

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

Interim       Final

Date of Report    12/6/18

### Auditor Information

Name: Dorothy Xanos	Email: dorothy.xanos@truecorebehavioral.com
Company Name: TrueCore Behavioral Solutions, LLC	
Mailing Address: P.O. Box 4068	City, State, Zip: Deerfield, Florida 33442
Telephone: (813) 918-1088	Date of Facility Visit: 10/22/18 – 10/25/18

### Agency Information

Name of Agency: Nebraska Department of Correctional Services		Governing Authority or Parent Agency (If Applicable): State of Nebraska	
Physical Address: Folsom & West Prospector Place Building 1,		City, State, Zip: Lincoln, NE 68509	
Mailing Address: P. O. Box 94661		City, State, Zip: Lincoln, NE 68509-4661	
Telephone: (402) 479-5119		Is Agency accredited by any organization? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
The Agency Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
	<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State <input type="checkbox"/> Federal

**Agency mission:** Keep people safe. NDCS has a statutory responsibility to keep safe people in the public, people who work for the agency, people who visit its prisons and the people living in its prisons. This is accomplished through sound incarceration practices and daily vigilance. Good security encompasses much more than counts, searches and locked doors. It includes providing opportunities for incarcerated individuals to change thinking and behavior. Those opportunities are facilitated by assessments, treatment, programming and comprehensive re-entry planning.

**Agency Website with PREA Information:** <http://corrections.nebraska.gov>

### Agency Chief Executive Officer

Name: Scott Frakes	Title: Director
Email: scott.frakes@nebraska.gov	Telephone: (402) 479-5623

### Agency-Wide PREA Coordinator

<b>Name:</b> Danielle Reynolds	<b>Title:</b> PREA Coordinator
<b>Email:</b> danielle.reynolds@nebraska.gov	<b>Telephone:</b> (402) 479-5660
<b>PREA Coordinator Reports to:</b> Mark Rumery	<b>Number of Compliance Managers who report to the PREA Coordinator</b> 10

**Facility Information**

<b>Name of Facility:</b> Tecumseh State Correctional Institution			
<b>Physical Address:</b> 2725 N. Hwy 50, Tecumseh, NE 68450			
<b>Mailing Address (if different than above):</b> PO Box 900, Tecumseh, NE 68450			
<b>Telephone Number:</b> (402) 335-5998			
<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
<b>Facility Type:</b>	<input type="checkbox"/> Jail	<input checked="" type="checkbox"/> Prison	

**Facility Mission:** The vision of Tecumseh State Correctional Institution (TSCI) is to demonstrate leadership through professionalism, diversity, communication and a team oriented work culture that values and supports all persons. The mission of TSCI is to provide a safe and secure living and working environment through open communication, integrity and a cooperative working relationship between staff and inmates.

**Facility Website with PREA Information:** <http://corrections.nebraska.gov>

**Warden/Superintendent**

<b>Name:</b> Brad Hansen	<b>Title:</b> Corrections Warden
<b>Email:</b> brad.hansen@nebraska.gov	<b>Telephone:</b> (402) 335-5104

**Facility PREA Compliance Manager**

<b>Name:</b> Luke Morris	<b>Title:</b> Corrections Captain
<b>Email:</b> rob.britten@nebraska.gov	<b>Telephone:</b> (402) 335-5116

**Facility Health Service Administrator**

<b>Name:</b> Sara Allen	<b>Title:</b> Director of Nursing
<b>Email:</b> sara.b.allen@nebraska.gov	<b>Telephone:</b> (402) 335-5140

**Facility Characteristics**

<b>Designated Facility Capacity:</b> 960	<b>Current Population of Facility:</b> 995
<b>Number of inmates admitted to facility during the past 12 months</b>	423

Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:		410	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:		420	
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:		0	
<b>Age Range of Population:</b>	<b>Youthful Inmates Under 18:</b> NA	<b>Adults:</b> 19-85	
<b>Are youthful inmates housed separately from the adult population?</b>		<input type="checkbox"/> Yes	<input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Number of youthful inmates housed at this facility during the past 12 months:		0	
Average length of stay or time under supervision:		3.2 years	
Facility security level/inmate custody levels:		Medium, Maximum & Inmates Sentenced to Death Penalty	
Number of staff currently employed by the facility who may have contact with inmates:		334	
Number of staff hired by the facility during the past 12 months who may have contact with inmates:		95	
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:		2	
<b>Physical Plant</b>			
<b>Number of Buildings:</b> 10		<b>Number of Single Cell Housing Units:</b> 2	
<b>Number of Multiple Occupancy Cell Housing Units:</b>		8	
<b>Number of Open Bay/Dorm Housing Units:</b>		0	
<b>Number of Segregation Cells (Administrative and Disciplinary):</b>		197	
<b>Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):</b>			
Video cameras and monitoring are located throughout the institution. Monitoring occurs in several locations with one dedicated station.			
<b>Medical</b>			
<b>Type of Medical Facility:</b>		Skilled Nursing. Medical Services are available during normal business hours, with on call nurses after hours.	
Forensic sexual assault medical exams are conducted at:		Bryan LGH West	
<b>Other</b>			
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:		100	
Number of investigators the agency currently employs to investigate allegations of sexual abuse:		113 Agency & 21 TSCI	

# Audit Findings

## Audit Narrative

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

The PREA audit of the Tecumseh State Correctional Institution (TSCI) was conducted on October 22-25, 2018 by Dorothy Xanos, US DOJ Dual Certified PREA Auditor. The audit begins with the notification of the on-site audit that was posted by September 10, 2018, six weeks prior to the date of the on-site audit. The facility's last PREA audit was on July 26-28, 2016. The posting of the notices were verified during the tour and verified by photographs received on the USB flash drive from the Nebraska Department of Correctional Services (NDCS)/PREA Coordinator (PC). The photographs indicated notices were posted in various locations throughout the facility including the administration building, multi-purpose/visitation area, medical area, three (3) housing units and special management unit (including death row). This auditor did not receive any communication from the staff but did receive two (2) letters from inmates as a result of the posted notices. The Pre-Audit Questionnaire, policies, procedures, and supporting documentation for all forty-three (43) standards were received by January 11, 2018. The documentation was uploaded to a USB flash drive and it was organized, highlighted and easy to navigate, however the information in regards to the Pre-Audit Questionnaire and supporting documentation did not sufficiently address ten (10) standards. The supporting documentation for the ten (10) standards was provided to this auditor during the on-site and after the on-site visit to the facility

A conference call was conducted prior to the site visit with the NDCS/PREA Coordinator to review the schedule and discuss the information to be sent to this auditor prior to the site visit. The NDCS/PREA Coordinator sent the documentation to this auditor prior to arrival to the facility. Also a number of supporting documents were provided during the on-site visit to address the deficiencies and are summarized in this report under the related standards.

The on-site audit was conducted on October 22-25, 2018. An entrance briefing was conducted with the Corrections Warden, Corrections Deputy Warden, Corrections Assistant Warden II, Corrections Unit Administrator, Corrections Captain/PREA Compliance Manager (PCM), Corrections Major, and NDCS/PREA Coordinator. During the entrance briefing, it was explained the audit process and a tentative schedule for four (4) days to include conducting interviews with the staff and inmates and reviewing the documentation. A complete guided tour of the entire facility was conducted including the gate house that leads to an secure underground tunnel to the administrative area, visitation area, inmate intake/release area, sally port area, program/support offices, academic area, pre-employment training areas, library and law library, religious area, dental and medical area, kitchen and dining area, canteen, gymnasium, laundry and storage areas, multi-purpose room, maintenance, warehouse, woodshop area, Cornhusker State Industries (laundry), barber shop, outdoor weight area, three (3) housing units and special management unit (including death row).

Also during the tour, inmates were observed to be under constant supervision of the staff while involved in various activities. The facility was clean and well maintained. Notification of the PREA audit was posted in all locations throughout the facility as well as postings informing inmates of the telephone numbers to call and report sexual abuse and harassment and to call the victim advocate for emotional

support services but the information was limited. This auditor reviewed the log books that contained PREA related documentation (unannounced rounds) and observed cameras and the video surveillance system which enhances their capabilities to assist in monitoring blind spots and the review of incidents. There were no cameras installed in the shower/toileting area so inmates are not seen on the surveillance system while showering or toileting, but can be viewed by male staff as they supervise the shower area. During the tour, it was observed that the shower/toilet areas in the male housing unit areas did allow for privacy.

During the four (4) day on-site visit, there were a total of nine hundred and ninety-eight (998) inmates in the facility. Fifty (50) inmates were randomly selected from all three (3) housing units and special management unit (including death row) with an inmate list provided by the Corrections Captain/PCM for the interview process. However, thirty-three (33) inmates were formally and informally interviewed and the other inmates declined to see this auditor. Also, one (1) of the housing units was in a lock down status. There were three (3) inmates who met two (2) of the identified categories from the required list of targeted inmate interviews. The required categories are inmates who identified as an inmate who is Limited English Proficient (LEP) and Lesbian, Gay or Bi-sexual, Transgender or Intersex. The facility did not have any other inmates identified in the other required categories i.e. inmate with a cognitive disability; youthful inmate; inmate in restricted housing for high risk of sexual victimization, physical disability (Blind, Deaf or Hard of Hearing), who reported sexual abuse, and who reported sexual victimization during risk screening. All inmate interviews indicated they were well informed of their right to be free from sexual abuse and sexual harassment and how to report sexual abuse and sexual harassment using several ways of communication such as trusted staff, administrative staff, the hot line and the grievance process.

The community victims' advocacy service and telephone number is available to the inmates located throughout the facility. There is evidence of NDCS Director obtaining a Memorandum of Understanding with the Nebraska Coalition to End Sexual & Domestic Violence dated 8/24/17 to provide free confidential crisis intervention and emotional support related to sexual abuse or assault inmates and any inmate seeking services calling the toll-free telephone number and forensic medical examinations at no financial cost to the victim. Bryan LGH West (SANE certified) provides the emergency services at no financial cost to the victim. Also, this auditor met with the Prison Advocacy Coordinator from the Coalition during the on-site visit. She indicated there have been no calls from inmates in the past twelve (12) months requesting emotional support services related to sexual abuse or assault.

