC Resident Dorm Reports
- PREA Screening – Initial (90)
- PREA Screening Reassessment -Match the Initial Screening (90)
- List of Vulnerability to Victimization (All)
- List of Sexually Aggressive (ALL)
- List of Resident and Housing Assignments/Housing Roster
- Guidance in Cross-Gender and Transgender Pat Searches (MOSS Group – February 2012)
- PC Letter/PREA Screening Tool
- Lesson Plan: Supervision of Offenders (3 Hours), Pages 16 – 20
- Staff Interviews
- Inmates Interviews

### **115.241 (a)**

All residents shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other residents or sexually abusive toward other residents.

The South Carolina Department of Corrections Policy Number: OP-21.04 Resident Classification Plan Section 5.1 – states that during the receiving and screening phase at the Reception and Evaluation Center, medical staff screen the incoming resident within 72 hours, using SCDC Form M-14 and the history portion of the R&E Physical in the automated medical record (AMR).

Regarding initial screening for risk of victimization or abusiveness policy states the following: the resident must be screened for risk of sexual victimization or risk of sexually abusing other residents within 72 hours of arrival at SCDC and again at each subsequent transfer. A trained

designated staff member uses the automated PREA Screening Instrument (SCDC Form 18-79, *PREA Screening Checklist*) to interview the resident and complete the checklist.

A memo from the director of Nursing for the SCDC dated 7/03/19 gives the Health Services – HCA-HN staff written guidance on the following PREA issues:

- All residents must have a PREA Risk Assessment screening when they enter the institution and anytime there is an allegation or case. Meaning if you see the resident or suspected sexual abuse or harassment you will complete another assessment. This will be completed for every resident that you receive and completed in 24-48 hours at the same time you do intakes.
- Prior to the start of all risk assessments you must inform the resident:
  - Risk assessment questions are confidential.
  - You must report any allegation of sexual abuse/harassment that took place in SCDC.
  - The resident is not required to answer any questions and there will be not punishment for refusing.

**Interview Specialized Staff:** The agency PREA coordinator indicated that per SCDC policy, procedures, and processes, residents who are screened and found to be vulnerable for victimization or vulnerable for perpetration are not assigned to a Level I Institution (Pre-Release or Work Release Center). SCDC Level 1 institutions are all “open bay” housing, which would be less secure for protection of vulnerable residents or would need additional security and monitoring for predators. For these reasons and other security and safety reasons, no residents who are found with these vulnerabilities are assigned to Level 1 institutions.

In the case of a resident who is transferred to a Level 1 institution who is then identified as a vulnerable resident or perpetrator, classification will be notified, and that resident will be removed and transferred to another institution as soon as possible for the security and safety of that resident and others.

**Interviewed Classification Staff Who Perform PREA Screenings:** Interviewed staff indicated when residents admitted to this facility or transferred to this facility from another facility the risk of sexual abuse victimization or sexual abusiveness toward others residents is assessed during the initial assessments.

Do you screen residents upon admission to your facility or transfer from another facility for risk of sexual abuse victimization or sexual abusiveness toward other residents? Response: Yes, medical has a 72-hour time frame to do a PREA Assessment. However, MRWRC tries to do the assessment within 48 hours. The initial risk screening considers possible risk such as age, build, disability, and sexual orientation.

What is the process for conducting the initial screening? Response: Residents are screened for risk of sexual abuse by another resident within 72 hours by trained medical staff and after the

initial the resident is reassessed in another 14-30 days by classification staff. If a resident experienced sexual victimization or perpetrated sexual abuse the are offered a follow up meeting with a qualified medical or mental health staff within 14 days of initial assessment.

Do you reassess a resident's risk level as needed due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness? Response: Yes, reassessment is done 14-30 days after initial assessment and if there is a report of abuse to a victim or other reasons.

Are residents disciplined in any way for refusing to respond to (or for not disclosing complete information related to) the following requirements in the standards? Response: No, residents aren't penalized/disciplined in refusing to respond to the questions on the assessment.

Has the agency outlined who can have access to a resident's risk assessment within the facility to protect sensitive information from exploitation? Response: The authorized persons are as follows: PREA compliance manager, classification, medical and mental health staff which are trained designated staff. Others as the warden designates.

**Interviewed Random Residents:** Twenty-six residents recalled being asked questions about prior sexual history of sexual abuse, or whether they identified as being gay, lesbian, or bisexual, had a disability, or felt in danger of sexual abuse. Residents also reported that the questions were asked upon arrival and by their assigned case manager.

Two residents could not recall being asked about whether they had been in jail or prison before arriving at this facility.

One-hundred percent of the residents reported feeling safe at this facility.

#### **115.241 (b)**

Intake screening shall ordinarily take place within 72 hours of arrival at the facility.

SCDC policy requires that all residents are assessed within 72 hours of arrival as part of the intake screening for their risk of being sexually abused by other residents or sexually abusive toward other residents. SCDC policy require the use of a screening instrument to determine proper housing, bed assignment, work assignment, education and other program assignments, with the goal of keeping residents at a high risk of being sexually abused/sexually harassed separate from those residents who are at a high risk of being sexually abusive.

#### **115.241 (c)**

Such assessments shall be conducted using an objective screening instrument.

**Interviewed specialized Staff:** The facility uses a screening objective screening instrument to determine proper housing, bed, assignment, work assignment, education and other program

assignments, with the goal of keeping residents at a high risk of being sexually abused or sexually harassed separate from those residents who are a high risk of being sexually abused.

According to documentation reviewed, the facility uses the agency automated PREA Screening Instrument (SCDC Form 18-79, *PREA Screening Checklist*). This instrument is computer-based system.

#### **115.241 (d)**

The intake screening shall consider, at a minimum, the following criteria to assess residents for risk of sexual victimization:

- Whether the resident has a mental, physical, or developmental disability.
- The age of the residents.
- The physical build of the resident.
- Whether the resident has previously been incarcerated.
- Whether the resident's criminal history is exclusively nonviolent.
- Whether the resident has prior convictions for sex offenses against an adult or child.
- Whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming.
- Whether the resident has previously experienced sexual victimization.
- The residents own perception of vulnerability; and
- Whether the resident is detained solely for civil immigration purposes?

According to the SCDC's Notable Milestones, the PREA Risk Screening now has added features such as a "List Menu" with dropdown categories added to include:

- "Initial Assessment List"
- "Reassessment List"
- Location Search that provides staff with information regarding a certain dorm and if a certain category of resident is housed there.
- "One-to-One Compatibility Search" which is a very useful tool whereby staff can input two resident SCDC numbers to determine if two residents can safely be housed together.
- A search tool that lets staff know where vulnerable residents are currently housed to include dorm, room and bunk information.

These features further enhance the commitment to provide safe housing, bed, and programming/educational assignments to the residents at each institution.

The auditor requested that the agency PREA coordinator give a demonstration of these functions. The request was honored. This is a good computerized system.

#### **115.241 (e)**

The intake screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing residents for risk of being sexually abusive.

See section (d) response.

**115.241 (f)**

Within a set time period, not to exceed 30 days from the resident's arrival at the facility, the facility will reassess the resident's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.

Residents reassessment for risk of victimization and abusiveness were completed within 30 days of the resident's arrival or when even warranted.

See section (a) response.

**115.41 (g)**

A resident's risk level shall be reassessed when warranted due to referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness.

Policy requires within 30 days of transfer, the classification caseworker/CPS reassess the resident's risk of victimization or abusiveness based upon any additional, relevant information received since the residents' transfer. In additional, relevant information has been received, the classification caseworker assesses the resident's risk using the automated PREA screening instrument. If no additional, relevant information has been received, the classification caseworker indicated that on the automated PREA Due List.

See section (a and f) response.

**115.241 (h)**

Residents may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (d-1, 7, 8, 9) of this section.

A memo from the director of Nursing for the SCDC dated 7/03/19 gives the Health Services – HCA-HN staff written guidance on the following PREA issues:

- Questions contained in the risk screening instrument are private and confidential, however,
- Medical and mental health professionals are required to report any allegation of sexual abuse / harassment that took place in SCDC facility.



- Unless precluded by law medical and mental health professionals are required to report sexual abuse and to inform resident of the limits of confidentiality at the initiation of services.
- A resident is not required to answer any questions on the risk assessment instrument and there will be no punishment for refusing.

**Interviewed Specialized Staff:** The facility compliance manager indicated that the facility would not discipline a resident for refusing to answer and questions or for not disclosing information.

### 115.241 (i)

The agency shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard to ensure that sensitive information is not exploited to the resident's detriment by staff or other residents.

**Interviewed Specialized Staff:** The facility PREA compliance manager indicated that the facility has implemented appropriate controls to monitor the dissemination of sensitive information within the facility. Resident information is safeguarded by limiting access based on the role staff plays in the offender management process. Electronic access to protected confidential and physical files is limited by password protection system.

## Standard 115.242: Use of screening information

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

#### 115.242 (a)

- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents 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 § 115.241, with the goal of keeping separate those residents 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 § 115.241, with the goal of keeping separate those residents 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 § 115.241, with the goal of keeping separate those residents 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 § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Program Assignments?  Yes  No

**115.242 (b)**

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

**115.242 (c)**

- When deciding whether to assign a transgender or intersex resident to a facility for male or female residents, does the agency consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether a placement would present management or security problems (NOTE: if an agency by policy or practice assigns residents 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 residents, does the agency consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether a placement would present management or security problems?  Yes  No

**115.242 (d)**

- Are each transgender or intersex resident'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

**115.242 (e)**

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

**115.242 (f)**

- 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 residents, does the agency always refrain from placing: lesbian, gay, and bisexual residents 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 residents 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 residents, does the agency always refrain from placing: transgender residents 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 residents 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 residents, does the agency always refrain from placing intersex residents 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 residents 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.*

**Documentation**

- SCDC Form 18-79 PREA Screening Checklist
- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Policy GA-06.09 Care and Custody of Transgender Inmates and Inmates Diagnosed with Gender Dysphoria
- SCDC Policy OP-21.04 Inmate Classification Plan
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews
- Inmate Interviews

**115.242 (a)**

The agency shall use information from the risk screening required by standard 115.241 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive.

According to the SCDC's Notable Milestones, the PREA Risk Screening now has added features such as a "List Menu" with dropdown categories added to include:

- "Initial Assessment List"
- "Reassessment List"
- Location Search to provide staff with information regarding a certain dorm and if a certain category of resident is housed there.
- "One-to-One Compatibility Search" which is a very useful tool whereby staff can input two resident SCDC numbers to determine if two residents can safely be housed together.
- A search tool that lets staff know where vulnerable residents are currently housed to include dorm, room and bunk information.

These features further enhance the commitment to provide safe housing, bed, and programming/educational assignments to the residents at each institution.

The auditor requested that the agency PREA coordinator give a demonstration of these functions. The request was honored. This is a good computerized system.

**Interviewed Specialized Staff:** Staff perform PREA Screening for Risk of Victimization indicated the following during their interview.

How does the agency/facility use information from the risk screening during intake to keep residents safe from being sexually victimized or from being sexually abusive? Response: MRWRC will use the assessment to help determine housing, bed assignments, programming, and work assignments. After the reassessment by classification the facility will reassess the residents risk using the PREA screening checklist.

#### **115.242 (b)**

The agency shall make individualized determinations about how to ensure the safety of each resident.

Policy requires information from the risk screening instrument are considered when making housing, work, education, and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, and ensuring that determination about how to ensure the safety of each resident is individualized.

#### **115.242 (c)**

In deciding whether to assign a transgender or intersex resident to a facility for male or female residents, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the residents health and safety, and whether the placement would present management or security problems.

SCDC policy require the use of a screening instrument to determine proper housing, bed assignment, work assignment, education and other program assignments, with the goal of keeping residents at a high risk of being sexually abused/sexually harassed separate from those residents who are at a high risk of being sexually abusive.

Policy requires that the initial housing of LGBTI residents: Lesbian, gay, bisexual, transgender, or intersex residents; is not housed solely based on their identification unless placed for the purpose of protecting the resident.