Thirty-six (36) staff were formally interviewed including (18) staff from three (3) shifts (supervisory and floor staff), (3) medical and mental health staff, (1) first responder, (1) staff supervising restrictive housing, Corrections Warden, Corrections Captain/PREA Compliance Manager/staff charged with monitoring retaliation, (2) upper level management, chaplain, contracted personnel (nurse), human resources, facility investigator, (3) risk screening and intake staff, non-medical staff/cross gender and incident review team staff were interviewed during the four (4) days of the on-site visit and several days after the on-site visit. Additionally, interviews were conducted via telephone with the NDCS Director's representative (Deputy Director of Operations) and NDCS PREA Coordinator prior to the on-site visit. Overall, the interviews revealed the staff is knowledgeable of the PREA standards and were able to articulate their responsibilities and their mandated duty to report.

At the end of the fourth day, an exit briefing with a summary of the findings was conducted with the Corrections Warden, Corrections Deputy Warden, Corrections Captain/PREA Compliance Manager (PCM) and NDCS/PREA Coordinator. At the exit debriefing, it was discussed additional documentation was required for six (6) standards and it was determined this information would be sent to this auditor within the next three (3) weeks to be in compliance with all the PREA standards. The requested information was sent to this auditor by the NDCS/PREA Coordinator prior to the submission of this

report. This auditor reviewed all requested information and this facility is in full compliance with the PREA Standards.

## Facility Characteristics

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

Tecumseh State Correctional Institution (Tecumseh SCI) is a medium/maximum and sentenced death penalty security facility located on a 200 acre site in Tecumseh governed by the Nebraska Department of Correctional Services (NDCS). The facility was officially opened in December 2001 with an original design capacity of 1093 inmates. The current operating capacity of the facility is 960 inmate beds located in three (3) housing units and special management unit. Also, the facility is accredited through the American Correctional Association (ACA).

The prison's physical plant is comprised of ten (10) buildings surrounded by a perimeter security fence. The facility has a gate house that leads to a secure underground tunnel to the administrative area as well as an inner complex including a visiting area. There is an administrative area with offices and conference room, inmate intake/release area, sally port area, program/support offices, academic area, pre-employment training areas, (2) employee fitness rooms, library and law library, religious area, dental and medical area, kitchen and dining area, canteen, gymnasium, laundry and storage areas, multi-purpose room, maintenance, warehouse, woodshop area, Cornhusker State Industries (laundry), barber shop, tower, special management unit and housing units/wings. The housing units consisted of protective custody, substance abuse, general population, challenge program, mission based housing and special management unit (including death row). There is an outdoor fitness trail, basketball, handball courts, softball, soccer, flag football, horseshoe pit and weight pad located within the complex.

Tecumseh State Correctional Institution (TSCI) is staffed with three hundred and thirty-four (334) full-time, part-time and contracted employees including medical, mental health staff and various groups of volunteers providing religious services to inmates. The staff consisted of: Corrections Warden, Corrections Deputy Warden, Corrections Assistant Warden II, Corrections Unit Administrator, Corrections Captain/PREA Compliance Manager (PCM), Corrections Major, (3) Corrections Captains, Corrections Unit Administrator, (6) Corrections Lieutenants, (26) Corrections Sergeants, (141) Corrections Corporals, (14) Corrections Officers, Clinical Program Manager, (6) Corrections Unit Managers, (13) Corrections Unit Case Managers, (14) Corrections Unit Case Workers, Interpreter, Recreation Manager, (5) Recreation Specialists, Safety Specialist, Religious Coordinator, Corrections Librarian, (2) Training Specialist I, (18) medical and mental health staff, (4) chemical dependency staff, (4) educational staff, (65) other staff (accounting, administrative, food service, canteen, warehouse, maintenance and technology). The facility has two (2) employee fitness rooms which is part of their wellness program for their staff. Both fitness rooms are offered to staff at no cost and available 24 hours a day.

The medical staff both full-time and part-time providing services at the facility consisted of: Nurse Director, Nurse Supervisor (RN), (2) Registered Nurses (RN), (3) Licensed Practical Nurses (LPN) Medical Radiographer and Physician. Also, there are (18) contracted medical staff from two (2) agencies (TMS & Maxim). The licensed nurses provide nursing services on-site twenty-four (24) hours

a day, seven (7) days a week and an on-call Physician 24/7. A physician is at the facility five (5) days a week on a rotating basis to provide medical services for the inmates. All inmates are seen by a physician upon arrival to the facility. Additionally, all nurses are supervised by an on-site registered nurse supervisor who is responsible for coordination of the medical services. The medical staff provides medical care to include: completing the initial intake assessment, routine and additional lab work as ordered, STD testing and treatment as indicated, updating immunization records, seasonal flu vaccinations, routine eye exams (optical lab), dietary services and referrals, administration of medications/treatments as prescribed, assessments of inmate injuries and treatment as required, medical assessments and monitoring with any restraint or segregation, assessments of somatic health complaints with treatment as indicated, develop treatment plans and provide medical discharge plans. Dental services are provided two (2) days a week at the facility consisting of dental care, cleaning, education, and treatment fillings to extractions. The contracted dental staff consists of a dentist, dental assistant and a hygienist. All inmates are seen by the dental staff at least annually for a wellness check. Also, an optometrist and a physical therapist provide services at the facility one (1) day a week. Emergency services and forensic examinations are conducted at Byran LGH West. The facility has a ten (10) bed skilled nursing unit for long term geriatric inmates.

Tecumseh SCI's Mental Health department is comprised of (2) Psychologist, Mental Health Practitioner Supervisor, and five (5) Mental Health Practitioners. A contract Psychiatrist makes regular visits to the facility to assess inmates that may be in need of psychotropic medications. There is a licensed mental health staff on call 24 hours a day, 7 days a week to deal with any crisis that may arise. The mental health staff is available for crisis intervention and mental health programming. There are three (3) categories of inmates to receive programming from the mental health staff: Inmates with a major mental illness, inmates with a history of or convicted of sexual offenses/offenses with a sexual component and inmates convicted of/have a history of violent behavior. Treatment recommendations are based on clinically assessed risk and need. Other general population inmates may access services on an as needed basis.

The facility has a residential substance abuse treatment program that includes three (3) phases of programming. The staff consists of: Chemical Dependency Counselor Supervisor, (2) Chemical Dependency Counselor and Chemical Dependency Treatment Specialist. Phase 1: Recovery Issues and Criminal & Addictive Thinking I; Phase 2: Criminal & Addictive Thinking II, Relapse Prevention I and Phase 3: Relapse Prevention II, Special Issues/Pre-Release. Also, the inmates participate in ongoing individual and group counseling, parenting, as well as voluntary recreation.

Academic and vocational education is provided at the facility. Inmates are assigned a part-time job as a student through the Adult Education program which includes Adult Educational (AE) instruction for the GED test, Adult Basic Education (ABE), English Language Learners (ELL). Inmates 22 and under, who do not have a verified educational degree, are required to attend High School or Adult Education. Inmates can request to participate in "Destination Dads" parenting classes, "Seven Habits of Highly Successful People" class and "Financial Peace University" class. Canine Training Program, Inmate Health Porter Program trains and employs inmates to assist in meeting the medical care needs of inmates in the Skilled Nursing Facility.

Cornhusker State Industries (CSI) operates both a laundry and woodshop at the facility. Inmates launder for various hospitals and other prisons through the state. The woodshop produces furniture for government, school and non-profit organizations. Primary work assignments include CSI, Private Venture, food service, recreation, housing units, laundry or grounds crew. There are inmate maintenance crews assigned to each housing unit that is responsible for minor repairs, painting and general upkeep. Religious services are provided at the facility.

## Summary of Audit Findings

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

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

**Number of Standards Exceeded:** 2 (115.11 & 115.31)

**Number of Standards Met:** 41

**Number of Standards Not Met:** 0

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

## PREVENTION PLANNING

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

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

#### 115.11 (a)

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

#### 115.11 (b)

- Has the agency employed or designated an agency-wide PREA Coordinator?  Yes  No
- Is the PREA Coordinator position in the upper-level of the agency hierarchy?  Yes  No
- Does the PREA Coordinator have sufficient time and authority to develop, implement, and

oversee agency efforts to comply with the PREA standards in all of its facilities?  
 Yes  No

### 115.11 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 and Policy #200.02 (NDCS Agency: Administration, Organization and Management) revised 8/31/17 outlines how each facility implements its approach to preventing, detecting and responding to all approaches of sexual abuse and harassment, including the definitions of prohibited behaviors as well as sanctions for staff, contractors, volunteers and inmates who had violated those prohibitions. Additionally, the policy provided comprehensive guidelines and a training foundation for implementing each facility's approach to include the zero tolerance towards reducing and preventing sexual abuse and harassment of inmates. Tecumseh SCI's Operational Memorandum Policy #203.11.001 (Sexual Assault/Abuse) revised 3/31/18 reflects the facility's specification of how they will respond to sexual allegations and the notification procedures followed for reports of sexual allegations.

Nebraska Department of Correctional Services has a designated PREA Coordinator and she reports directly to the NDCS Security Administrator. The PREA Coordinator works statewide to implement the PREA Standards and indicated she has sufficient time and authority to develop, implement and oversee the agency's efforts toward PREA compliance of ten (10) facilities with the support of the Department. The PREA Coordinator is responsible for coordinating comprehensive PREA responses including technical and administrative guidance, creation of supporting policies and practices, interpretation relative to PREA implementation, design and modification of training, programming,

investigation and analysis, ensuring proper reporting, trend evaluation and provision of recommendations for improvement and compliance.

Tecumseh SCI's Corrections Captain is designated as their PREA Compliance Manager indicated that he has sufficient time, authority to develop, implement and to oversee the facility's PREA compliance efforts to comply with the PREA standards and perform other duties as assigned. The agency's, facility's organizational chart and memorandum support the requirement of this standard.