SCDC Policy GA-06.09 Care and Custody of Transgender Residents and Residents Diagnosed with Gender Dysphoria, Section 3. Housing of Transgender Residents and Residents Diagnosed with Gender Dysphoria 3.1 states, in deciding whether to house transgender resident and residents with gender dysphoria in a facility for male or females, and in making other housing decisions (bathroom and shower access) and programming assignments, the Multidisciplinary Management and Treatment Team will consult with the Division of Operations as well as central Classifications to create a plan with a reasonable outcome for the resident and institution as a whole. Safety concerns will be considered.

Policy GA-06.9 section 3.2 states, the following factors, along with 3.1 above, must be given serious consideration in making housing and placement decisions:

- The resident's views with respect to safety.
- The resident's expressed gender identity.
- The resident's current gender expression.
- The resident's vulnerability to victimization.
- The likelihood that the Resident will perpetrate abuse.
- Facility considerations such as staffing patterns layout, and resident population.
- Length of sentence.

**Interviewed Specialized Staff:** Staff perform PREA Screening for Risk of Victimization indicated the following during their interview.

Are a transgender or intersex resident's own view of his or her own safety given serious consideration in placement and programming assignments? Response: Yes, if MRWRC were to receive a transgender/intersex resident they will have their own perceptions of safety and housing documented and considered on a case-by-case basis.

#### **115.242 (d)**

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.

Policy requires placement and program assignment of transgender and intersex residents are reassessed every six months to review any threats to safety experienced by the resident.

See section (a-d) response.

**115.242 (e)**

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

Policy Number: OP-21.04 section 5.1.1 – requires that on a case by case basis, the Gender Dysphoria Multi-Disciplinary Team determine whether to assign a transgender or intersex resident to an institution for male or female residents. The placement decision is based on the residents' own views with respect to his or her health and safety, and whether the decision will present a management or security problem.

See section (d) response.

**115.242 (f)**

Transgender and intersex residents shall be given the opportunity to shower separately from other residents.

**Interviewed Specialized Staff:** Staff perform PREA screening for risk of victimization indicated the following during their interview.

MRWRC doesn't have any transgender resident's yet, however, the resident will be given the opportunity to shower separately from the other residents.

The shower locations were observed during the facility tour.

**115.242 (g)**

The agency shall not place lesbian, gay, bisexual, transgender, or intersex residents in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such residents.

Policy requires that the initial housing of LGBTI Residents: Lesbian, gay, bisexual, transgender, or intersex residents is not housed solely based on their identification unless placed for the purpose of protecting the resident.

SCDC Policy GA-06.09 The Multidisciplinary Management and Treatment Team, Section 2.1 states, the Multidisciplinary Management and Treatment Team will, on a case-by-case basis, create individualized accommodation plans that will provide for all medically necessary treatment, including personal adjustment and housing needs as well search preferences, where deemed medically necessary. These individualized accommodation plans will be documented on SCDC Form M-207, *Multidisciplinary Accommodation Plan*.

Policy GA-06.09 2.2 states, The Multidisciplinary Management and Treatment Team will be made up of the following:

- Division director of Behavioral/Mental Health & Substance Abuse Services.
- Assistant deputy director of Nursing.
- Chief medical doctor.
- Deputy director of Health Services or designee.
- Chief psychiatrist or designee.
- Primary care clinician (s) assigned to work with the offender, where appropriate.
- PREA coordinator
- Deputy director of Operations or designee.
- Deputy director of Legal and Compliance or designee, and
- Division director of Classification and Resident Records or designee.

**Interviewed Classification Staff Who Perform PREA Screening:** Housing and program assignments are made on a case-by-case basis and residents are not placed in housing units based solely on their sexual identification or status.

## REPORTING

### Standard 115.251: Resident reporting

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

#### 115.251 (a)

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

#### 115.251 (b)

- Does the agency also provide at least one way for residents 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 resident reports of sexual abuse and sexual harassment to agency officials?  Yes  No
- Does that private entity or office allow the resident to remain anonymous upon request?  
 Yes  No

### 115.251 (c)

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

### 115.251 (d)

- Does the agency provide a method for staff to privately report sexual abuse and sexual harassment of residents?  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.*

### Documentation

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Policy Number: GA 01.07 Access to the General Counsel
- SCDC Policy GA-01.12 Inmate Grievance System
- SCDC Policy PS-10.08 Inmate Correspondence Privileges
- PREA Zero Tolerance Policy Poster (English and Spanish)
- MOU for Outside Resident Reporting
- Inmate Handbook /Let's Talk About Safety - English and Spanish)
- Braille – English and Spanish
- SCDC School for the Deaf and the Blind



- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews
- Inmate Interviews

### 115.251 (a)

The agency shall provide multiple internal ways for residents to privately report sexual abuse and sexual harassment, retaliation, by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.

The South Carolina Department of Corrections Policy Number: OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment Section 3 – Provides that residents incarcerated in an SCDC facility may report any act of sexual abuse by calling \*22, and/or by written or verbal reports to any agency staff member, contract employee, volunteer, or the Division of Investigations, or SLED (address provided).

The resident can file a written report without giving his/her name or the name of the abuser (s). This information could also include an assault that occurred at any Correctional Facility, Detention Center, County Facility or while under community supervision, prior to or during his/her commitment to the SCDC.

Residents can report PREA related allegations in the following ways:

- File a grievance
- File a report to investigations using a facility kiosk
- Request to visit medical and ask for help
- Ask a lawyer, a friend, or family member to request help
- Dial \*22 or \*63 from any resident phone located each living units (PREA reporting line set up by the SCDC to leave a message regarding any violation in the facility).
- Call Sexual Assault Hotline

**Interviewed Random Staff:** Fifteen (15) out of fifteen (15) staff reported that they have multiple means to privately report sexual abuse or sexual harassment, such reporting opportunities included notifying the shift supervisor and completing an incident report. One hundred percent of the staff stated that residents can report sexual abuse and sexual harassment by calling the PREA hotline \*22, \*63 or through the kiosk or their tablet. All staff stated that residents can report sexual abuse verbally, in writing, anonymously and through third parties.

Staff reported that verbal report would be documented on an incident report. Such documentation will be completed before the end of the shift.

**Interviewed Random Residents:** Twenty-six interviewed residents stated that they had multiple ways to report. Most of the resident reported that they could communicate with staff, file a grievance report, or tell family. All 26 residents indicated that they could report sexual abuse

or harassment to someone who does not work at the facility. Several residents reported they could make a report without providing their name. All 26 residents were aware of the kiosk, tablet or PREA hotline (\*22) and the mailing address, which they noticed was posted in the unit. When probed about the posters on their unit with an outside number and address, they could call or write, all residents were aware of the posters as well as pamphlets.

### **115.251 (b)**

The agency shall also provide at least one way for residents to report abuse or harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to agency officials, allowing the resident to remain anonymous upon request.

The following are ways residents can report sexual abuse or sexual harassment to a public or private entity.

- Dialing \*63 on the resident phone. This call is not recorded, and the resident does not have to put in their resident Personal Identification Number (PIN) to make the call. The call goes to a Statewide Partnership with Sexual Assault Center that partnered with SCDC to provide these services. That center is the Sexual Trauma Services of the Midlands.
- By reporting to the Division of Investigations
- Resident Kiosk System
- Dialing \*22 reporting line set up by the SCDC to leave a message regarding any violation in the facility.
- By writing to South Carolina Law Enforcement Division (SLED); Anyone can write to SLED to make a report of sexual abuse inside a correctional institution in South Carolina and can choose to remain anonymous. If the resident has access to website, you can just click on the link and enter required information.
- Tell a friend or family member to use the SCDC Anonymous PREA Tips website
- Legal Counsel
- Grievance Process (Mail outside)

**Interview Specialized Staff:** The facility PREA compliance manager indicated that SCDC PREA policy states that residents can report sexual abuse or sexual harassment in many ways. They can report to any employee, volunteer, contractor, or third-party advocate. This can be done through verbal communication, writing, or calling the provided rape crisis center.

### 115.251 (c)

The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of residents.

**Interviewed Random Staff:** Indicated that they can privately report sexual abuse and sexual harassment of residents by using the SCDC Anonymous PREA Tips website or calling someone within the agency and calling an investigator.

#### **Corrective Action:**

**Concern:** During the facility tour the following resident reporting system (phone) was not operable.

1. Dorm: 1 phone \*22 and \*65 PREA lines did not work.

Facility Corrective Action: On September 17, 2020, Lt John Robinson conducted a check of the inmate phones in Ward 1 and found that all phones were operable for dialing \*22 and \*63. The facility submitted a copy of the incident report from Lt. John Robinson. Compliant.

## **Standard 115.252: Exhaustion of administrative remedies**

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

#### **115.252 (a)**

- Is the agency exempt from this standard? NOTE: The agency is exempt ONLY if it does not have administrative procedures to address resident grievances regarding sexual abuse. This does not mean the agency is exempt simply because a resident 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

#### **115.252 (b)**

- Does the agency permit residents 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 a resident 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

**115.252 (c)**

- Does the agency ensure that: A resident 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

**115.252 (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 residents in preparing any administrative appeal.) (N/A if agency is exempt from this standard.)  Yes  No  NA
- If the agency determines that the 90-day timeframe is insufficient to make an appropriate decision and claims an extension of time (the maximum allowable extension of time to respond is 70 days per 115.252(d)(3)), does the agency notify the resident 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 resident does not receive a response within the time allotted for reply, including any properly noticed extension, may a resident 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

**115.252 (e)**

- Are third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, permitted to assist residents 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 residents? (If a third-party files such a request on behalf of a resident, 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 resident declines to have the request processed on his or her behalf, does the agency document the resident's decision? (N/A if agency is exempt from this standard.)  Yes  No  NA

### 115.252 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that a resident 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 a resident 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 resident 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

### 115.252 (g)

- If the agency disciplines a resident for filing a grievance related to alleged sexual abuse, does it do so ONLY where the agency demonstrates that the resident 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.*

## **Documentation**

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Policy GA-01.12 Inmate Grievance System
- PREA Audit: Pre-Audit Questionnaire for Community
- Inmate Grievance Form
- Grievance Transferal Memorandum
- Total Number of Grievance Entry Log/All Past 12 Months 14: (1 was PREA Related)
- Staff Interviews
- Inmate Interviews

### **115.252 (a)**

An agency shall be exempt from this standard if it does not have administrative procedures to address resident grievances regarding sexual abuse.

The South Carolina Department of Corrections Policy Number: GA-01.12 Resident Grievance System section 15.1 meets the requirements of this standard.

Policy section 15.2.6 states that the resident grievance coordinator will not investigate allegations of a violation of PREA. A copy of any grievance alleging PREA violations will be provided to the PREA compliance manager within 24 hours of receipt for investigation and providing recommended responses to grievances. The PREA compliance manager will maintain a copy of the grievance and maintain a log of PREA allegations grievances.

### **115.252 (b)**

- The agency shall not impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse.
- The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege and incident of sexual abuse.
- The agency shall not require a resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.
- Nothing in this section shall restrict the agency's ability to defend against a resident lawsuit on the ground that applicable status of limitations has expired.

Policy 15.2.1 states, there will be no time frame for filing a grievance alleging sexual abuse. The resident will not be required to attempt any informal resolution.

SCDC permits residents to submit a grievance regarding an allegation of sexual abuse without any type of time limits. SCDC refrains from requiring a resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse and sexual harassment.

#### **115.252 (c)**

The agency shall ensure that:

- A resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint and
- Such grievance is not referred to a staff member who is the subject of the complaint.

The agency ensures that a resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint. Residents can submit grievance through a grievance box.

All grievances are picked up on a daily basis, during normal working hours, by an employee designated by the warden. All grievances are numbered and entered the automated system within three working days by an employee designated by the warden.

#### **115.252 (d)**

- The agency shall 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 period shall not include time consumed by residents in preparing any administrative appeal.
- The agency may claim an extension of time to respond, of up to 70 days, if the normal period for response is insufficient to make an appropriate decision. The agency shall notify the resident in writing of any such extension and provide a date by which a decision will be made.
- At any level of the administrative process, including the final level, if the resident does not receive a response within the time allotted for reply, including any properly noticed extension, the resident may consider the absence of a response to be a denial at that level.

Policy, GA-01.2, Resident Grievance System, requires facilities to 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 with a maximum allowable extension of time to respond of up to 70 days per 115.52 (b) when the normal time period for response is insufficient to make an appropriate decision.

Policy, GA-01.12, Resident Grievance System, indicates that at any level of the administrative process, including the final level, if the resident does not receive a response within the time allotted for reply, including any properly noticed extension, the resident may consider the absence of a response to be a denial at that level.

The auditor found this provision in compliance because policy requires a copy of any grievance alleging PREA violations to be provided to the PREA compliance manager within 24 hours of receipt for investigation and for providing recommended responses to grievances.

**PAQ:** The PAQ indicated that in the past 12 months, the number of grievances filed that alleged sexual abuse was one.

**PAQ:** The PAQ indicated that in the past 12 months, the number of grievances alleging sexual abuse that reached final decision within 90 days after being filed was zero.

**PAQ:** The PAQ indicated that in the past 12 months, the number of grievances alleging sexual abuse that involved extensions because final decision was not reached within 90 days was zero.

#### **115.252 (e)**

- Third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, shall be permitted to assist residents in filing request for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of residents.
- If a third-party file such a request on behalf of a resident, 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.
- If the resident declines to have the request processed on his or her behalf, the agency shall document the resident decision.

Policy, GA-01.12, Resident Grievance System, allows third parties to file a grievance on the behalf of a resident.

**Interviewed Specialized Staff:** The agency PREA coordinator indicated during his interview that third parties include individuals such as fellow residents, staff members, family members, attorneys, and outside advocates, are all permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse.



**PAQ:** The PAQ indicated that the number of grievances alleging sexual abuse filed by residents in the past 12 months in which the resident declined third-party assistance, containing documentation of the resident of the resident decision to decline was zero.

**115.252 (f)**

- The agency shall establish procedures for the filing of an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse.
- After receiving an emergency grievance alleging an resident is subject to a substantial risk of imminent sexual abuse, the agency shall 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, shall provide an initial response within 48 hours, and shall issue a final agency decision within 5 calendar days. The initial response and final agency decision shall document the agency's determination whether the resident is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

SCDC has established documented procedures for the filing of an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse.

**Interviewed Specialized Staff:** According to the agency PREA coordinator, after receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse, SCDC immediately would 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.

Policy, GA-01.12, Resident Grievance System, Section 15.2.4, states that if the resident files an emergency grievance showing substantial risk of imminent sexual abuse, the Agency shall immediately forward the grievance to the warden for response within 48 hours of receipt of the grievance and an Agency final decision shall be provided within five calendar days. Section 15.2.6. The resident grievance coordinator will not investigate allegations of a violation of PREA. A copy of any grievance alleging PREA violations will be provided to the PREA compliance manager within 24 hours of receipt for investigation and for providing recommended responses to grievances. The PREA compliance manager will maintain a copy of the grievance and maintain a log of PREA allegations grievances.

**PAQ:** The PAQ indicated that the number of emergency grievances alleging substantial risk of imminent sexual abuse that were filed in the past 12 months was zero.

**PAQ:** The PAQ indicated that the number of grievances alleging substantial risk of imminent sexual abuse filed in the past 12 months that reached final decisions within five days was zero.

### 115.252 (g)

The agency may discipline a resident for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the residents filed the grievance in bad faith.

Policy 15.25 states that the agency may discipline and resident for filing a grievance related to the alleged sexual abuse if there is evidence that the resident filed the grievance in bad faith.

See section (a) response.

**PAQ:** The PAQ indicated that in the past 12 months, the number of resident grievances alleging sexual abuse that resulted in disciplinary action by the agency against the resident for having filed the grievance in bad faith was zero.

## Standard 115.253: Resident access to outside confidential support services

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

#### 115.253 (a)

- Does the facility provide residents with access to outside victim advocates for emotional support services related to sexual abuse by giving residents 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 enable reasonable communication between residents and these organizations and agencies, in as confidential a manner as possible?  Yes  No

#### 115.253 (b)

- Does the facility inform residents, 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

#### 115.253 (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 residents 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.*

### **Documentation**

- SCDC MOU with the Statewide Partnerships with Sexual Assault Centers (The Sexual Trauma Services)
- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Policy PS-10.08 Inmate Correspondence Privileges
- Inmate Handbook (English and Spanish)
- PREA Line: Dialing \*63 or \*22 on the Inmate Phone (No PIN)
- Anonymous PREA TIPS (Inmates Call Family to Report)
- Investigations: Additional Information and Support Services (Notification/Dispositions)
- MOU with Sexual Trauma Services of the Midlands
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews
- Inmate Interviews

### **115.253 (a)**

The facility shall provide residents with access to outside victim advocates for emotional support services related to sexual abuse by giving residents mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and, for persons detained solely for civil immigration purposes, immigrant services agencies. The facility shall enable reasonable communication between residents and these organizations and agencies, in as confidential a manner as possible.

The South Carolina Department of Corrections website – Prison Rape Elimination Act (PREA) Statewide Partnerships with Sexual Assault Centers. Facilities are provided access to outside

victim advocates for emotional support services for residents related to sexual abuse whether it occurred in prison on or before they became incarcerated.

The Sexual Trauma Services of the Midlands services this facility.

- Dialing \*63 on the resident phone (this call is not recorded, and the resident does not have to put in their resident Personal Identification Number (PIN) to make the call). The call goes to a Statewide Partnership with Sexual Assault Center that partnered with SCDC to provide these services. Center: Sexual Trauma Services of the Midlands.

**Interviewed Random Residents:** Twenty-six residents interviewed were aware of services outside of the facility for dealing with sexual abuse. Residents were able to articulate the use of \*22 and \*63 hotline numbers and the address to file a report outside the facility. Resident were also familiar with South Carolina Law Enforcement Division (SLED).

#### **115.253 (b)**

The facility shall inform residents, 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.

See section (a) response.

#### **115.253 (c)**

The agency shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide residents with confidential emotional support services related to sexual abuse. The agency shall maintain copies of agreements or documentation showing attempts to enter into such agreements.

SCDC has a statewide partnership agreement with multiple sexual assault centers across the state. The 10 sexual assault centers provide hundreds of hours of support to victim of sexual assault, including individual face-to-face contacts, group sessions, written correspondence, and phone calls through toll-free hotline support.

The agency provided the auditor with a copy of the MOU with Sexual Trauma Services of the Midlands. SCDC intends to use the services of Sexual Trauma Services of the Midlands as a service provided to offer access to outside counseling services and support services to residents who are victims of sexual assault or abuse; increase incarcerated individual's knowledge and awareness as well as responsiveness to sexual assault and prevention strategies, and enhance training about sexual assault, trauma, and responsiveness among correctional officers and corrections staff. Justice Assistance Grant (No. 1GPR19001 awarded *October 1, 2019*).

## Standard 115.254: Third-party reporting

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

#### 115.254 (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 a resident?  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.*

### Documentation

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- MOU between SCDC and Statewide Partnership for Victim Services
- SCDC PREA Tip Line
- Inmate Handbook /Let's Talk About Safety - English and Spanish
- PREA Audit: Pre-Audit Questionnaire for Community
- SCDC Official Website (Third-Party Reporting)
- Staff Interviews
- Inmate Interviews

**115.254 (a)**

The agency shall establish a method to receive third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of a resident.

The auditor reviewed the SCDC website under the PREA section, it gives the public access to third-party reporting by writing to the South Carolina Law Enforcement Division (SLED) to make a report of sexual abuse inside a correctional institution in South Carolina and can choose to remain anonymous. If the public has access to website, they can just click on the link and enter required information.

A Tip line allows third-party reporters to indicate the date of the incident, location of the incident, type of incident and describe in details of the incident the third-party is reporting.

SCDC has established a reporting line that is housed at the headquarters of the Office of Investigations. This is a system in which an individual can leave a message, either by name or anonymously.

The message is then sent to the agency PREA coordinator who is responsible for distribution to the appropriate facility. This exact message is sent to the coordinator via email and he can listen to the exacted message.

Information on how to make a report is displayed on the SCDC website for anyone to access.

**OFFICIAL RESPONSE FOLLOWING A RESIDENT REPORT**

**Standard 115.261: Staff and agency reporting duties**

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

**115.261 (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 residents 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

### 115.261 (b)

- Apart from reporting to designated supervisors or officials, do 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

### 115.261 (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 residents of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services?  Yes  No

### 115.261 (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

### 115.261 (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.*

### Documentation

- SCDC Policy ADM-11.04 Employee Corrective Action
- SCDC Policy ADM-11.17 Employee Conduct

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Policy ADM-17.01 Employee Training Standards
- SCDC Policy POL-23.01 Investigation
- MOU Between South Carolina Law Enforcement Division (SCLED) and South Carolina Department of Correction (SCDOC)
- Investigation Reports -All Investigation for the Past Months (16)
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews
- Inmate Interviews

### **115.261 (a)**

The agency shall 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; retaliation against residents or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

The South Carolina Department of Corrections Policy Number: OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment, Section 3.2 states, any employee, volunteer, agency, or contractor of the agency who observes or receives information concerning sexual abuse, including threats of sexual abuse or a substantial risk of imminent sexual abuse, toward an resident and/or any person presently under the jurisdiction of the agency, must report it immediately.

SCDC Policy, HS-18.07, Resident Health Information, indicated that the agency is committed to upholding the confidentiality and privacy of a resident's medical history. Resident's medical history/record will be accessible to authorized SCDC personnel and others only for duly authorized purposes in accordance with applicable agency policies/procedures, American Correctional Association Standards, and State and Federal statutes.

**Interviewed Specialized Staff:** The medical staff indicated at the initiation of resident assessment the resident is informed of confidentiality rights and who in the investigation process that has been approved to take part or obtain information relating to the PREA incident in the facility (PREA compliance officer, Psychology, and Medical).

Medical staff was asked the following: Are you required to report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment to a designated supervisor or official immediately upon learning of it? Response: Yes, report it to warden, associate warden, Classification, Operations manager, Mental Health. The medical staff interviewed stated that she has been aware of PREA incidents and she reported them.



**Interviewed Random Staff:** One hundred percent of the 15 staff interviewed reported being conscious of the agency procedures for reporting any information related to a resident sexual abuse or sexual harassment. All staff could effectively communicate the proper protocol on how to report any incident or alleged incident of sexual abuse or harassment immediately. They are aware of various methods of reporting in writing or verbally to include but not limited to reporting to shift supervisor, notify facility PREA compliance manager and the agency PREA coordinator.

Staff failure to report such information will result in corrective action up to and including termination.

#### **115.261 (b)**

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, and other security and management decisions.

See section (a) response.

#### **115.261 (c)**

Unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to paragraph (a) of this section and to inform residents of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.

**Interviewed Staff:** The medical and mental health staff confirmed that they are required to inform residents of their professional duty to report sexual abuse, and the limitations of confidentiality, at the initiation of services.

A memo from the director of Nursing for the SCDC dated 7/03/19 gives the Health Services – HCA-HN staff written guidance on the following PREA issues:

- Questions contained in the risk screening instrument are private and confidential, however,
- Medical and mental health professionals are required to report any allegation of sexual abuse / harassment that took place in SCDC facility.
- Unless precluded by law medical and mental health professionals are required to report sexual abuse and to inform resident of the limits of confidentiality at the initiation of services.
- A resident is not required to answer any questions on the risk assessment instrument and there will be no punishment for refusing.
- Shall not reveal information related to incident except to designated supervisor.
- If 18 or considered a vulnerable adult will report allegations without consent.
- Report all allegation receive from a 3<sup>rd</sup> party or anonymous reports.

**115.261 (d)**

If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, the agency shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.

As a part of the medical and mental health training, confidentiality and informed consent were included. If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, the agency is required to report the allegations to the designates State or local services agency under applicable mandatory reporting laws.

**Interviewed Specialized Staff:** The facility warden indicated that the facility does not house resident under the age 18, however, if so, he will report along with vulnerable adults to mandatory reporting agencies.