Based on the randomly selected and specialized staff and inmate interviews, the extensive staff training, the resources available to the facilities, it is evident, the executive administration has taken the PREA Standards to another level and it is reflected in their commitment to protecting the inmates in their care throughout the State of Nebraska. Also, during the tour of the facility, the observation of bulletin boards, posters, reviews of staff and inmate handbooks, training curriculums confirmed the facility's commitment and dedication to create a PREA compliant culture. The facility has PREA reference binders that are located in the housing units of the facility that contain the reporting process and forms for the facility staff in the event of an incident. Overall, this auditor has determined the agency and the facility have substantially exceeded the requirements of this standard based on the above information.

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

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

### **115.12 (a)**

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

### **115.12 (b)**

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

### **Auditor Overall Compliance Determination**

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

## Instructions for Overall Compliance Determination Narrative

*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.*

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 describes the contractors obligations to comply with all federal, state, and local laws, regulations and ordinances including the Prison Rape Elimination Act. NDCS has entered into/renewed seven (7) County Jail agreements for the confinement of inmates (committed felons and misdemeanants) in the past twelve (12) months and effective through June 30, 2019. An interview with the NDCS PREA Coordinator confirmed these County Jails are monitored on a scheduled basis by NDCS to ensure compliance with the PREA standards. A review of the contracted documentation indicated the contractor's obligations to adopt and comply with the PREA Standards. Therefore, based on the review of the agency policy and procedures, observations and information obtained through staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

## Standard 115.13: Supervision and monitoring

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

#### 115.13 (a)

- Does the agency ensure that each facility has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse?  Yes  No
- Does the agency ensure that each facility has documented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the generally accepted detention and correctional practices in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any judicial findings of inadequacy in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from Federal investigative agencies in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from internal or external oversight bodies in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No

- Does the agency ensure that each facility's staffing plan takes into consideration all components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated) in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the composition of the inmate population in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the number and placement of supervisory staff in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the institution programs occurring on a particular shift in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No  NA
- Does the agency ensure that each facility's staffing plan takes into consideration any applicable State or local laws, regulations, or standards in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No

#### 115.13 (b)

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

#### 115.13 (c)

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

### 115.13 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18; Policy #112.09 (Essential Staffing Continuum) revised 4/30/17; Tecumseh SCI's Policy #203.01.14 (Security and Control: Security Inspections, Use of Check Sheets and Permanent Logs) revised 9/30/18; Policy #111.01.03 (Sanitation & Hygiene: Inspection and Monitoring) revised 8/31/18; Post Order (Correctional Lieutenant); and Tecumseh SCI's (Facility Annual PREA Assessment) dated 1/24/18 contained the required information identifying requirements for the facility to develop a staffing plan to provide for departmental adequate staffing levels to ensure the safety and custody of inmates against sexual abuse or sexual harassment, physical plant, video monitoring, and addressed all eleven (11) categories as identified per the standard. Additionally, the policies contained information identifying the facility shall comply with staffing requirements including exigent circumstances and supervisory staff conducting unannounced rounds on a daily basis during all shifts documenting the information in staff tour logs and check sheets that contains observations of all areas of the facility.

NDCS's staff review, approve, and sign annual staffing plans for all facilities statewide. Tecumseh SCI's staffing plan was reviewed, approved, and signed on 1/24/18. Documentation indicated the staffing plan is reviewed on an annual basis and the facility does not have any deviations from the staffing plan during the past twelve (12) months, their critical positions are always filled, it is a mandate. This review shall assess, determine, and document whether adjustments are needed to the facility's established staffing plan, the facility's deployment of video monitoring systems and other monitoring technologies and the resources the facility has available to commit to ensure adherence to the staffing plan.

Identified the requirement of unannounced rounds to be conducted by an intermediate-level and higher-level supervisors and conduct these unannounced rounds on a daily basis. These unannounced rounds must be conducted during all shifts. Supervisors are prohibited from notifying staff of unannounced rounds. Staff assigned to any post is prohibited from alerting other employees that a Supervisor is conducting rounds to identify and deter sexual abuse and sexual harassment.

The Corrections Warden's interview, documentation and staff interviews confirmed he is responsible to conduct an annual review of the staffing plan to ensure all areas were addressed including components such as the facility's physical plant, composition of the inmate population, number and placement of supervisory staff, programming schedules, video monitoring, training, to name a few. The Corrections Warden had reviewed and approved of the process for all supervisory staff (Captains, Lieutenants and Sergeants) to conduct unannounced rounds on all shifts and in all areas of the facility to monitor and deter staff sexual abuse and harassment on a daily basis and document the information in the essential staffing reports, staff tour logs and check sheets.

During the facility tour, this auditor observed and reviewed the staff tour logs, where unannounced rounds were documented including the staff identification, date and time. Also, a review of the samples provided by the facility of random dates and random housing units showed that there is a minimum of one (1) unannounced round conducted weekly by upper or middle management staff; however the majority show unannounced rounds conducted daily.

In addition, during the facility tour, there were seven (7) areas (laundry, kitchen, skill nursing, education, canteen, religious library, maintenance and one of the mental health offices) identified as having blind spots. A procedure will need to be implemented as to how these areas will be supervised or utilizing some form of enhanced supervision. Since the initial review and on-site visit, these areas were corrected and this auditor was provided with documentation (pictures) confirming the corrections had been completed. The NDCS PREA Coordinator sent the documentation to this auditor prior to the submission of this report.

Based on the review of the agency policy and procedures, observations and information obtained through staff interviews, review of documentation, and the follow-up documentation, the facility has demonstrated compliance with this standard.

## Standard 115.14: Youthful inmates

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

#### 115.14 (a)

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

#### 115.14 (b)

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

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

### 115.14 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*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.*

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 identified the requirement that a youthful inmate shall not be placed in a housing unit in which the youthful inmate will have sight, sound, or physical contact with any adult inmate through use of a shared dayroom or other common space, shower area, or sleeping quarters. Direct supervision by facility staff is required at all times when a youthful inmate and an adult inmate have sight, sound, or physical contact with one another. All placements of youthful offenders/inmates are placed at the Nebraska Correctional Youth Facility.

Tecumseh SCI's Corrections Warden and Corrections Captain/PCM interviews and memorandum dated 9/19/18 confirmed the facility has not house youthful inmates under the age of eighteen for the past twelve (12) months. Based on the review of the agency policy and procedures, observations and information obtained through staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

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

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

### 115.15 (a)

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

### 115.15 (b)

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

### 115.15 (c)

- Does the facility document all cross-gender strip searches and cross-gender visual body cavity searches?  Yes  No
- Does the facility document all cross-gender pat-down searches of female inmates?  
 Yes  No  NA

### 115.15 (d)

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

### 115.15 (e)

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

## 115.15 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*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.*

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 and Tecumseh SCI's Operational Memorandum Policy #203.11.001 (Sexual Assault/Abuse) revised 3/31/18 requires that inmates shall be permitted 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 incident to routine dormitory checks. Requires cross gender frisk searches of transgender and intersex inmates will be conducted in a professional and respectful manner and in the least intrusive manner consistent with security needs. Requires that the opposite gender staff shall announce their presence when entering an inmate housing unit. Also, the policy indicated any cross-gender searches are required to be documented.

Random staff and inmate interviews indicated that staff of the opposite gender entering the housing units would not consistently announce themselves. A review of the training documentation (curriculum and staff rosters) and staff interviews confirmed the annual training on pat down searches, cross-gender pat searches and searches of transgender and intersex inmates are conducted in a respectful and professional manner and prohibiting cross-gender strip or cross-gender visual body cavity searches of inmates. All staff interviews were able to describe what an exigent circumstance would be and were knowledgeable of the procedures for securing authorization to conduct such a search as well as the requirements for justifying and documenting those searches.

Random staff and inmate interviews confirmed inmates are able to shower, perform bodily functions and change clothing without non-medical staff of the opposite gender viewing them. Staff interviews could not identify the NDCS policy on prohibiting staff from searching or physically examining a

transgender or intersex inmate for the purpose of determining that inmate's genital status. During the facility tour, it was observed that the shower/toilet areas in the male housing units did allow for privacy except for the death row showers located in the special management unit. Also, the bathrooms located in the visitation area and intake/property area did not allow for privacy. These areas were corrected and the NDCS PREA Coordinator sent documentation to this auditor prior to the submission of this report. There has been no cross-gender pat down searches, cross-gender strip or cross-gender visual body cavity searches of inmates at the facility in the past twelve (12) months. Also, there have been no exigent circumstances of cross-gender pat down, strip or visual body cavity searches conducted of inmates at the facility in the past twelve (12) months.

After the on-site visit, all staff were re-trained on when entering the housing units, the opposite gender should always announce themselves and NDCS policy on prohibiting staff from searching or physically examining a transgender or intersex inmate for the purpose of determining that inmate's genital status. The NDCS PREA Coordinator sent the appropriate supplemental documentation to this auditor demonstrating corrective actions had been taken with this standard prior to the submission of this report.

Based on the review of the agency policy and procedures, observations and information obtained through staff and inmate interviews, review of documentation, and the follow-up documentation, the facility has demonstrated compliance with this standard.

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

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

#### **115.16 (a)**

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

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

#### 115.16 (b)

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

#### 115.16 (c)

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

### Auditor Overall Compliance Determination

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

### **Instructions for Overall Compliance Determination Narrative**

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A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 contained procedures to be taken to ensure inmates with disabilities or who are limited English proficient have an equal opportunity to participate in or are provided meaningful access to all aspects of the facility's efforts to prevent, protect and respond to sexual abuse and sexual harassment. Efforts shall include the use of interpreters, written material, or other formats or methods that ensure effective communication with inmates disabilities, including inmates who have intellectual disabilities, limited reading skills, who are blind or have low vision, deaf, or are Limited English Proficient (LEP). Also, the policy prohibits any facility to rely on inmate interpreters, inmate readers or any kind of inmate assistants except in limited circumstances when an extended delay in obtaining interpreter's services could compromise an inmates' safety, the performance of first-responder duties or the investigation of the inmate's allegations.