**115.261 (e)**

The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility’s designated investigators.

See section (a & c) responses.

**Standard 115.262: Agency protection duties**

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

**115.262 (a)**

- When the agency learns that a resident is subject to a substantial risk of imminent sexual abuse, does it take immediate action to protect the resident?  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.*

## **Documentation**

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC, Policy, OP-22.23, Statewide Protective Custody
- SCDC Policy OP-21.04 Inmate Classification Plan
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews
- Inmate Interviews

### **115.262 (a)**

When an agency learns that a resident is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the resident.

**Interviewed Specialized Staff:** The agency head designee indicated that if there is a specific source of the imminent sexual abuse, the potential abuser will be relocated so that there is no contact between the potential victim and possible perpetrator during an investigation and afterwards, if the investigation supports the potential for sexual abuse. Potential victimization and potential perpetrator conduct are taken into consideration in all housing and work assignments. As a last resort, the potential victim may be housed in protective custody until an investigation can be conducted and potential abuser identified.

**Interviewed Specialized Staff:** The facility warden indicated that one of their responsibilities at the facility is to ensure the safety of the residents. Staff were clear that if they felt that a resident was in imminent danger, they would take steps to ensure the safety of the resident. The warden also indicated that he would take immediate action. The facility PREA compliance manager contacts him and the PREA coordinator and they would put the resident in a position where they are deemed safe or remove whomever is the threat.

**Interviewed Specialized Staff:** The facility PREA compliance manager indicated that one of their responsibilities at the facility is to ensure that safety of the residents. She was clear that if they felt that a resident was in imminent danger, they would take steps to ensure the safety of the resident.

Some actions that staff would take:

- Move the potential victim to another unit/building
- Move the potential abuse to another unit/building
- Request for the resident to be transfer

- Request for the resident to be placed in protected custody

**Interviewed Random Staff:** All the interviewed staff could articulate the response process if a resident is at risk of imminent sexual abuse. The staff reported that action is taken immediately to address a resident who is at risk of sexual abuse by privately talking to the person who may be at risk, immediately notifying the supervisor, separating the victim and perpetrator. Staff reported that information would only be shared with necessary parties. More specifically, staff described not sharing information with other residents or unnecessary staff.

**PAQ:** The PAQ indicated that in the past 12 months, the number of times the agency or facility determined that a resident was subject to a substantial risk of imminent sexual abuse was zero.

## Standard 115.263: Reporting to other confinement facilities

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

#### 115.263 (a)

- Upon receiving an allegation that a resident 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

#### 115.263 (b)

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

#### 115.263 (c)

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

#### 115.263 (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.*

## **Documentation**

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- Notifications/Allegations Received for Other Facilities Past 12 Months (1)
- Notifications/Allegations Sent to Other Facilities Past 12 Months (0)
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews
- Inmate Interviews

### **115.263 (a)**

Upon receiving an allegation that a resident was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.

Policy requires that any resident allegation of sexual abuse occurring while confined at another facility be reported to the warden of the facility where the alleged abuse occurred, within 72 hours of receipt of the allegation.

The auditor reviewed documentation regarding a PREA complaint forwarded to Manning from Lexington County Sheriff's Department filed on Tuesday, 4/04/20. On 4/06/20 there was a request to investigate the inmate's allegations and to open a case and assign an agent. On 4/06/20 the agency PREA coordinator sent an email to associate warden at Manning regarding the warden to warden notification received from Lexington County Detention Center. As of 8/23/20, this case is still pending.

**Interviewed Specialized Staff:** The agency head designee indicated that allegations received from another agency or facility are referred to the agency PREA coordinator as the central point of contact.

The agency head designee also indicated that the PREA coordinator reviews the allegation and refers it either to the institutional PREA compliance manager for documentation that might exist and for administrative investigation if the allegation warrants an administrative investigation or Police Services if a criminal investigation is necessary.

**Interviewed Specialized Staff:** The warden indicated that he is notified immediately, and a response is sent to the other facility within 72 hours. The agency PREA coordinator is notified,

and if it is an abuse case, Police Services investigates. If it is a sexual harassment case, the facility PREA compliance manager oversees the administrative investigation.

**115.263 (b)**

Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.

See section (a) response.

**115.263 (c)**

The agency shall document that it has provided such notification.

See section (a) response.

**115.263 (d)**

The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.

See section (a) response.

**PAQ:** The PAQ indicated that in the past 12 months, the number of allegations of sexual abuse the facility received from other facilities was one.

**Standard 115.264: Staff first responder duties**

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

**115.264 (a)**

- Upon learning of an allegation that a resident 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 a resident 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 a resident 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 a resident 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

### 115.264 (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.*

### Documentation

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Form Sexual Abuse Response Checklist
- SCDC Form 19-29 Incident Report
- SCDC Form Sexual Abuse Response Protocol
- SCDC Policy ADM-17.01 Employee Training Standards
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews

### 115.264 (a)

Upon learning of an allegation that a resident was sexually abused, the first security staff member to respond to the report shall be required to:

- Separate the alleged victim and abuser.
- Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence.
- If the abuse occurred within a time period that still allows for the collection of physical evidence, 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; and
- If the abuse occurred within a time period that still allows for the collection of physical evidence, 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.

Policy Number: OP-21.12 Attachment A – SCDC Sexual Abuse Response Checklist and Attachment B SCDC Sexual Abuse Response Protocol, give guidelines to staff that have a duty to respond rapidly, professionally, and thoroughly when a resident has been sexually victimized.

Policy also requires if there is an instance of suspected or actual sexual abuse/victimization the security staff first responder (s) must take the following initial steps:

- Identify and separate perpetrator and victim
- Immediately take the victim to Medical.
- Escort alleged resident perpetrator (s) to an isolated area, preferably in a dry cell with restricted access to a toilet or water.
- Notify shift supervisor, PREA compliance manager, warden, as well as Investigations.
- Isolate any witnesses.
- Secure the crime scene.
- Document all incidents promptly on SCDC Form 19-29, *Incident Report*; and
- Only share information related to the incident with those people who need to know to ensure the victim's safety, conduct the investigation, or provide treatment to the victim or alleged perpetrator.

**Interviewed Random Staff:** Interviews were conducted with 15 staff who was able to describe the actions they would take as a first responder to include but not limited to: separate the victim from the perpetrator, isolate/secure the scene and secure evidence, call for additional staff, and notify supervisor, notify medical, ensure and residents do not shower, brush teeth or eat.

**PAQ:** The PAQ indicated that in the past 12 months, the number of allegations that a resident was sexually abused was 16.



## 115.264 (b)

If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.

Policy Number: OP-21.12 Attachment A – SCDC Sexual Abuse Response Checklist and Attachment B SCDC Sexual Abuse Response Protocol gives guidelines to staff that have a duty to respond rapidly, professionally, and thoroughly when a resident has been sexually victimized. The guide gives requirements to the duties of the security and non-security staff.

See section (a) response.

## Standard 115.265: Coordinated response

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

### 115.265 (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.*

### Documentation

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended

- SCDC Form Sexual Abuse Response Checklist
- SCDC Form Sexual Abuse Response Protocol
- Written Institutional Plan
- Staff Interviews

**115.265 (a)**

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

Policy Number: OP-21.12 Attachment A – SCDC Sexual Abuse Response Checklist and Attachment B SCDC Sexual Abuse Response Protocol give guidelines to staff that have a duty to respond rapidly, professionally, and thoroughly when a resident has been sexually victimized.

The facility provided an institutional plan for addressing issues of sexual abuse and sexual harassment. The plan provides bullet points for the following areas to follow.

- Staff first responders
- Shift commander
- PREA compliance manager
- Medical staff
- Mental health staff

**Interviewed Specialized Staff:** The facility warden indicated that the facility has a plan to coordinate actions among staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse. It is a part of the facility staffing plan.

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

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

**115.266 (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 residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted?  Yes  No

**115.266 (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.*

## Documentation

- PREA Audit: Pre-Audit Questionnaire for Community
- Collective Bargaining Agreements (0)
- Staff Interviews

## 115.266 (a)

Neither the agency nor any other governmental entity responsible for collective bargaining on the agency's behalf shall enter into or renew any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with any residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

There are no current agreements that limit the agency's ability to remove alleged staff sexual abusers from contact with residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted. There have not been any collective bargaining agreements since 8/20/12.

**Interviewed Specialized Staff:** The agency head designee indicated that the agency does not have collective bargaining in South Carolina.

**Interviewed Specialized Staff:** The agency PREA coordinator indicated that there are no agreements that limit the agency's ability to remove alleged staff sexual abusers from contact with residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

## 115.266 (b)

Nothing in this standard shall restrict the entering into or renewal of agreement that govern:

- The conduct of the disciplinary process, if such agreements are not inconsistent with the provisions of standards 115.72 and 115.76; or
- Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.

**Interviewed Specialized Staff:** The facility PREA compliance manager indicated that there have not been any collective bargaining agreements since 8/20/12.

## Standard 115.267: Agency protection against retaliation

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

### 115.267 (a)

- Has the agency established a policy to protect all residents 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?  Yes  No
- Has the agency designated which staff members or departments are charged with monitoring retaliation?  Yes  No

### 115.267 (b)

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

### 115.267 (c)

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of residents or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by residents 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 residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents 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 resident 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 resident 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 resident 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

#### 115.267 (d)

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

#### 115.267 (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

#### 115.267 (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.*

### **Documentation**

- SCDC Policy Number: ADM 115.15 South Carolina Whistleblower Act Section, Retaliation Against an Employee for Filing a Report
- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- Documentation of Retaliation Monitoring Past 12 Months – Sexual Abuse Retaliation Monitoring Form (0)
- PREA Audit: Pre-Audit Questionnaire Community
- Staff Interviews

### **115.267 (a)**

The agency shall establish a policy to protect all residents 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, and shall designate which staff members or departments are charged with monitoring retaliation.

The South Carolina Department of Corrections Policy Number: OP-21.12 Section 4, states that no resident will be subjected to retaliation, reprisal, harassment, or disciplinary action by employees, volunteers, or other residents for reporting allegations or knowledge of sexual abuse against a resident. Residents may report retaliation using any of the procedures for reporting sexual abuse, as described in standard 115.33. Allegations of reprisal may also be investigated by the Inspector General or Division of Investigations.

Employees will not be subjected to any kind of retaliation for reporting of any wrongdoings. Refer to agency Policy/Procedure ADM-115.15, South Carolina Whistleblower Act.

The South Carolina Department of Corrections Policy Number: ADM-11.15 South Carolina Whistleblower Act Section 2, Retaliation Against an Employee for Filing a Report, states that any employee who files a validated and/or substantiated report of wrongdoing with an appropriate authority will not be dismissed, suspended, or demoted nor incur a reduction in pay, unless the corrective action taken is unrelated to the report of the wrongdoing.

**Interviewed Specialized Staff:** The facility warden indicated the different measures they can take to protect residents and staff from retaliations; the agency has a policy regarding retaliation. All resident victims are monitored by the facility PREA compliance manager for 90 following an investigation and is documented. If they do find there may be retaliation, they forward that to the PREA coordinator who reviews and sends it to Police Services or back to the PCM for an administrative investigation. Retaliations begins when the resident or staff alleges a PREA allegation. The facility associate wardens are responsibility for monitoring for retaliation.

According to the facility warden, contractors or volunteers are suspended from visiting the facility until the investigation is concluded. If found that the case is substantiated, then the persons is terminated from service and the division which utilized their service will notify any licensure office. If it was sexual abuse, they may be arrested and prosecuted by Police Services.

**PAQ:** The PAQ indicated that the number of times an incident of retaliation occurred in the past 12 months was zero.

#### **115.267 (b)**

The agency shall employ multiple protection measures, such as housing changes or transfers for resident victims or abusers, removal of alleged staff or resident abusers from contact with victims, and emotional support services for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

**Interviewed Specialized Staff:** The agency head designee indicated that the perpetrator is removed from areas that might allow contact with the victim of sexual harassment or sexual abuse. The PREA compliance manager consults with and conducts wellness checks with the victim for at least 90 days to ensure the victim is not subjected to retaliation.

The agency head designee also indicated that the same steps as outlined above are taken regarding individuals cooperating with an investigation.

#### **115.267 (c)**

For at least 90 days following a report of sexual abuse, the agency 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 see if there are changes that may suggest possible retaliation by residents or staff, and shall act promptly to remedy any such retaliation. Items the agency should monitor include any resident disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.

**Interviewed Staff:** The facility has not documented the required retaliation monitoring. Corrective action is recommended.

**115.267 (d)**

In the case of residents, such monitoring shall also include periodic status checks.

See section (d) response.

**115.267 (e)**

If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation.

The South Carolina Department of Corrections Policy Number: OP-21.12 Section 4, states that no resident will be subjected to retaliation, reprisal, harassment, or disciplinary action by employees, volunteers, or other residents for reporting allegations or knowledge of sexual abuse against a resident. Residents may report retaliation using any of the procedures for reporting sexual abuse, as described in standard 115.33. Allegations of reprisal may also be investigated by the Inspector General or Division of Investigations.

Employees will not be subjected to any kind of retaliation for reporting of any wrongdoings. Refer to agency Policy/Procedure ADM-115.15, South Carolina Whistleblower Act.

**115.267 (f)**

An agency's obligation to monitor shall terminate if the agency determines that the allegation is unfounded.

See section (a) response.

**Corrective Action:**

**Concern:** The standard requires the agency shall establish a policy to protect all residents 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 and shall designate which staff members or departments are charged with monitoring retaliation. The facility reported 16 PREA investigations, documentation needs to be provided.

Facility Correction Action: As of August 26, 2020, all reported 16 PREA investigation cases were either transferred or released. As of August 27, 2020, SCDC Form 19-182, Sexual Abuse Retaliation Monitoring, will be used to indicate any retaliation monitoring going forward. Compliant.



# INVESTIGATIONS

## Standard 115.271: Criminal and administrative agency investigations

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

### 115.271 (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 115.221(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 115.221(a).)  Yes  No  NA

### 115.271 (b)

- Where sexual abuse is alleged, does the agency use investigators who have received specialized training in sexual abuse investigations as required by 115.234?  Yes  No

### 115.271 (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

### 115.271 (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

### 115.271 (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 resident or staff?  Yes  No

- Does the agency investigate allegations of sexual abuse without requiring a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding?  Yes  No

#### 115.271 (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

#### 115.271 (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

#### 115.271 (h)

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

#### 115.271 (i)

- Does the agency retain all written reports referenced in 115.271(f) and (g) for as long as the alleged abuser is incarcerated or employed by the agency, plus five years?  Yes  No

#### 115.271 (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

#### 115.271 (k)

- Auditor is not required to audit this provision.

#### 115.271 (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 115.221(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.*

## Documentation

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Policy GA 05.01 Investigations and Procedures
- SCDC Form Sexual Abuse Response Protocol Checklist
- SCDC Form Sexual Abuse Response Protocol
- SCDC Policy POL-23.01 Investigation
- MOU Between South Carolina Law Enforcement Division (SCLED) and South Carolina Department of Correction (SCDOC)
- Pending PREA Investigations (1)
- Facility Investigator Training/NIC Certificates (1)
- Agency Investigator Training/NIC Certificates (5)
- List of Agency Investigators (45)
- Investigation Reports-All Investigation for the Past Months Packages (16)
- List of Cases Referred for Prosecution Past 12 Months (0)
- Sample Log of Investigation Retention
- Disposition of PREA Report/Victim Notification (16)
- Investigation Packages include:
  - Investigation Report (Division of Police Services)
  - Case Status Report (Division of Police Services – Regional Investigator)
  - Disposition of PREA Report
  - Letter to the PREA Coordinator
  - Email from the PREA Coordinator
  - Incident Report

- PREA Inmate Voluntary Statement
- Case Status Report (Division of Police Services – Regional Investigator)
- Incident Report Checklist for PREA Issues
  - Inmate Search Detail Report
  - Display Inmate Offense History
  - Classification Summary Reports
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews

### **115.271 (a)**

When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.

The South Carolina Department of Corrections Policy Number: OP-21.12 Prevention, Detention, and Response to Sexual Abuse/Sexual Harassment Section 6.1, states that all allegations of sexual abuse and sexual harassment, including threats and attempts, will be immediately and aggressively investigated. The Division of Investigations shall initiate the investigation, will notify South Carolina Law Enforcement Division (SLED) and the Inspector General's office when sexual misconduct by staff, contractors or volunteers is alleged, and will conduct an internal investigation in accordance with SCDC Policy and Procedure GA-05.01 Investigations.

**Interviewed Specialized Staff:** According to the assistant deputy director of Police Services, SCDC conducts its own investigations into allegations of sexual abuse and sexual harassment, and it does so promptly, thoroughly, and objectively. The agency conducts such investigations for all allegations, including third party and anonymous reports.

SCDC Police Services statewide has 45 investigators, who are Class 1 Police Officers. These investigators are assigned to a region in the state. Using a regional approach, the state is divided into four regions. Each region has five investigators assigned with one supervising manager for each respective region. Each region is tasked with the responsibility of performing a variety of types of investigations to include PREA investigations.

### **115.271 (b)**

Where sexual abuse is alleged, the agency shall use investigators who have received special training in sexual abuse investigations pursuant to standard 115.34.

The investigators are required to complete the NIC online PREA Specialized Investigations training. The NIC online training includes techniques for interviewing sexual abuse victim, proper use of Miranda and Garrity warning, etc. The facility provided a list of individuals that completed the PREA Specialized training and verification by submitting the certificates that were received at the completion of course.

## 115.271 (c)

Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any 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.

Policy Number: OP-21.12 section 6.2, states that collection of forensic and other physical evidence will be done in coordination with the facility's medical staff, the Division of Investigations and/or the South Carolina Law Enforcement Division.

Policy Number: OP-21.12 section 6.5 – Evidence/Security Procedures, requires if there is evidence that a sexual assault has occurred, the area will be treated as a possible crime scene and the following steps will be implemented immediately upon discovery:

- Identify and maintain the crime scene, preserve evidence, including on the victim's and alleged perpetrator's bodies or clothes, and maintain custody of evidence until released to law enforcement officials.
- Items shall not be cleaned or removed.
- Photos shall be taken of the suspected crime scene and any evidence.
- Allow only authorized personnel to enter the area.
- If the incident occurred within the last 5 days, request that the victim – and ensure that the alleged perpetrator (s) refrain from actions that could destroy evidence, such as bathing, brushing teeth, changing their clothes, urinating, defecating, drinking, or eating until they have been examined by qualified medical personnel.
- Ensure that any alleged staff, volunteer, or contractor perpetrators are immediately separated from contact with residents.
- For additional procedures, see the Sexual Abuse Response Protocol (Policy Number: OP-21.12 Attachment A – SCDC Sexual Abuse Response Checklist and Attachment B SCDC Sexual Abuse Response Protocol).

**Interviewed Specialized Staff:** The assistant deputy director of Police Services confirmed that investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data, interview alleged victims, suspected perpetrators, and witnesses, review prior reports and complaints of sexual abuse involving the suspected perpetrator, 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 resident or staff, investigate allegations of sexual abuse without requiring an resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding.

#### 115.271 (d)

When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

According to policy, if allegations of conduct that appears to be criminal are substantiated, referral will be made to the appropriate solicitor for prosecution. Additionally, staff will be subject to agency corrective action up to and including termination, and residents may be charged through the agency Disciplinary System.

On 3/07/20, staff was informed that an inmate alleged he was sexually assaulted while housed in a ward. The staff spoke to the inmate and according to the inmate he was carried from this living area to the shower where he was rape by several inmates. The inmate was escorted to medical who directed us to transport the inmate to PRMH. The PREA compliance manager was notified of the alleged incident to include all other appropriate personal. The inmate was returned to Manning at approximately 5:15PM.

The auditor reviewed the documents and the results of any sexual assault was unconfirmed by the PRMH. The inmate was placed in RHU pending an investigation and a mental health review.

Documentation from the Prism Health Richland indicted that on 3/07/20 the inmate received PCR/Molecular Testing and the results are available.

**Interviewed Specialized Staff:** The agency PREA coordinator indicated that the reasons why the cases involving the alleged rape is taken an extended period of time to close is due to DNA evidence that is collected being sent to the South Carolina Law Enforcement Division (SLED). SLED does the DNA checks that is submitted from the SCDC Police Services Division and or from the local hospitals regarding sexual abuse cases along with all other evidence needed for criminal cases from all over the state. The mass number of requests causes a backlog which extends the time needed to process cases.

**Interviewed Specialized Staff:** The deputy director of Police Services indicated that Police Services agents are trained investigators and are not required to consult with prosecutors before conducting interviews. The agency proceeds and consult with prosecutors if needed and they also have an attorney on staff with Police Services who provides guidance when necessary.

#### 115.271 (e)

The credibility of an alleged victim, suspect, or witness shall be assessed on an individual as is and shall not be determined by the person's status as resident or staff. No agency shall 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.

See section (c) response.

### **115.271 (f)**

#### Administrative Investigations:

- Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and
- Shall 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.

See documentation reviewed above.

### **115.271 (g)**

Criminal investigations shall be documented in a written report that contains a through description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.

Policy Number: OP-21.12 Section 9 Data Collection/Tracking: Case Records, requires that all case records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings and recommendations for post-release treatment and/or counseling are retained in accordance with OP.21.09, Resident Records and HS-18.07 Resident Health Information.

Policy section 5.5 – Evidence Protection; states that physical evidence in administrative cases will be maintained for sufficient analysis and presentation in subsequent hearing.

Criminal investigations were documented in a written report that contains a through description of the physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible. Substantiated allegations of conduct that appears to be criminal are referred for prosecution.

The investigation packages include:

- Disposition of PREA Report
- Letter to the PREA coordinator
- Email from the PREA coordinator
- Incident Report
- PREA Inmate Voluntary Statement
- Incident Report Checklist for PREA Issues
- Inmate Search Detail Report
- Display Inmate Offense History
- Classification Summary Reports
- Case Status Report (Division of Police Services – Regional Investigator)

### **115.271 (h)**

Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.

Policy requires that the Police Services or designee pursue criminal prosecution against any SCDC employee, resident, or visitor who participates in a criminal act. Prosecution will be pursued through the appropriate judicial officer, i.e., the State Attorney General Circuit Solicitor, Magistrate, or City Recorder, of the jurisdiction in which the crime occurred.

According to policy, if allegations of conduct that appears to be criminal are substantiated, referral will be made to the appropriate solicitor for prosecution. Additionally, staff will be subject to agency corrective action up to and including termination, and residents may be charged through the agency Disciplinary System.

### **115.271 (i)**

The agency shall retain all written reports referenced in paragraphs (f) and (g) of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

SCDC has a general investigative record retention schedule of physical destruction of seven years after adjudication or until the resident discharges from a sentence, dies while incarcerated, whichever comes first, the records can then be destroyed. The schedule has been corrected to meet standard requirements.

The South Carolina Department of Corrections Policy Number: HS-18.07 Resident Health Records section 10, requires that inactive health records will be maintained by the Central HR office in hard copy form for 25 years or on microfilm and/or on electronic media for 99 years.

**PAQ:** The reviewed Pre-Audit Questionnaire and interviews with the program director indicated there have been 16 allegations of sexual abuse in the past twelve months.

### **115.271 (j)**

The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.

See section above.

### **115.271 (k)**

Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.

**Interviewed Specialized Staff:** The facility investigator indicated that outside entity that conducts PREA investigations uses the above requirements.



## 115.271 (I)

When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

The South Carolina Department of Corrections Policy Number: POL-23.01 Investigations section 3.3, requires that a letter of agreement/memorandum of understanding will be developed and signed by the agency director and the chief of the State Law Enforcement Division (SLED) that delineates which allegations of potential criminal activity will be accepted for investigation by SLED. The deputy director of Policy Services will ensure that the provisions of this letter of agreement/memorandum of understanding are complied with by investigative personnel. In all cases that are investigated by SLED, Police Services and SCDC agents will be available to assist SLED, as needed.