Tecumseh SCI's intake and case management staff have access to interpreter services through the Department and have an interpreter assigned to the facility to provide inmates who are limited English proficient on an as needed basis. There are postings throughout the facility in English and Spanish but limited. Staff training documentation, power point, brochure, and inmate PREA orientation packet contained information on providing appropriate explanations regarding PREA to inmates based upon their individual needs. The facility's intake staff provides the PREA education at intake, during orientation and documents the information on a classification form.

Random staff interviews indicated minimal knowledge of the outside agencies providing services to the facility but indicated they would not rely on the use of inmate assistants in relation to reporting allegations of sexual abuse or sexual harassment except in limited circumstances when an extended delay in obtaining interpreter's services could compromise an inmates' safety, the performance of first-responder duties or the investigation of the inmate's allegations. In the past twelve (12) months, the facility did not have any instances of inmate interpreters or readers being used for reporting allegations of sexual abuse or sexual harassment.

After the on-site visit, all staff were re-trained on interpreter services provided at the facility and the process on how to obtain these services. Also, the facility's handbook and the postings were updated to reflect the information in Spanish on how to obtain emotional support services and any other general facility information (i.e. medical services). The NDCS PREA Coordinator sent the appropriate supplemental documentation to this auditor demonstrating corrective actions had been taken with this standard prior to the submission of this report.

Based on the review of the agency policy and procedures, observations and information obtained through staff interviews, review of documentation and the follow-up documentation, the facility has demonstrated compliance with this standard.

## Standard 115.17: Hiring and promotion decisions

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

#### 115.17 (a)

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

#### 115.17 (b)

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

#### 115.17 (c)

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

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

#### 115.17 (d)

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

#### 115.17 (e)

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

#### 115.17 (f)

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

#### 115.17 (g)

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

#### 115.17 (h)

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

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

### **Instructions for Overall Compliance Determination Narrative**

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A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18; Policy #112.03 (Employee Selection Policy) revised 11/30/17; Policy #110.01 (Engineering Project Procedures) revised 4/30/18; Policy #010.06 (Teletype Operations) revised 6/30/18; Policy #112.31 (Code of Ethics) effective 12/31/17 and Nebraska Classified System Personnel Rules and Regulations prohibits NDCS staff to hire or promote anyone for a position that may have inmate contact who has been engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; 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 civilly or administratively adjudicates to have engaged 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. NDCS shall consider any incidents of sexual abuse in determining whether to hire or promote anyone who may have contact with incarcerated inmates. All background checks are conducted initially on new employees, current and promotion decisions of employees and contractors.

NDCS must ask all applicants and employees who may have contact with inmates directly about previous misconduct noted above in written applications or interviews for hiring or promotions. Requires the information on substantiated allegations of sexual abuse or sexual harassment involving a former employee shall be furnished to any institutional employer in which the employee has applied to work provided the request is written. Requires that a criminal background shall be conducted before hiring new employees who may have contact with inmates and will 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. Requires a continuing affirmative duty for employees to disclose any such conduct. Requires that a criminal background records check is completed prior to enlisting services of any contractor who may have contact with inmates and a criminal background records check is completed at least every five (5) years for current employees and contractors, and annually for sensitive specialist assignments.

NDCS has extensive initial background screening requirements that include the screening for criminal record checks (NCIC, NCJIS & CLEIN), possible checks on criminal convictions and pending criminal charges, access to local, state and federal criminal databases to conduct background checks, checking intelligence files, inmate telephone and visiting records, driving records check, and best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse and any resignation during a pending investigation or an allegation of sexual abuse. The agency conducts 5-year background checks for all employees and contractors. There is an affirmative duty to disclose any arrests or previous misconduct. Any material omission by an employee is subject to termination.

An interview with the facility's HR Manager I confirmed the process on the facility performing criminal background checks to consider the pertinent civil or administrative adjudications for all newly hired employees who may have contact with inmates, all employees who are considered for promotion and every five (5) years. She advised that personnel staff at the central office have a tracking system to

ensure the five (5) year background screening is conducted of all facility employees. Also, the HR Manager I indicated new employees documented criminal background checks and the three (3) questions (NDCS Non-Scored Interview Questions) regarding past conduct were asked and responded to during the hiring process. The agency provides information to requests from institutional employers where an employee has applied to work.

A sample review of staff's, volunteer's, and contractor's HR files had documentation on staff completing varied forms containing the questions regarding past misconduct (NDCS Personnel Information for Security Check, NDCS Non-Scored Interview Questions, and Professional Reference Check) that are completed during the hiring process. The HR staff complete the criminal background information (Security Check Sheet) and receives an email on whether an individual is approved or disqualified. Once an individual is approved for hire, the new employee begins the training/orientation process and is provided with an NDCS Employee Handbook. A review of the five (5) year background checks of the employee documentation contained the NDCS Personnel Information for Security Check indicating the employee had cleared the background check.

Based on the review of the agency policy and procedures, observations and information obtained through the staff interview, review of documentation and the facility has demonstrated compliance with this standard.

## Standard 115.18: Upgrades to facilities and technologies

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

#### 115.18 (a)

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

#### 115.18 (b)

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

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

### Instructions for Overall Compliance Determination Narrative

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A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires all designing or acquiring new facilities and in planning substantial expansion or modification of existing facilities to consider the effect of the design, acquisition, expansion, or modification upon the facility's ability to protect inmates from harm, including sexual abuse. Requires any installing or updating of video monitoring systems, electronic surveillance systems, or other monitoring technology to be considered how such changes may enhance the facility's ability to protect inmates from harm, including sexual abuse.

An interview with the Tecumseh SCI's Corrections Warden and documentation review indicated there had been no major modifications to the facility. However, since the last PREA audit, additional cameras were installed to enhance supervision in the wood shop area frequented by inmates. Also, the monitoring system had been upgraded and expanded as part of an overall security controls upgrade. In 2017, a Department wide camera needs survey was initiated and the facility identified additional cameras to be installed in various locations throughout the facility.

During the tour, the video surveillance system in the control room area located in the restrictive housing building was observed. This will enhance their capabilities to assist in monitoring blind spots and the review of incidents. Additionally, this enables the staff to monitor inmates more efficiently throughout the physical plant of the facility. The administrative staff is continually evaluating the electronic surveillance system and video monitoring.

Based on the review of the agency policy and procedures, observations and information obtained through the interview and documentation, the facility has demonstrated compliance with this standard.

## RESPONSIVE PLANNING

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

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

#### 115.21 (a)

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

#### 115.21 (b)

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

#### 115.21 (c)

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

#### 115.21 (d)

- Does the agency attempt to make available to the victim a victim advocate from a rape crisis center?  Yes  No
- If a rape crisis center is not available to provide victim advocate services, does the agency make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member?  Yes  No
- Has the agency documented its efforts to secure services from rape crisis centers?  Yes  No

#### 115.21 (e)

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

#### 115.21 (f)

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

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*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.*

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 and Policy #215.01 (Correctional Investigator's Duties and Reporting of Criminal Activities) revised 6/30/17 requires, when requested by the victim, a victim advocate, qualified agency staff member, or qualified community-based organization staff member to accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information and referrals. A qualified mental health/counseling staff member or qualified community-based staff member includes 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. Requires a history be taken by a health care professional who will conduct a forensic medical examination to document the extent of physical injury. There will be no financial cost to the inmate for this examination. Requires an administrative or criminal investigation for all allegations of sexual abuse and sexual harassment and requesting the investigating agency follow the requirements of PREA Standards. Additionally, it requires protocols for informed consent, confidentiality, reporting to law enforcement, and reporting to investigative agencies.

There is evidence of NDCS Director obtaining a Memorandum of Understanding with the Nebraska Coalition to End Sexual & Domestic Violence dated 8/24/17 to provide free confidential crisis intervention and emotional support related to sexual abuse or assault inmates and any inmate seeking services calling the toll-free telephone number and forensic medical examinations at no financial cost to the victim. Bryan LGH West (SANE certified) provides the emergency services at no financial cost to the victim. Also, this auditor met with the Prison Advocacy Coordinator from the Coalition during the on-site visit. She indicated there have been no calls from inmates in the past twelve (12) months requesting emotional support services related to sexual abuse or assault.

The facility has available the PREA pamphlet "What You Need to Know About Sexual Assault" and identifies for the inmates to call or write the Ombudsman's Office or the Prison Advocacy Coordinator. Documentation and an interview with the Corrections Warden confirmed Nebraska State Patrol (NSP) conducts the criminal investigations of allegations of sexual abuse and sexual harassment. In the past twelve (12) months, there has been no allegation where a victim required a forensic medical examination.

Based on the review of the agency policy and procedures, observations and information obtained through staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

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

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

#### **115.22 (a)**

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

#### **115.22 (b)**

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

#### **115.22 (c)**

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

#### 115.22 (d)

- Auditor is not required to audit this provision.

#### 115.22 (e)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*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.*

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires that all 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, and to document all such referrals. Requires notification to local law enforcement of all verified incident of sexual abuse of an inmate by a staff member, contractor, or volunteer and sexual abuse between inmates/inmates shall be referred to the local law enforcement agency of jurisdiction for investigation and consideration of criminal prosecution. Requires that all investigators shall receive the general PREA training provided to all employees, and specialized training in conducting sexual abuse investigations in confinement settings that includes techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and criteria and evidence required to substantiate a case for administrative action or prosecution referral. Requires an administrative and/or criminal investigation for all allegations of sexual abuse or sexual harassment.

All staff is required to refer all alleged incidents of sexual abuse and sexual harassment for investigation to the Nebraska State Patrol (NSP) for the determination of criminal charges. NSP provides services on a 24 hour basis that will include the responsibility of investigating allegations of sexual abuse by qualified staff who have received training concerning sexual abuse and forensic examination issues. The staff refers all allegations of sexual abuse and harassment to the NDCS PREA Coordinator to review the complaint and determine if the facility staff will conduct the investigation. If the allegation appears to be criminal in nature the NDCS PREA Coordinator will consult with the Agency

Personnel Investigator for assignment to an NDCS Criminal Investigator. If referred back to the facility, the NDCS PREA Coordinator will contact the facility's PREA Compliance Manager and assign the investigation a case number in the Investigator's Case Management Data Base for completion of an administrative investigation. The PREA policy can be found on the Nebraska state's website and information can be found in their PREA pamphlet "What You Need to Know About Sexual Assault" that is available in English and Spanish.