A review of the MOU Between South Carolina Law Enforcement Division and the SCDC indicated that the MOU constitutes an agreement to establish guidelines relating to the investigation of criminal cases and the notification of certain events that occur on property controlled by SCDC.

Section 5.2 of the MOU includes any case that involves sexual assault of an SCDC employee or private citizen by a resident. Additionally, SLED will be the primary investigative agency as requested by the director of SCDC or the SCDC inspector general at his discretion.

**Interviewed Specialized Staff:** The deputy director of Police Services indicated in the event that this should happen, Police Services would still open a case as an assisting agency and assist the outside agency with the investigation, evidence collection, and interviews.

See section (a) response.

## Standard 115.272: Evidentiary standard for administrative investigations

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

#### 115.272 (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.*

### **Documentation**

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Policy GA 05.01 Investigations and Procedures
- SCDC Form Sexual Abuse Response Protocol Checklist
- SCDC Form Sexual Abuse Response Protocol
- SCDC Policy Number: OP 21.12 Section 9 Data Collection/Tracking
- SCDC Policy POL-23.01 Investigation
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews

### **115.272 (a)**

The agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

**Interviewed Specialized Staff:** The agency PREA coordinator was aware of the evidence standard.

**Interviewed Specialized Staff:** The deputy director of Police Services indicated that the evidence required to substantiate allegations of sexual abuse or sexual harassment is the preponderance of the evidence.

Interviewed staff indicated that investigators do not impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

## Standard 115.273: Reporting to residents

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

#### 115.273 (a)

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

#### 115.273 (b)

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

#### 115.273 (c)

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

#### 115.273 (d)

- Following a resident's allegation that he or she has been sexually abused by another resident, 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 a resident's allegation that he or she has been sexually abused by another resident, 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

#### 115.273 (e)

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

#### 115.273 (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.*

#### Documentation

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Policy POL-23.01 Investigation
- PREA Investigation Tracking Log
- Investigation Reports -All Investigation for the Past Months (16)
- Disposition of PREA Reports Past 12 Months /Victim Notifications (16)
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews

### 115.273 (a)

Following an investigation into a resident's allegation that he or she suffered sexual abuse in an agency facility, the agency shall inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

**Interviewed Specialized Staff:** The facility warden indicated that the facility notifies a resident who makes an allegation of sexual abuse when the allegation has been determined to be substantiated, unsubstantiated, or unfounded through the disposition process using the disposition form.

The Disposition of PREA Reports is the process use to notify residents of allegation that are investigated. In the past 12 months there were 16 victim notifications.

The Disposition of PREA Report covers the following information:

- Report Information
- Investigation Outcome
- Reported Sexual Abuse was...
- Reported Sexual Harassment was...
- Actions Taken Against Named Perpetrator
- Named victim would like a copy of this form for his/her personal records
- Signature of Victim
- Signature of PMC

See documentation reviewed above.

**PAQ:** The Pre-Audit Questionnaire indicated that the number of criminal and/or administrative investigations of alleged resident sexual abuse that were completed by the facility in the past 12 months was 16.

### 115.273 (b)

If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency to inform the resident.

See documentation reviewed above.

**PAQ:** The Pre-Audit Questionnaire indicated that the number of investigations of alleged resident sexual abuse in the agency's facility that were completed by an outside agency in the past 12 months was zero.

### 115.273 (c)

Following a resident's allegation that a staff member has committed sexual abuse against the resident, the agency shall subsequently inform the resident (unless the agency has determined that the allegation is unfounded) whenever:

- The staff member is no longer posted within the resident's unit.
- The staff member is no longer employed at the facility.
- The agency learns that the staff member has been indicated on a charge related to sexual abuse within the facility.
- The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

See sections above.

### 115.273 (d)

Following a resident's allegation that he or she has been sexually abused by another resident, the agency shall subsequently inform the alleged victim whenever:

- The agency learns that the alleged abuser has been indicated on a charge related to sexual abuse within the facility; or
- The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

See documentation reviewed above.

### 115.273 (e)

All such notifications or attempted notifications shall be documented.

**Interviewed Specialized Staff:** The deputy director of Police Services indicated that the responsibility of notifying the victim on the outcome of the investigations falls on the PREA compliance manager of the institution. Police Services has no procedure or policy that requires the investigators to notify the victim on the outcome, however, in most cases we do.

See section (a) response.

**PAQ:** The Pre-Audit Questionnaire indicated that in the past 12 months, the number of notifications to residents that were provided pursuant to this standard was 16.

### 115.273 (f)

An agency's obligation to report under this standard shall terminate if the resident is released from the agency's custody.

Interviewed staff indicated that if the resident is released from the agency's custody the facility will terminate.

## DISCIPLINE

### Standard 115.276: Disciplinary sanctions for staff

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

#### 115.276 (a)

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

#### 115.276 (b)

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

#### 115.276 (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

#### 115.276 (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.*

### **Documentation**

- SCDC Policy ADM-11.04 Employee Corrective Action
- SCDC Policy ADM-11.17 Employee Conduct
- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Policy ADM-11.34 Employee Inmate Relations
- SCDC Policy ADM-11.39 Staff Sexual Misconduct with Inmates
- SCDC Policy POL-23.01 Investigation
- Documentation of Termination, Resignations, other Sanctions Against Staff (0)
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews

### **115.276 (a)**

Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.

Policies ADM 11.17 Employee Conduct and ADM 11.04 Employee Corrective action were reviewed and cover the details for termination.

According to policy, if allegations of conduct that appears to be criminal are substantiated, referral will be made to the appropriate solicitor for prosecution. Additionally, staff will be subject to agency corrective action up to and including termination.

### **115.276 (b)**

Termination shall be the presumptive disciplinary sanction for those who have engaged in sexual abuse.

According to policy, if allegations of conduct that appears to be criminal are substantiated, referral will be made to the appropriate solicitor for prosecution. Additionally, staff will be subject to agency corrective action up to and including termination.



**PAQ:** The Pre-Audit Questionnaire indicated that in the past 12 months, the number of staff from the facility who have violated agency sexual abuse or sexual harassment policies was zero.

**PAQ:** The Pre-Audit Questionnaire indicated that in the past 12 months, the number of staff from the facility who have been terminated (or resigned prior to termination) for violating agency sexual abuse or sexual harassment policies was zero.

### **115.276 (c)**

Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall 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.

Through discussions with staff, violating agency sexual abuse and sexual harassment policies will be commensurate with past acts in the personnel files.

**PAQ:** The Pre-Audit Questionnaire indicated that in the past 12 months, the number of staff from the facility who has been disciplined, short of termination, for violation of agency sexual abuse or sexual harassment policies was zero.

### **115.276 (d)**

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, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

**Interviewed Specialized Staff:** The facility PREA compliance manager indicated that if staff or contractors are terminated for violating agency sexual abuse policy, that the State Law Enforcement Division (SLED) is the agency that will investigate.

**PAQ:** The Pre-Audit Questionnaire indicated in the past 12 months, the number of staff from the facility that have been reported to law enforcement or licensing boards following their termination (or resignation prior to termination) for violating agency sexual abuse or sexual harassment policies was zero.

## **Standard 115.277: Corrective action for contractors and volunteers**

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

### **115.277 (a)**

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with residents?  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

### 115.277 (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 residents?  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.*

### Documentation

- SCDC Policy PS-10.04 Volunteer Services Programs
- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- SCDC Policy ADM-11.39, Staff Sexual Misconduct with Inmates
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- Documentation of Termination, Resignations, other Sanctions Against Volunteers and Contractors (0)
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews

### 115.277 (a)

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.

**Interviewed Specialized Staff:** According to the facility warden, contractors or volunteers are suspended from visiting the facility until the investigation is concluded. If found that the case is substantiated, then the persons is terminated from service and the division which utilized their service will notify any licensure office. If it was sexual abuse, they may be arrested and prosecuted by Police Services.

**PAQ:** The Pre-Audit Questionnaire indicated in the past 12 months, the number of contractors or volunteers reported to law enforcement for engaging in sexual abuse of residents was zero.

### 115.277 (b)

The facility shall take appropriate remedial measures and shall consider whether to prohibit further contact with residents, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

See section (a) response.

## Standard 115.278: Interventions and disciplinary sanctions for residents

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

#### 115.278 (a)

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

#### 115.278 (b)

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

#### 115.278 (c)

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

#### 115.278 (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 resident to participate in such interventions as a condition of access to programming and other benefits?  Yes  No

#### 115.278 (e)

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

#### 115.278 (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

#### 115.278 (g)

- If the agency prohibits all sexual activity between residents, does the agency always refrain from considering non-coercive sexual activity between residents to be sexual abuse? (N/A if the agency does not prohibit all sexual activity between residents.)  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.*

#### Documentation

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South

Carolina Code of Laws, 1076) as amended

- SCDC Policy GA-01.12 Resident Grievance System
- SCDC Policy OP-21.04 Resident Classification Plan
- SCDC Policy OP-22.14 Resident Disciplinary System
- SCDC Policy POL-23.01 Investigation
- SCDC Form 19-29A
- SCDC Policy Number: HS 19.01 Placement of Residents in Mental Health Observation and Evaluation Status
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews

### **115.278 (a)**

Residents shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse.

According to policy, the resident has the right to refuse administrative resolution and request that the incident be referred to a disciplinary hearing, however, the hearing officer has the authority to levy additional sanctions and to take accrued good time if the residents is found guilty of the incident.

The South Carolina Department of Corrections Policy Number: OP 22.14 Resident Disciplinary System Section 7.1 and 7.2, states that residents will be served with notice of disciplinary charges at least 48 hours prior to their hearings, and should the resident refuse to sign SCDC Form 19-69, *Resident Disciplinary Report and Hearing Record*, he/she will forfeit the opportunity to request that their accuser and/or witness (s) be present at their scheduled hearing.

Policy also requires once the resident is formally charged (and entered the Offender Management System), the hearing will be held within 21 calendar days. SCDC Form 19-69, will be used to document the charges and the results of the hearing. The charges will be explained by the hearing officer to the resident in terms she/he can understand. Residents may not be subjected to any form of coercion designed to persuade them to waive their rights to 48-hour notice. If residents are offered the opportunity to waive the 48-hour notice, they must be fully informed, in terms understandable to them, of the nature of the right at stake. In addition, a resident may waive his/her right to a hearing, the hearing officer will review the waive section of the SCDC Form 19-69, conduct the hearing in the absence of the resident, determine guilt or innocence; if guilty, decide on appropriate penalties, and notify the resident of the same using SCDC Form 19-69. Should a resident refuse to sign a waiver and/or attend the hearing, the hearing will be held in the resident's absence and recorded.

**PAQ:** The Pre-Audit Questionnaire indicated in the past 12 months, the number of administrative findings of resident-on-resident sexual abuse was 16.

### 115.278 (b)

Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories.

**Interviewed Specialized Staff:** The warden indicated that disciplinary sanctions are residents subject to following an administrative or criminal finding are internal discipline, arrest, and or prosecution.

### 115.278 (c)

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, in any, should be imposed.

The South Carolina Department of Corrections Policy Number: OP-22.14 section 1.4, states that if the resident has a mental health issue noted on his/her MEDCLASS screen or is acting in such a manner that indicates a mental health concern, then a copy of SCDC Form 19-29A, "*Incident Report*" must be forwarded to the mental health staff. This referral must be documented on SCDC Form 19-29A. In these instances, a memorandum from the mental health care professional must be included as an attachment to SCDC Form 19-29A, attesting to the resident's mental status and accountability for his/her actions. Refer to SCDC Policy HS-19.01, Placement of residents in Mental Health Observation and Evaluation Status, for additional information).

**Interviewed Specialized Staff:** Medical indicated that a resident's mental disabilities or mental illness would be considered when determining the type of sanction, if any, should be imposed.

### 115.278 (d)

If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to require the offending resident to participate in such interventions as a condition of access to programming or other benefits.

**Interviewed Specialized Staff:** The medical staff indicated that counseling services are offered to the victim as well as the offender by psychologist assigned to the facility. She also stated that the services are offered but no form of programming is withheld if refusal for psychological services is submitted.

### 115.278 (e)

The agency may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

See section (d) response.

**115.278 (f)**

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 shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

Sexual abuse report made in good faith based upon a reasonable belief that the alleged conduct occurred will not constitute falsely reporting.

**115.278 (g)**

An agency may, in its discretion, prohibit all sexual activity between residents and may discipline residents for such activity. An agency may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

Agency policy prohibit all sexual activity between residents and may discipline residents for such activity.

**MEDICAL AND MENTAL CARE**

**Standard 115.282: Access to emergency medical and mental health services**

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

**115.282 (a)**

- Do resident 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

**115.282 (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 § 115.262?  Yes  No
- Do security staff first responders immediately notify the appropriate medical and mental health practitioners?  Yes  No

### 115.282 (c)

- Are resident 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

### 115.282 (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.*

### Documentation

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- SCDC Policy GA-06.09 Care and Custody of Transgender Inmates and Inmates Diagnosed with Gender Dysphoria
- SCDC Policy HS-19.04 Mental Health Services – General Provisions
- Mental Health Reception and Evaluation Flow Chart
- SCDC Policy Number: HS 18.15 Level of Care
- Documentation of Inmates Receiving Access to Emergency Medical Services PREA Only (1)
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews



### **115.282 (a)**

Resident victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.

A memo from the director of Nursing for the SCDC dated 7/03/19 gives the Health Services – HCA-HN staff written guidance on the following PREA issues:

- You may not use a resident interpreter – only staff or outside services.
- Resident must receive immediate, unimpeded access to emergency treatment and crisis intervention.
- If medical/mental health not on duty cases will be reported to the covering institution.
- Must provide information about emergency contraception and STD prophylaxis.
- There will be no financial cost to the resident.
- If female, she gets pregnant OB care will be provided.

A review of the nurse protocol document completed by medical indicated that copays are exempt with reason. The comment/requests to provider section indicated the reason for inmate visit to include date and time.

**Interviewed Specialized Staff:** The medical staff indicated yes; the residents are sent to medical for nursing assessment ASAP upon report of a PREA incident - the same day.

### **115.282 (b)**

If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim pursuant to standard 115.62 and shall immediately notify the appropriate medical and mental health practitioners.

See section (a) response.

### **115.282 (c)**

Resident 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.

**Interviewed Specialized Staff:** The medical staff indicated victims are scheduled to see the provider for STI and contraception in a timely manner.

See section (a) response.

### 115.282 (d)

Treatment services shall be 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.

See section (a) response.

## Standard 115.283: 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

### 115.283 (a)

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

### 115.283 (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

### 115.283 (c)

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

### 115.283 (d)

- Are resident 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 residents 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

### 115.283 (e)

- If pregnancy results from the conduct described in paragraph § 115.283(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 residents 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

### 115.283 (f)

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

### 115.283 (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

### 115.283 (h)

- Does the facility attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners?  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.*

### Documentation

- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Policy Number: HS 18.15 Level of Care
- SCDC Policy GA-06.09 Care and Custody of Transgender Inmates and Inmates Diagnosed with Gender Dysphoria
- SCDC Policy HS-19.04 Mental Health Services – General Provisions
- Mental Health Reception and Evaluation Flow Chart
- SCDC Policy Number: HS 18.13 Health Screening and Exams

- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews

### **115.283 (a)**

The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.

A memo from the director of nursing for the SCDC dated 7/03/19 gives the Health Services – HCA-HN staff written guidance on the following PREA issues:

- Resident will be offered medical and mental health evaluation and treatment.
- Will receive on going treatment needed with follow up services and referral for any outside care needed.
- Provide services consistent with community level of care.
- Vaginal penetration will be offered pregnancy test.
- If pregnancy results lawful pregnancy related services will be provided.
- STD testing will be offered as medically appropriate.
- Treatment will be provided at no financial cost regardless if victim names abuser or not.
- Victim and perpetrator will be followed by mental health.

The facility is a male facility.

**Interviewed Specialized Staff:** The medical staff indicated that the evaluation of residents includes interview, physical assessment by the nurse on duty and the provider, labs, medication, referral and counseling.

The services provided by the facility are consistent with the community level of care.

### **115.283 (b)**

The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or replacement in, other facilities, or their release from custody.

See section (a) response.

### **115.283 (c)**

The facility shall provide such victims with medical and mental health services consistent with the community level of care.

SCDC Policy Number: HS 18.15 Level of Care policy statement affirms that the agency is committed to providing medically necessary care to residents throughout their incarceration period. Services provided by agency medical staff will be in keeping with generally accepted

medical standards of the community and will be the most reasonable level of service available for the diagnosis, symptoms, and treatment of the medical condition.

See section (a) response.

**115.283 (d)**

Resident victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.

Manning is a male facility only.

**115.283 (e)**

If pregnancy results from the conduct described in paragraph (d) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.

See section (a) response.

**115.283 (f)**

Resident victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.

On 3/07/20, staff was informed that an inmate alleged he was sexually assaulted while housed in a ward. The staff spoke to the inmate and according to the inmate he was carried from this living area to the shower where he was rape by several inmates. The inmate was escorted to medical who directed us to transport the inmate to PRMH. The PREA compliance manager was notified of the alleged incident to include all other appropriate personal. The inmate was returned to Manning at approximately 5:15PM.

The auditor reviewed the documents and the results of any sexual assault was unconfirmed by the PRMH. The inmate was placed in RHU pending an investigation and a mental health review.

Documentation from the Prism Health Richland indicted that on 3/07/20 the inmate received PCR/Molecular Testing and the results are available.

**Interviewed Specialized Staff:** The agency PREA coordinator indicated that the reason why the case involving the alleged rape on 3/07/20 is taken an extended period of time to close is due to DNA evidence that is collected being sent to the South Carolina Law Enforcement Division (SLED). SLED does the DNA checks that is submitted from the SCDC Police Services Division and or from the local hospitals regarding sexual abuse cases along with all other evidence needed for criminal cases from all over the state. The mass number of requests causes a backlog which extends the time needed to process cases.

**115.283 (g)**

Treatment services shall be 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.

See section (a) response.

**115.283 (h)**

All facilities shall attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

See section (a) response.

**DATA COLLECTION AND REVIEW**

**Standard 115.286: Sexual abuse incident reviews**

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

**115.286 (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

**115.286 (b)**

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

**115.286 (c)**

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

**115.286 (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 §§ 115.286(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager?  Yes  No

#### 115.286 (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.*

#### Documentation

- Annual PREA Report – August 29, 2019
- Department of Justice SSV Reports
- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South

- Carolina Code of Laws, 1076) as amended
- SCDC Policy GA-04.01, Strategic Planning
  - SCDC Policy POL-23.01 Investigation
  - SCDC Policy POL-23.12 Case File Requirements
  - Facility Incidents /Log Past 12 Months
  - PREA Incident Reports Past 12 Months- All (16)
  - PREA Audit: Pre-Audit Questionnaire for Community
  - Review Incident Review /Team Meetings After Completing Investigations
  - Staff Interviews

### **115.286 (a)**

The facility shall 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.

According to the Agency PREA Coordinator, SCDC uses the following process:

Following the conclusion of each sexual abuse case, the closing documents are sent to Division Directors, Regional Directors, Wardens, and the Agency PREA Coordinators' Office where it is reviewed. After careful review, the PREA Coordinator's Office corresponds with the Institutional PREA Compliance Manager (PCM) and SCDC's Office of General Counsel to schedule an incident review with an SCDC attorney. All SCDC Attorneys are certified by the SC Bar Association to practice law in the State of South Carolina.

Once an incident review is scheduled, the incident review is then conducted by the Institutional PCM and the institution's management team with a representative attorney listening to the meeting. The incident review process is scripted and provided to the PCM on SCDC Form 19-183, "PREA Incident Review", to ensure all aspects of the standard.

It is SCDC's policy and practice, in accordance with SCDC Policy GA-06.11, "Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment," Section 3.5, requires that for every case of sexual abuse that is found to be either substantiated or unsubstantiated, the institution is required to hold an incident review for this case with an attorney from SCDC's Office of General Counsel. This requirement has been put in place to ensure that all legal aspects of the case are discussed and reviewed. In addition, should the attorney recognize any change (s) to policy, practice, safety issue, staff adjustment, or maintenance issue, etc., is needed, this information can be forwarded to and addressed by the appropriate staff. Once completed, the form is then placed into the case file.

**Interviewed Specialized Staff:** The warden indicated that the facility has sexual abuse incident review team. The team meets and reviews the case to determine if the facility needs any policy, procedure, or practice changes. The review team also considers the following when reviewing an investigation final report.



- 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, etc.
- Discuss the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may be needed.
- Assess the adequacy of staffing levels.
- Assess whether monitoring technology should be deployed.

The facility also looks at creating a corrective action plan if deemed necessary.

Interviewed staff indicated that the team considers all requirements from the standard, to include who, what, where, when, why, and how the event happened, how or if it could have been avoided, staffing levels, whether sexual orientation or gender identity had a part in it, was it gang related, and other information that is available.

**115.286 (b)**

Such review shall ordinarily occur within 30 days of the conclusion of the investigation.

The Review Team conducts the reviews within 30 days of the conclusion of the investigation.

**115.286 (c)**

The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners.

See section (a) response.

**115.286 (d)**

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 cause 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 but not necessarily limited to determinations made pursuant to paragraphs (d) of this section, and any recommendations for improvement and submit such report to the facility head and PREA compliance manager.

See section (a) response.

### 115.286 (e)

The facility shall implement the recommendations for improvement or shall document its reasons for not doing so.

Staff indicated that they would recommend improvement and document the reasons for not doing so.

## Standard 115.287: Data collection

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

#### 115.287 (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

#### 115.287 (b)

- Does the agency aggregate the incident-based sexual abuse data at least annually?  Yes  No

#### 115.287 (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

#### 115.287 (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

#### 115.287 (e)

- Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its residents? (N/A if agency does not contract for the confinement of its residents.)  Yes  No  NA

## 115.287 (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.*

### Documentation

- Annual PREA Report – August 29, 2019
- Department of Justice SSV Reports
- SCDC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Policy GA-04.01, Strategic Planning
- PREA Incident Reports Past 12 Months (16)
- Staffing Plan (Definitions)
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews

### 115.287 (a)

The agency 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 agency has uniform data collection, an Incident Report Form and a set of definitions based on the PREA standard 115.06 Definitions related to sexual abuse.

### **115.287 (b)**

The agency shall aggregate the incident-based sexual abuse data at least annually.

The agency 2019 Annual PREA Report, page 4, covered the Agency Aggregate Data. The report gives a breakdown of institutions with resident population numbers as of 12/31/18 as well as the 2018 Aggregated Allegations of Sexual Abuse/Sexual Harassment.

### **115.287 (c)**

The incident-based data collected shall 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.

The U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (BJS) is tasked with annual data collection responsibilities under PREA. The South Carolina Department of Corrections has collected the required data using the Survey of Sexual Violence (SSV) including administrative data reported to the Central Office. The SCDC website listed a link of SSV reports from 2006 through 2018 submitted to BJS.

### **115.287 (d)**

The agency shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

**Interviewed Staff:** The warden with staff indicated that the agency maintains, reviews, and collects the required data, including reports, investigation files, and sexual abuse incident reviews.

### **115.287 (e)**

The agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its residents.

The agency provided an Annual PREA Report Addendum dated 9/16/19 stating that the SCDC (private facility) contract with Core Civic for the housing of certain SCDC residents in confinement. Core Civic must also comply with the Federal PREA Standards. The Core Civic Safety – Tallahatchie County Correctional Facility.

### **115.287 (f)**

Upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

The U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (BJS) is tasked with annual data collection responsibilities under PREA. The South Carolina Department

of Corrections has collected the required data using the Survey of Sexual Violence (SSV) including administrative data reported to the Central Office. The SCDC website listed a links of SSV reports from 2006 through 2018 submitted to BJS.

Documentation review indicated that there was discussion regarding the statistics being provided by the Division of Resource and Information Management (RIM) does not match the information provided by the facilities to the PREA coordinator.