Tecumseh SCI had received eight (8) allegations of sexual abuse and sexual harassment resulting in a criminal investigation and/or an administrative investigation in the past twelve (12) months. All staff interviews reflected and confirmed their knowledge on the reporting, referral process and policy's requirements but did not know the agency who conducts the administrative and criminal investigation in response to an allegation of sexual abuse and sexual harassment.

Interviews with the Corrections Warden, Corrections Captain/PCM and facility investigator confirmed that the agency ensures that an administrative or criminal investigation is completed for all allegations of sexual abuse or sexual harassment. Also, any internal investigation that identifies criminal activity or involves a staff member would be immediately referred to the Nebraska State Patrol (NSP). NSP and the facility investigator would act in a liaison position. The NSP investigator informs NDCS PREA Coordinator and Corrections Warden on the progress of a sexual abuse investigation.

After the on-site visit, all staff were re-trained on who conducts the administrative and criminal investigations in response to an allegation of sexual abuse and sexual harassment. The NDCS PREA Coordinator sent the appropriate supplemental documentation to this auditor demonstrating corrective actions had been taken with this standard prior to the submission of this report.

Based on the review of the agency policy and procedures, observations and information obtained through staff interviews, review of documentation, and the follow-up documentation, the facility has demonstrated compliance with this standard.

## TRAINING AND EDUCATION

### Standard 115.31: Employee training

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

#### 115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures?  Yes  No
- Does the agency train all employees who may have contact with inmates on inmates' right to be free from sexual abuse and sexual harassment  Yes  No

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

#### 115.31 (b)

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

#### 115.31 (c)

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

#### 115.31 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires all staff to complete an in-depth PREA Training upon initially becoming an employee (entry level training) as well as refresher training annually. All the PREA training provided to employees statewide contains all ten (10) topics consistent with this standard's requirements and is tailored to all facilities with the gender of their inmate populations. The staff training documentation including a power-point presentation and staff interviews confirmed staff receives PREA training during initial pre-service training and during refresher in-service training. All employees are trained as new hires regardless of their previous experience. All new employees receive the NDCS Employee Handbook on prevention strategies to maintain a professional atmosphere and sign the "PREA Staff Acknowledgement Form" indicating they received the training and understand their responsibilities for all the different training modules and tested upon completion of the initial PREA training.

A review of all staff and training education forms, including a power point presentation, lesson plan, observation of the day-to-day operations as well as staff interviews confirmed that the staff are receiving their required PREA training. At the facility, the staff is trained continually about the PREA standards during shift briefings and the completion of various on-line trainings. Additionally, all staff is required to complete an annual in-service PREA training. Employee training records are maintained electronically and certain training documents are maintained in their personnel file. New employees are provided handouts (Characteristics of Victims/Abusers & Common Reactions of Sexual Abuse/Assault) and a "Staff PREA Response Card" identifying specific PREA information i.e. first responder protocol.

Staff interviews confirmed their comprehension of the PREA training and their obligation to report any allegation of the sexual abuse and/or sexual harassment. It is evident, the executive administration has taken the PREA Standards to another level and it is reflected in their commitment to protecting the inmates in their care throughout the State of Nebraska by providing extensive training to all employees who work at their facilities.

Based on the review of the agency policy and procedures, observations and information obtained through staff interviews, review of documentation, the agency and facility has substantially exceeded the requirements of this standard based on the above information.

## Standard 115.32: Volunteer and contractor training

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

### 115.32 (a)

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

### 115.32 (b)

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

### 115.32 (c)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. The level and type of training provided shall be based on the services they provide and the level of contact they have with inmates, but all volunteers and contractors who have contact with inmates shall be notified of the agency's zero tolerance policy regarding sexual abuse and sexual harassment and be informed how to report such incidents.

All volunteers and contractors receive the NDCS Volunteer Orientation, PREA and Employee Boundaries: Sexual Abuse Awareness training, and sign the "Inmate Sexual Assault/Abuse Agreement

for Volunteers and Contractors” form upon completion of the PREA training they received. The training consists of a power point presentation that includes: policies, PREA definitions, reporting requirements and other required procedures. A review of the documentation confirmed they are aware of the facility’s requirement for confidentiality and their duty to report any incidents of sexual abuse and/or sexual harassment. Interviews with a chaplain and contracted personnel (nurse) confirmed their knowledge of the required PREA training and NDCS’s zero tolerance of any form of sexual activity at the facility as well as their duty to report sexual abuse or sexual harassment.

Based on the review of the agency policy and procedures, observations and information obtained through the contractor interview and documentation, the facility has demonstrated compliance with this standard.

## Standard 115.33: Inmate education

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

#### 115.33 (a)

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

#### 115.33 (b)

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

#### 115.33 (c)

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

#### 115.33 (d)

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

#### 115.33 (e)

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

#### 115.33 (f)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires mandatory PREA information, both orally and in writing and in a form that is understandable to the inmate, that includes information about sexual misconduct, background information on PREA, prevention/intervention, self-protection, reporting and treatment/

counseling, and confidentiality. Requires during the initial intake process, inmate education on the zero-tolerance policy and how to report incidents or suspicions of sexual abuse and sexual harassment. Requires within thirty (30) days inmates shall receive information regarding their right to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and all NDCS policies and procedures for responding to such incidents. Requires repeated education when an inmate is transferred to a different facility. Also, the facilities are required to provide the PREA information for Limited English Proficient inmates, and those with disabilities such as limited reading skills, deaf or visually impaired.

The assigned correctional staff provides and reviews with the inmates verbally this information (NDCS PREA pamphlet entitled "Sexual Assault Awareness") immediately upon arrival during their initial intake to the facility. Additionally within 24 hours, the Unit Case Manager has the inmates observe the power point/video presentation on sexual abuse (available in both English & Spanish) and provides an orientation to the facility. The information consists of facility rules, their right to be free from sexual abuse and sexual harassment, how to report, their right to be free from retaliation for reporting sexual abuse or sexual harassment, prevention/intervention, self-protection, reporting and treatment/counseling and is available in Spanish. Each inmate signs a form ("Orientation Program") to verify the observation of the video and attending the orientation.

All inmates are provided a "Nebraska DCS Sexual Assault Awareness Information" pamphlet which includes information on prevention/intervention, self-protection, reporting and treatment/ counseling and is available in Spanish. This pamphlet advises inmates that "reporting is the first step". Inmates are given the phone number to call the hotline and the contact information to the Ombudsman Office. Interviews with the case management staff confirmed inmates receive appropriate education information regarding safety, their rights to be free from sexual abuse, sexual harassment, retaliation, reporting and the agency's response to allegations upon arrival and again within several days. Upon arrival, the inmate will process through security, intake (intake PREA education), medical, mental health, and eventually meets with case management staff to conduct the screening and assessment process. The inmates are provided with the PREA pamphlet, narrative of the information being verbally presented is on how to report allegations and how to access emotional support services.

Documentation of inmate's signatures were reviewed and confirmed during inmate interviews. Also, a review was conducted of the inmate PREA education forms and the information was provided within the appropriate time frames as required by this standard. Several interviews of inmates stated they received this information the same day they arrived at the facility and identified the receipt of the pamphlet, however other inmate interviews were unable to confirm receiving information about the facility's rules against sexual abuse and sexual harassment. PREA postings were observed during the facility tour in the housing units, common areas and inmates identified the postings as another source of information for them.

After the on-site visit, the case management staff were re-trained on the orientation process to ensure inmates receive knowledge of how to report and how to access victim advocate services and this information would be reviewed verbally and provided during an inmate's admission to the facility. The NDCS PREA Coordinator sent the appropriate supplemental documentation to this auditor demonstrating corrective actions had been taken with this standard prior to the submission of this report.

Based on the review of the agency policy and procedures, observations and information obtained through staff and inmate interviews, review of documentation, and the follow-up documentation, the facility has demonstrated compliance with this standard.

## Standard 115.34: Specialized training: Investigations

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

#### 115.34 (a)

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

#### 115.34 (b)

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

#### 115.34 (c)

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

#### 115.34 (d)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

### Instructions for Overall Compliance Determination Narrative

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires the NDCS PREA Office to ensure all investigators are properly trained in conducting investigations in confinement settings. The required training includes: 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 or prosecution referral. All investigators under-go an extensive training developed by NDCS PREA Office prior to conducting criminal and administrative investigations which includes the NDCS PREA Specialized Investigative Training: PREA. At the facility level, the assigned investigator will conduct an initial inquiry into the alleged allegation of sexual abuse or sexual harassment, subsequently conduct an administrative investigation and when necessary refer the information to the Nebraska State Patrol (NSP) for further investigation for the determination of criminal charges.

The facility's PREA investigators when assigned conduct administrative investigations. There are twenty-one (21) staff at the facility who have completed the NDCS PREA Specialized Investigative Training: PREA and other required investigative training. Documentation and an interview with a facility investigator confirmed completing the required specialized investigator training as well as the annual PREA education. The investigator indicated the specialized investigation training consisted of interviewing techniques, Miranda warnings, Garrity warnings, sexual abuse evidence collection, and the criteria and evidence to substantiated a case for administrative or prosecution referral. At the facility level, the assigned investigator will complete the initial inquiry into the alleged allegation of sexual abuse or sexual harassment, subsequently conduct an administrative investigation and when necessary refer the information to the Nebraska State Patrol (NSP) for further investigation for the determination of criminal charges.

Based on the review of the agency policy and procedures, observations and information obtained through the investigator interview and documentation, the facility has demonstrated compliance with this standard.

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

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

### 115.35 (a)

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

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

#### 115.35 (b)

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

#### 115.35 (c)

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

#### 115.35 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.31?  Yes  No
- Do medical and mental health care practitioners contracted by and volunteering for the agency also receive training mandated for contractors and volunteers by §115.32?  Yes  No

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires PREA training and specialized training for medical and mental health staff. Also, requires that all full and part-time medical and mental health staff who work regularly in NDCS facilities receives specialized training in: How to detect and assess for 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.

Documentation review and the medical staff interviews confirmed they had received the basic PREA training provided to all staff and the specialized training offered by NDCS Director of Nursing. The mental health staff interviews confirmed they had received the basic PREA training provided to all staff and the specialized training offered by NIC Behavioral Health Care for Sexual Assault Victims in a Confinement Setting. All contracted medical and mental health staff signs the "Inmate Sexual Assault/Abuse Agreement for Volunteers and Contractors" form to acknowledge they received the training and understand their responsibilities in the event of an incident. The medical staff does not conduct forensic examinations.

Interviews with three (3) medical and mental health staff confirmed their understanding of the requirement to complete the specialized training and verified completing the on-line course and participating in the annual basic PREA training for provided by the facility. Also, the medical and mental health staff interviews confirmed they had received the appropriate training in detecting/assessing for signs of sexual abuse and sexual harassment; preservation of physical evidence of sexual abuse; responding effectively and professionally to victims of sexual abuse and sexual harassment, and how and to whom to report allegations or suspicious of sexual abuse or sexual harassment.

Based on the review of the agency policy and procedures, observations and information obtained through staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

## **SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS**

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

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

#### **115.41 (a)**

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

#### **115.41 (b)**

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

#### 115.41 (c)

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

#### 115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?  
 Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent?  
 Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability?  Yes  No

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

#### 115.41 (e)

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

#### 115.41 (f)

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

#### 115.41 (g)

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

#### 115.41 (h)

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

#### 115.41 (i)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 and Policy #201.13 (Identification of Potential Aggressors and Victims) revised 3/31/18 requires prior to placement as part of the screening process each inmate is screened upon admission within seventy-two (72) hours of arrival with an objective screening instrument (NDCS Potential for Sexual Assault/Sexual Victimization Screening Instrument) for risk of victimization, potential vulnerabilities or sexual abusiveness tendencies to act out with sexually aggressive predatory behavior. Requires all inmates to be assessed during intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates. Requires intake screening include: mental, physical or developmental disabilities, age, physical build, prior incarcerations, criminal history (violent and non-violent), prior convictions for sex offenses against an adult or child, prior acts of sexual abuse, prior convictions for violent offenses, history of prior institutional violence or sexual abuse, prior sexual victimization, perception of vulnerability, and if the inmate is or is perceived to be LGBTI or gender nonconforming. Prohibits discipline of the inmate for refusing to answer screening questions.

Inmate interviews and a review of the documentation confirmed the risk screenings are being conducted within seventy-two (72) hours of their admission to the facility. Upon admission, each inmate is screened with an objective screening instrument for risk of victimization and sexual abusiveness called NDCS "Potential for Sexual Assault/Sexual Victimization Screening Instrument" and within seventy-two (72) hours a mental health practitioner will conduct an initial Mental Health Assessment.

Staff interviews confirmed a screening is completed on each inmate upon admission to the program within seventy-two (72) hours upon arrival at the facility to determine placement and their special needs. Those inmates who score vulnerable to victim or sexually aggressive are included into their alert system, as well as receiving further assessments, as identified. This intake screening is used in combination with information about personal history, medical and mental health screenings, conversations, classification assessments as well as reviewed court records and case files. The screening that is conducted includes any disabilities, age, physical build, current and previous incarcerations, personal history, violent offenses, LGBTI status, mental illness, prior victimization and assaultive behaviors. Inmates reporting prior victimization, according to staff, are referred immediately for a follow-up with medical or mental health staff. These referrals to medical or mental health staff are documented. Inmates are reassessed at a minimum of thirty (30) days and throughout their stay at the facility. The facility's policies limit staff access to this information on a "need to know basis". Access to

information is available only to the Corrections Warden, Corrections Deputy Warden, Corrections Assistant Warden II, Corrections Unit Administrator, Corrections Captain/PREA Compliance Manager (PCM), medical staff, mental health counselors and case management staff.

Although there have been several transgender or intersex inmates admitted to the facility within the past twelve (12) months, staff interviews confirmed consideration is given for the inmate's own views of their safety in placement and programming assignments.

Based on the review of the agency policy and procedures, observations and information obtained through staff and inmate interviews and review of documentation, the facility has demonstrated compliance with this standard.

## Standard 115.42: Use of screening information

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

#### 115.42 (a)

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

#### 115.42 (b)

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

#### 115.42 (c)

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

#### 115.42 (d)

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

#### 115.42 (e)

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

#### 115.42 (f)

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

#### 115.42 (g)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 and Policy #201.13 (Identification of Potential Aggressors and Victims) revised 3/31/18 precludes gay, bi-sexual, transgender and intersex inmates being placed in a particular housing unit, beds or other assignments based solely on their identification or status. In addition, the policy describes the screening and assessment process and how that information, along with information derived from medical and mental health screening and assessments, records reviews, database checks, conversations and observations, is used to determine an inmate's appropriate placement, housing and bed assignments, as well as work, education, and program assignments with the goal of keeping all inmates safe and free from sexual abuse. The program staff utilizes various forms (Potential for Sexual Assault/Sexual Victimization Screening Instrument & Classification Form) and any other pertinent information during the inmate's admission process.

Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate. The mental health staff will complete a six (6) month reassessment of housing and programs for all transgender and intersex inmates. The staff member must meet with the inmate to discuss their program and housing needs and to ensure their current assignments are still appropriate. NDCS prohibits the placement of LGBTI inmates in dedicated facilities, units, or wings solely on the basis of such identification or status.

Tecumseh SCI's Corrections Captain/PREA Compliance Manager and the staff interviews described how information from their risk assessment precludes gay, bi-sexual, transgender and intersex inmates being placed in a particular housing unit, beds or other assignments based solely on their identification or status. In addition, they described the screening and assessment process and how that information, along with information derived from medical and mental health screening and assessments, records reviews, database checks, conversations and observations, is used to determine an inmate's appropriate placement, housing and bed assignments, as well as work, education, and program assignments with the goal of keeping all inmates safe and free from sexual abuse. The risk assessment information is reviewed within seventy-two (72) hours, if there is an incident of sexual abuse, upon request, or if there is receipt of additional information that an inmate is at risk of sexual victimization or abusiveness. Also, staff indicated an inmate's perception of risk is addressed and provision will be made on a case-by-case basis for showering changes.

Documentation review confirmed the risk assessment occurred within seventy-two (72) hours and the inmate received the rescreening as required within thirty (30) days. The facility does not have a designated housing unit for gay, bisexual, transgender or intersex inmates. This facility identified

several inmates who identified as transgender or intersex during the on-site visit, therefore this auditor was able to ask one of the inmates of concerns regarding their placement, a special unit just for LGBTI inmates, their safety, and request to shower separately.

Based on the review of the agency policy and procedures, observations and information obtained through staff and inmate interviews and review of documentation, the facility has demonstrated compliance with this standard.

## Standard 115.43: Protective Custody

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

#### 115.43 (a)

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

#### 115.43 (b)

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible?  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Privileges to the extent possible?  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Education to the extent possible?  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible?  Yes  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The opportunities that have been limited?  Yes  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The duration of the limitation?  Yes  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The reasons for such limitations?  Yes  No

#### 115.43 (c)

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

#### 115.43 (d)

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

#### 115.43 (e)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires institutional staff who identify inmates as high risk of sexual victimization or inmates alleged to have suffered sexual abuse should not normally be placed in restrictive housing without their consent unless it has been determined that there is no available alternative means of separation from likely abusers. Placement in restrictive housing must be clearly documented on the basis for the concern for the inmate's safety and the reason why no alternative means of separation can be arranged. Requires that involuntary assignment to restrictive housing shall only be long enough for alternative means of separation from likely abusers can be arranged, but no longer than thirty (30) days. Requires inmates placed in restrictive housing shall have access to programs, privileges, education, and work opportunities to the extent possible while ensuring their

safety. Any restrictions of programs, privileges, education and work opportunity, the duration of the limitation and the reasons for the limitation will be clearly documented.

Interviews with the Corrections Warden, Corrections Captain/PCM and another staff who works in restrictive housing confirmed there have been no inmates placed in involuntary segregated housing in past twelve (12) months. Also, they indicated if an inmate is placed in involuntary restrictive housing for their own protection he would have access to programs, privileges, education and work only if there is no safety concern. This information would be documented and reviewed by the case management staff on a weekly basis. They confirmed every thirty (30) days if an inmate is placed in involuntary restrictive housing, a meeting is held with Corrections Warden, Corrections Captain/PCM and Corrections Unit Administrator.

Based on the review of the agency policy and procedures, observations and information obtained through staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

## REPORTING

### Standard 115.51: Inmate reporting

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

#### 115.51 (a)

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

#### 115.51 (b)

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

### 115.51 (c)

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

### 115.51 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires the department to provide multiple ways for inmates to report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse or sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. These various ways of reporting include: telephoning the hotline number, using the inmate calling system (ICS), a written complaint to the Ombudsman Office, advising an administrator, a staff member, placing a written complaint in the grievance box, and external complaint to a third party (i.e. family member). Requires that staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document verbal reports as an "Incident Reporting" form. Requires an inmate method of reporting must include reporting to an outside public or private entity or office that is not part of the agency and is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request. Also, the department has provided a method for staff to privately report sexual abuse and sexual harassment of inmates.

Tecumseh SCI has multiple ways for inmate reporting of sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. Also, during the orientation process inmates are advised that they can tell any staff member, including contractors or volunteers,

who are trained and required to report all allegations of sexual abuse or sexual harassment and in writing through the grievance procedure.