**Interviewed Specialized Staff:** The agency PREA coordinator indicated that in response to the above concern, he has implemented a new system for tracking the incidents of sexual abuse and sexual harassment. Each PCM is to provide this information monthly directly to the PREA coordinator's office. The PREA coordinator will then compile this information for the entire agency. The system will remain in place until RIM is able to develop an online reporting system for the entire agency that is accurate and can be verified. As of June 2020, this process is being followed.

## Standard 115.288: Data review for corrective action

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

#### 115.288 (a)

- Does the agency review data collected and aggregated pursuant to § 115.287 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 § 115.287 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 § 115.287 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

#### 115.288 (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

#### 115.288 (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

### 115.288 (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.*

### Documentation

- Annual PREA Report – August 29, 2019 (Correction Actions)
- SCDC Policy Number: HS 18.07 Inmate health Records
- DC Policy OP-21.12 Prevention, Detection, and Response to Sexual Abuse/Sexual Harassment
- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews

### 115.288 (a)

The agency shall review data collected and aggregated pursuant to standard 115.87 to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:

- Identifying problem areas.
- Taking corrective action on an ongoing basis.
- Preparing an annual report of its findings and corrective actions for each facility, as well as the agency.

The agency provided the auditor with a copy of the 2019 Annual PREA Report dated 8/29/19. A review of the report reveals that the agency has identified areas of concerns and provided corrective actions.

- The agency has identified areas of concerns
  - Physical Plant
  - Policy and Procedure
  - Video Monitoring
  - Documentation
  - Data Collection
  
- The agency has provided a corrective action list of the following:
  - Policy Review and Revisions
  - Grants
  - Physical Plant Improvements
  - Video Monitoring
  - Documentation
  - Data Collection
  - PREA Auditing
  - SLED Fingerprinting

Note: Details are listed in the SCDC 2019 Annual PREA Report.

The facility PREA compliance manager forwards data to the SCDC PREA coordinator. An annual report is prepared by the agency PREA coordinator and placed on the SCDC website after review and approval from upper management to the SCDC director.

**Interviewed Specialized Staff:** The agency head designee indicated that the agency reviews incident-based information relating to sexual abuse to analyze locations of abuse, the frequency with which offenders maybe identified as a perpetrator or victims, patterns within certain institutions, and the times and days of abuse. The information is used to determine locations for electronic surveillance equipment, facility renovation needs, staffing allocations within institutions, institutional training, and the need to take protective measure for specific residents.

### **115.288 (b)**

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

The agency provided the auditor with a copy of the Annual PREA Report dated 8/29/19. The auditor reviewed the following information within the report.

- Initiatives
- Areas of Concern
- Agency Aggregate Data
- 2018 Aggregated Allegations of Sexual Abuse/Sexual Harassment
- Comparison Data 2016 – 2018
- Definitions
- 2018 Data by Facility
- Corrective Actions
- Schedule of Audits

### 115.288 (c)

The agency's report shall be 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.

The Annual PREA Report (2019) was approved by the agency head and the chief legal and compliance officer on 5/05/19 and posted on the agency website. Note: Signatures on File.

**Interviewed Specialized Staff:** The agency head designee indicated that the deputy director of Legal and Compliance and the director of the South Carolina Department of Corrections review and approve written PREA annual reports. The annual reports are available on the agency website.

### 115.288 (d)

The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility but must indicate the nature of the material redacted.

A review of the Annual PREA Report (2019), the agency redacts specific material from the report that would present a threat to the safety and security of each facility. The report is published on the SCDC website.

## Standard 115.289: Data storage, publication, and destruction

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

#### 115.289 (a)

- Does the agency ensure that data collected pursuant to § 115.287 are securely retained?  
 Yes    No



### 115.289 (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

### 115.289 (c)

- Does the agency remove all personal identifiers before making aggregated sexual abuse data publicly available?  Yes  No

### 115.289 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.287 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.*

### Documentation

- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC POLICY Number: HS 18.07 Inmate Health Records
- Sample of Investigation Retention Log
- PREA Audit: Pre-Audit Questionnaire for Community
- Staff Interviews

### 115.289 (a)

The agency shall ensure that data collected pursuant to standard 115.87 are securely retained.

**Interviewed Specialized Staff:** The agency PREA coordinator indicated that he has implemented a new system for tracking the incidents of sexual abuse and sexual harassment. Each PCM is to provide this information monthly directly to the PREA coordinator's office. The PREA coordinator will then compile this information for the entire agency. The system will remain in place until RIM is able to develop an online reporting system for the entire agency that is accurate and can be verified. As of June 2020, this process is being followed.

**115.289 (b)**

The agency 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 or, if it does not have one, through other means.

The agency provided an Annual PREA Report Addendum dated 9/16/19 stating that the SCDC (private facility) contract with Core Civic for the housing of certain SCDC residents in confinement. Core Civic must also comply with the Federal PREA Standards. The Core Civic Safety – Tallahatchie County Correctional Facility.

The auditor reviewed the Core Civic 2018 PREA Annual Report. The report provides a review of the incident-based and aggregated data for calendar year 2018 and a comparison of aggregated data for calendar years 2015, 2016, 2017 and 2018. The report provides corrective actions developed to further reduce sexual abuse and sexual harassment within CoreCivic facilities.

A review of the South Carolina Department of Corrections 2019 PREA Annual Report and the Core Civic 2018 PREA Annual Report indicated that both reports are located on the internet.

**115.289 (c)**

Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers.

An interview with the agency PREA coordinator and review of the Annual Report indicated that all personal identifiers were removed.

**115.289 (d)**

The agency shall 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.

PREA requires that all investigation files are kept for the entire time of the incarceration of the resident plus five years. If the investigation is pertaining to an employee, the file must be kept for the length of employment plus five years. The retention policy to not meet the provision requirements.

Interviewed staff indicated that the record retention standard is determined in state statutes and would require the legislature to make a change to the state law. This is an area that the SCDC and Police Services do not have control over. This provision will be rated compliant with the understanding that the PREA coordinator explores options and recommendations to the South Carolina legislators to change state law.

The South Carolina Department of Corrections Policy Number: HS-18.07 Resident Health Records section 10,, requires that inactive health records will be maintained by the Central HR office in hard copy form for 25 years or on microfilm and/or on electronic media for 99 years.

## 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 residents?  Yes  No

#### 115.401 (n)

- Were residents 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.*

#### Documentation

- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Audits Schedule 2020 -2022
- SCDC 2019 Annual PREA Report

#### 115.401 (a)

During the three-year period starting on 8/20/13, and during each three-year period thereafter, the agency shall ensure that each facility operated by the agency, or a private organization on behalf of the agency, is audited at least once.

According to the SCDC website, there were no PREA audits conducted from 8/19/14 thru 8/20/17. As of June 2020, the agency has conducted three facility audits that received final reports listed on the website (June and July 2018).

To ensure SCDC continues on its path to full compliance with the Federal PREA standards, the Office of Legal and Compliance PREA staff, have implemented corrective actions to address all 21-agency facilities to receive a PREA audit every three years.

Compliant.

**115.401 (b)**

During each one-year period starting on 8/20/13, the agency shall ensure that at least one third of each facility type operated by the agency, or by a private organization on behalf of the agency, is audited.

According to the SCDC website, there were no PREA audits conducted from 8/19/14 thru 8/20/17. As of June 2020, the agency has conducted three facility audits that received final reports listed on the website (June and July 2018).

To ensure SCDC continues on its path to full compliance with the Federal PREA standards, the Office of Legal and Compliance PREA staff, has implemented corrective actions to address all 21-agency facilities to receive a PREA audit every three years.

Compliant.

**115.401 (c)**

The Department of Justice may send a recommendation to an agency for an expedited audit if the Department has reason to believe that a particular facility may be experiencing problems relating to sexual abuse. The recommendation may also include referrals to resources that may assist the agency with PREA related issues.

The agency has not received any recommendation for the Department of Justices for an expedited audit.

**115.401 (d)**

The Department of Justice shall develop and issue an audit instrument that will provide guidance on the conduct of and contents of the audit.

*The Prison Rape Elimination Act (PREA) Final Audit Report: Adult Prisons and Jails – Form V6* were implemented as required.

Compliant.

**115.401 (e)**

The agency shall bear the burden of demonstrating compliance with the standards.

The facility provided the required information to demonstrate compliance.

**115.401 (f)**

The auditor shall review all relevant agency-wide policies, procedures, reports, internal and external audits, and accreditation for each facility type.

The auditor uses a triangular approach, by connecting the PREA audit documentation, on-site observation, site review, facility practice, interviewed staff and residents, local and national advocates to make determinations for each standard. Each standard and/or provision of the PREA Standards is addressed and includes the documentation reviewed for each of them as well as the Pre-Audit Questionnaire, overall findings, and interview results.

**115.401 (g)**

The audits shall review, at a minimum, a sampling of relevant documents and other records and information for the most recent one-year period.

The agency/facility provided the required sampling information.

**115.401 (h)**

The auditor shall have access to, and shall observe, all areas of the audited facility.

Compliant.

**115.401 (i)**

The auditor shall be permitted to request and receive copies of any relevant documents (including electronically stored information).

The auditor received requested documentation.

**115.401 (j)**

The auditor shall retain and preserve all documentation relied upon in making audit determinations. Such documentation shall be provided to the Department of Justice upon request.

The facility documentation will be preserved and provided to the Department of Justice upon request.

**115.401 (k)**

The auditor shall interview a representative sample of residents, residents, and detainees, and of staff, supervisors, and administrators.

The auditor interviewed the required staff and residents, the sample sizes are noted in the report narrative.

**115.401 (l)**

The auditor shall be permitted to conduct private interviews with residents, residents, and detainees.

All required interviews were conducted in private.

**115.401 (m)**

Residents and detainees shall be permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.

Compliant.

**115.401 (n)**

Auditors shall attempt to communicate with community-based or victim advocates who may have insight into relevant conditions in the facility.

The auditor attempted to communicate with community-based and victim advocates, the results are listed in the report narrative.

Compliant.

**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. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY 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.*

### **Documentation**

- Prison Rape Elimination Act of 2003 (PREA, P.L. 108-79: Section 44-23-1150, South Carolina Code of Laws, 1076) as amended
- SCDC Audits Schedule 2020 -2022
- SCDC 2019 Annual PREA Report

#### **115.403 (a)**

Each audit shall include a certification by the auditor that no conflict of interest exists with respect to his or her ability to conduct an audit of the agency under review.

Compliant.

#### **115.403 (b)**

Audit reports shall state whether agency-wide policies and procedures comply with relevant PREA standards.

Compliant.

#### **115.403 (c)**

For each PREA standard, the auditor shall determine whether the audited facility reaches one of the following findings: Exceeds Standards, Meets Standards; Or Does Not Meet Standard. The audit summary shall indicate, among other things, the number of provisions the facility has achieved at each grade level.

Compliant.



**115.403 (d)**

Audit reports shall describe the methodology, sampling sizes, and basis for the auditor’s conclusions with regard to each standard provision for each audited facility and shall include recommendations for any required corrective action.

Compliant.

**115.403 (e)**

Auditor shall redact any personally identifiable resident or staff information from their reports but shall provide such information to the agency upon request, and may provide such information to the Department of Justice.

Compliant.

**115.403 (f)**

The agency shall ensure that the auditor’s final report is published on the agency’s website if it has on or is otherwise made readily available to the public.

Auditor request the final report to be published on the agency’s website or otherwise made readily available to the public.

<b>AUDITOR CERTIFICATION</b>
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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 resident or staff member, except where the names of administrative personnel are specifically requested in the report template.

## Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.<sup>1</sup> Auditors are not permitted to submit audit reports that have been scanned.<sup>2</sup> See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

Adam T. Barnett, Sr.

November 10,2020

**Auditor Signature**

**Date**

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<sup>1</sup> See additional instructions here: <https://support.office.com/en-us/article/Save-or-convert-to-PDF-d85416c5-7d77-4fd6-a216-6f4bf7c7c110>.

<sup>2</sup> See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.