Staff interviews confirmed they will accept allegations of sexual abuse or sexual harassment verbally, in writing, anonymously, and from third parties and report to their supervisor. In addition, the staff is provided information for reporting sexual abuse or sexual harassment in a confidential manner through a separate phone number that is outside of the facility. While touring the entire facility, this auditor observed in the living areas including the special management unit postings of the PREA information (posters) informing inmates of the telephone numbers to call against sexual abuse and harassment and to call the victim advocate, however, the victim advocate information was limited and unclear as to what services are provided. Reporting procedures are provided to inmates through the NDCS PREA pamphlet entitled "Sexual Assault Awareness" and during the intake/orientation process.

There is evidence of NDCS Director obtaining a Memorandum of Understanding with the Nebraska Coalition to End Sexual & Domestic Violence dated 8/24/17 to provide free confidential crisis intervention and emotional support related to sexual abuse or assault inmates and any inmate seeking services calling the toll-free telephone number and forensic medical examinations at no financial cost to the victim. Also, this auditor met with the Prison Advocacy Coordinator from the Coalition during the on-site visit. She indicated there have been no calls from inmates in the past twelve (12) months requesting emotional support services related to sexual abuse or assault.

Inmate interviews indicated several ways to report sexual abuse and sexual harassment by telephoning the hotline, speak with a staff they trust, placing a written complaint in the secure inmate box, and about the anonymous reporting capability. During the intake and admission process inmates are advised of their rights and sign a form acknowledging they had been advised of these rights. Some inmates identified the inmate box as a means to report sexual abuse and sexual harassment. A review of the allegations of sexual abuse and sexual harassment in the past twelve (12) months indicated the facility has established various methods of reporting including the external entity.

Based on the review of the agency policy and procedures, observations and information obtained through staff and inmate interviews, and review of documentation, the facility has demonstrated compliance with this standard.

## **Standard 115.52: Exhaustion of administrative remedies**

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

#### **115.52 (a)**

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

#### **115.52 (b)**

- Does the agency permit inmates to submit a grievance regarding an allegation of sexual abuse without any type of time limits? (The agency may apply otherwise-applicable time limits to any

portion of a grievance that does not allege an incident of sexual abuse.) (N/A if agency is exempt from this standard.)  Yes  No  NA

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

#### 115.52 (c)

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

#### 115.52 (d)

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

#### 115.52 (e)

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

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

#### 115.52 (f)

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

#### 115.52 (g)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 and Policy #217.02 (Inmate Grievance Procedures) revised 6/30/17 allows an inmate to submit a grievance regarding an allegation of sexual abuse with no time limit. This allows for third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and permitted to file such requests on behalf of inmates. Allows the facility to request the alleged victim to agree to third party grievances alleging sexual abuse. If an inmate declines to have the request processed, the facility will document the inmates' decision. Prohibits the requirement that an inmate must first use an informal grievance process, or to otherwise attempt to resolve with staff, when reporting an allegation of sexual abuse. Allows an inmate to submit a grievance without submitting to a staff member who is the subject of the complaint, and prohibits the agency from referring the grievance to a staff member who is the subject of the complaint. Also, the policy describes the orientation inmates receive explaining how to use the grievance process to report allegations of abuse and has administrative procedures/appeal process for dealing with inmate's grievances regarding sexual abuse or sexual harassment.

Requires a final agency decision within ninety (90) days on any portion of a grievance that alleges sexual abuse, and that the ninety (90) days shall not include time consumed by inmates preparing any administrative appeal. Allows the department to claim an extension of time to respond to a grievance, up to seventy (70) days, with notification to the inmate. Establishes an emergency grievance for an inmate that is subject to a substantial risk of imminent sexual abuse, including an initial response within 24 hours and a final response within five (5) days. Prohibits the discipline of an inmate for filing a grievance related to sexual abuse only where the agency demonstrates that the inmate filed the grievance in bad faith.

An interview with the Tecumseh SCI Corrections Captain/PCM confirmed there have been two (2) grievances reported within past twelve (12) months related to sexual abuse or sexual harassment complaints. However, both grievances resulted in disciplinary actions against both inmates for having filed the grievance in bad faith. He indicated emergency grievances are available and he reports they must respond within 24 hours and provide a final determination within five (5) days. He confirmed the inmates receive an explanation on how to use the grievance process to report allegations of sexual abuse and has administrative procedures/appeal process for dealing with inmate's grievances regarding sexual abuse or sexual harassment during orientation and they are provided with an inmate rule book. Inmates may place a written complaint (grievance) in the secured inmate box located in the housing units. Staff interviews confirmed they will accept allegations of sexual abuse or sexual harassment verbally, in writing, anonymously, and identified the secure inmate box located in the housing units. However, the staff indicated they would contact the supervisor immediately to begin an internal investigation. Inmate interviews confirmed there is a grievance process relating to sexual abuse or sexual harassment complaints at the facility.

Based on the review of the agency policy and procedures, observations and information obtained through staff and inmate interviews and review of documentation, the facility has demonstrated compliance with this standard.

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

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

### 115.53 (a)

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations?  Yes  No
- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies?  Yes  No
- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible?  Yes  No

### 115.53 (b)

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

### 115.53 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*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.*

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires the facilities provide to inmates outside victim advocate for emotional support services, access to confidential legal counsel and the facility to provide reasonable communication between inmates, these organizations and agency, in as confidential a manner as possible. The facility shall inform inmates prior to giving them access, of the extent to which such communication will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

There is evidence of NDCS Director obtaining a Memorandum of Understanding with the Nebraska Coalition to End Sexual & Domestic Violence dated 8/24/17 to provide free confidential crisis intervention and emotional support related to sexual abuse or assault inmates and any inmate seeking services calling the toll-free telephone number and forensic medical examinations at no financial cost to the victim. Bryan LGH West (SANE certified) provides the emergency services at no financial cost to the victim. Also, this auditor met with the Prison Advocacy Coordinator from the Coalition during the on-site visit. She indicated there have been no calls from inmates in the past twelve (12) months requesting emotional support services related to sexual abuse or assault.

The facility has available the PREA pamphlet "What You Need to Know About Sexual Assault" and identifies for the inmates to call or write the Ombudsman's Office or the Prison Advocacy Coordinator. Outside services information is provided to the inmates during the orientation process. However, inmate interviews revealed limited knowledge of what kind of services are provided to them. The staff will be providing additional education to future inmates on victim advocate services during their orientation process.

After the on-site visit, all staff were re-trained on who provides free confidential emotional support services (Nebraska Coalition to End Sexual & Domestic Violence) and to provide additional education to future inmates on outside advocate services during their orientation process. The postings were updated and placed in all the housing units and specialized management unit (including death row). The information included access to free emotional support information provided by the outside advocate and the postings were in both English and Spanish. The NDCS PREA Coordinator sent the appropriate supplemental documentation to this auditor demonstrating corrective actions had been taken with this standard prior to the submission of this report.

Based on the review of the agency policy and procedures, observations and information obtained through staff and inmate interviews, review of documentation and the follow-up documentation, the facility has demonstrated compliance with this standard.

## Standard 115.54: Third-party reporting

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

#### 115.54 (a)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 identifies the Department's third party reporting process and instructs staff to accept third party reports from any source, provides information for anyone who sees or suspects sexual abuse, sexual harassment, or victimization of any kind. NDCS website provides the public with information regarding third-party reporting of sexual abuse or sexual harassment on behalf of an inmate. There are two (2) separate reporting options for the receipt of third-party reports of sexual abuse or sexual harassment. They may contact the State-wide PREA Coordinator or the Ombudsman Office. This information is reported directly to the State-wide PREA Coordinator who will inform the Corrections Warden.

Staff and investigator interviews confirmed they receive allegations of sexual abuse or sexual harassment from third party reporters and that these are reported to investigators as if an inmate made the allegation. Third party reporters includes fellow inmates, staff members, family members, attorneys, and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of inmates.

This auditor viewed the website, confirmed the information regarding third-party reporting and the link to send an e-mail directly to the NDCS PREA Coordinator. Inmate interviews confirmed their awareness of reporting sexual abuse or harassment to others outside of the facility. There are facility posters that identify a phone number for friends and families of inmates to call if they wish to report sexual abuse or sexual harassment. This number goes directly to the NDCS, where the call is referred for investigation through a report to the individual facility.

Based on the review of the agency policy and procedures, observations and information obtained through staff and inmate interviews and review of documentation, the facility has demonstrated compliance with this standard.

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

## Standard 115.61: Staff and agency reporting duties

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

#### 115.61 (a)

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

#### 115.61 (b)

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

#### 115.61 (c)

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

#### 115.61 (d)

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

#### 115.61 (e)

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

### Auditor Overall Compliance Determination

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

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

### **Instructions for Overall Compliance Determination Narrative**

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A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires that all employees, volunteers, and contractors shall immediately report to their supervisor or the shift supervisor any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in the facility, retaliation against inmates or staff who reported such an incident, and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Information related to a sexual abuse report shall not be released to anyone other than to the extent necessary, as specific in the procedures, to make treatment, investigation, and other security and management decisions. All facility staff are mandated reporters and receive information on clear steps on how to report sexual abuse and to maintain confidentiality through the facility's protocol and/or training.

NDCS has identified the reporting process for all staff employed, contracted or who volunteer to immediately report any knowledge, suspicion or information they receive regarding sexual abuse and sexual harassment, retaliation against inmates or staff who report any incidents or any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Random staff interviews including medical and mental health staff confirmed the requirement to report any knowledge, suspicion or information of sexual abuse or sexual harassment and have received this training annually during in-service. The staff would complete an incident report with the details of any incidents that would occur in the facility in compliance with this standard and they are prohibited from sharing information with anyone who is not part of the investigation or reporting process.

Interviews with medical and mental health staff confirmed their responsibility to inform inmates their duty to report and their limitations of confidentiality. Both the Corrections Warden and Corrections Captain/PCM indicated that all alleged sexual abuse or sexual harassment reports, regardless of where the information came from, is reported immediately to the NDCS PREA Coordinator. A review of the eight (8) allegations of sexual abuse and sexual harassment revealed that the investigation began immediately upon receipt of the information.

Based on the review of the agency policy and procedures, observations and information obtained through staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

## **Standard 115.62: Agency protection duties**

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

### 115.62 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires that immediate action to be taken upon learning that an inmate is subject to a substantial risk of imminent sexual abuse.

Interviews with the Tecumseh SCI Corrections Warden and Corrections Captain/PCM indicated any information received that alleges an inmate is at substantial risk of imminent sexual abuse would require immediate removal of the inmate and to isolate the threat. The other randomly selected staff interviews indicated if an inmate was in danger of sexual abuse or at substantial risk of imminent sexual abuse, they would act immediately to ensure the safety of the inmate, separate from the alleged perpetrator and contact their immediate supervisor. Also, the inmate would be referred for mental health services. Tecumseh SCI's staff has a process in place that when identifying an inmate who may be subject to a substantial risk of imminent sexual abuse the information is documented and the inmate is placed on a watch status. There were no incidents that involved an immediate action to protect an inmate that was a substantial risk of imminent sexual abuse in the past twelve (12) months at the facility.

Based on the review of the agency policy and procedures, observations and information obtained through staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

### Standard 115.63: Reporting to other confinement facilities

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

### 115.63 (a)

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

#### 115.63 (b)

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

#### 115.63 (c)

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

#### 115.63 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires that an allegation made whereby an inmate was sexually abused at another facility is required to be reported to the facility where the alleged sexual abuse occurred, that the notification will be made as soon as possible but no later than 72 hours, and shall be documented. Requires that any receipt of an allegation of sexual abuse from another facility that occurred while confined in that facility, the Warden or designee shall ensure an investigation is completed.

Interview with Tecumseh SCI Corrections Warden indicated per policy an allegation made whereby an inmate was sexually abused at another facility is required to be reported to the facility where the alleged sexual abuse occurred, that the notification will be made no later than 72 hours, and shall be documented. The Warden indicated there had been one (1) incident reported that an inmate had been abused or harassed while confined at another facility during the past twelve (12) months.

Based on the review of the agency policy and procedures, observations and information obtained through staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

## Standard 115.64: Staff first responder duties

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

#### 115.64 (a)

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

#### 115.64 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires the first responding staff is to separate the inmate, protect any physical evidence by requesting that the victim does not destroy evidence (through washing, brushing teeth, changing clothing, urinating, defecating, smoking, drinking or eating, protect any physical evidence by ensuring the alleged perpetrator does not destroy evidence (through washing, brushing teeth, changing clothing, urinating, defecating, smoking, drinking or eating), if the abuse took place within a time period that still allows for the collection of physical evidence and secure the crime scene. Requires that a victim shall be taken to medical staff as soon as possible or if no medical or mental health are on staff, shall ensure they are notified. Requires a first responder who is not a security staff shall request the victim not to destroy evidence and to notify a security staff.

Interviews with the staff and a first responder interview validated their technical knowledge of actions to be taken upon learning that an inmate was sexually abused and described all the action steps identified in the NDCS policies and procedures of their responsibilities as first responders. A review of the training documentation confirmed staff had been trained in their responsibilities as first responders and have been provided with all types of additional training. There have been six (6) allegations that an inmate was sexually abused and the staff responded as first responders or were notified within a time period that still allowed for the collection of physical evidence during the past twelve (12) months.

Based on the review of the agency policy and procedures, observations and information obtained through staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

## Standard 115.65: Coordinated response

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

#### 115.65 (a)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 provides a written coordinated response system at the facility to coordinate actions taken in response to an incident of sexual abuse and the notification procedures among staff first responders, administration, executive staff, medical and mental health practitioners, investigators, contacting law enforcement, and victim advocate services.

Interviews with the Tecumseh Corrections Warden and other staff validated their technical knowledgeable of their duties to coordinate actions taken in response to a sexual abuse allegation. The facility has a system in place providing the staff with clear actions to be taken by each discipline for accessing, contacting administrative staff, medical and mental health staff, contacting law enforcement, victim advocate services, hospital and a number of other individuals in response to sexual abuse allegations. Also, the staff utilizes the "Facility Checklist for Incidents of Sexual Assault/Abuse" form to complete the documentation of the incident.

Based on the review of the agency policy and procedures, observations and information obtained through staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

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

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

#### 115.66 (a)

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

#### 115.66 (b)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 and the documentation of the labor contract between the state of Nebraska and The Health & Human Care Non-Professional Bargaining Unit; The Examining, Inspection and Licensing Bargaining Unit; The Health & Human Care Professional Bargaining Unit; The Engineering, Science & Resources Bargaining Unit; The Maintenance, Trades & Technical Bargaining Unit; The Social Services & Counseling Bargaining Unit; The Administrative Professional Bargaining Unit; The Administrative Support Bargaining Unit and The Protective Service Bargaining Unit represented by The Nebraska Association of Public Employees Local 61 of the American Federation of State, County and Municipal Employees (NAPE/AFSCME) dated July 1, 2017 through June 30, 2019 is in accordance with the PREA standards and can be found on the NDCS website. NDCS does not allow an entity to restrict the Department's ability to terminate an employee or remove an alleged staff sexual abuser from contact with any inmates pending the outcome of an investigation or a determination of whether and to what extent to discipline is warranted. This was confirmed with NDCS's PREA Coordinator's interview.

Based on the information discovered in the documentation and an interview with the NDCS's PREA Coordinator, the auditor has determined the facility meets the requirements of the standard.

## Standard 115.67: Agency protection against retaliation

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

#### 115.67 (a)

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

#### 115.67 (b)

- Does the agency employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with

victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations?  Yes  No

#### 115.67 (c)

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

#### 115.67 (d)

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

#### 115.67 (e)

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

#### 115.67 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
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- Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

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A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires that all persons who report or cooperate in an investigation of sexual abuse or sexual harassment shall be protected from retaliation by other inmates and staff. Requires multiple protections such as housing changes or transfers for inmates victims or abusers, removal of the alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation are available. Requires monitoring for a minimum of ninety (90) days, with periodic status checks, and provides protections for any other individual who cooperates with an investigation. This monitoring would include inmate disciplinary reports, housing and program changes, negative performance reports as well as reassignments of staff.

An interview with the Corrections Captain/PCM confirmed his responsibility with monitoring the conduct or treatment of inmates or staff who reported the sexual abuse and of inmates who were reported to have suffered sexual abuse to determine if changes that may suggest possible retaliation exist. Also, he indicated this monitoring would include bi-weekly face-to-face meetings, review of inmate disciplinary reports, bed and program changes, negative performance reports as well as reassignments of staff. Also, the interviews with the Corrections Warden and Corrections Captain /PCM indicated that all alleged victims or reporters are met within twenty-four (24) hours, every two (2) weeks and after the first month every thirty (30) days thereafter. If retaliation should occur, the assigned staff would complete a "Protection Against Retaliation – Inmates" form whether it is a staff or inmate retaliation monitoring. There were no incidents of retaliation at the facility in the past twelve (12) months.

Based on the review of the agency policy and procedures, observations and information obtained through staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

## Standard 115.68: Post-allegation protective custody

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

#### 115.68 (a)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires that inmates identified as victims of sexual abuse shall not be placed in involuntary restrictive housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. Also, the policy contained information on post-allegation protective custody or guidelines for moving an inmate to another facility as a last measure to keep inmates who alleged sexual abuse safe and only until an alternative means for keeping the inmate safe can be arranged. It allows for the temporary holding, less than twenty-four (24) hours, in involuntary restrictive housing or in temporary protective custody only if the facility cannot conduct such an assessment immediately. Placement in restrictive housing must be clearly documented, the basis for the concern for the inmate's safety and the reason why no alternative means of separation can be arranged.

An interview with the Corrections Captain/PCM and the documentation review of the investigative files indicated that no inmate of the alleged victim was placed in Restrictive Housing as a result of an allegation or as being identified as high risk for sexual victimization in the past twelve (12) months.

Based on the review of the agency policy and procedures, observations and information obtained through staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

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

#### 115.71 (a)

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

#### 115.71 (b)

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

#### 115.71 (c)

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

#### 115.71 (d)

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

#### 115.71 (e)

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

#### 115.71 (f)

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

#### 115.71 (g)

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

#### 115.71 (h)

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

#### 115.71 (i)

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

#### 115.71 (j)

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

#### 115.71 (k)

- Auditor is not required to audit this provision.

#### 115.71 (l)

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

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

### **Instructions for Overall Compliance Determination Narrative**

*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.*

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 and Policy #215.01 (Correctional Investigator's Duties and Reporting of Criminal Activities) revised 6/30/17 requires all staff to refer all alleged incidents of sexual abuse or harassment to Nebraska State Patrol (NSP) for criminal investigations. Staff refers all allegations of sexual abuse and harassment to the NDCS PREA Coordinator to review the complaint and determine if the facility staff will conduct the investigation. If the allegation appears to be criminal in nature the NDCS PREA Coordinator will consult with the Agency Personnel Investigator for assignment to an NDCS Criminal Investigator. If referred back to the facility, the NDCS PREA Coordinator will contact the facility's PREA Compliance Manager and assign the investigation a case number in the Investigator's Case Management Data Base for completion of an administrative investigation. Requires each facility to cooperate with the assigned investigator and shall remain informed as to the progress of the investigation. The report shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

Also, the policies require investigations to be confidential and all interviews to be conducted in private; an investigation cannot terminate based on the department of the complaint's alleged victim or perpetration from the agency employment or control, or if the source of the allegation recants; the credibility of an alleged victim, subject or witness must be assessed on an individual basis and never be determined by the person's status as an inmate or staff; investigation records to include, but not limited to investigations reports, transcripts of statement, copies of documentation relevant to the investigation, and all related material from other agency incidents as applicable; investigations must include an effort to determine whether staff actions or failures to act contributed to the incident being investigated and must be documented in writing to include investigative facts and findings.

Requires the credibility of any person shall be assessed on an individual basis. Administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse. Requires both administrative and criminal investigations shall be documented in written reports that shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessment, and the investigative facts and findings. Requires all allegations of criminal conduct be referred for prosecution. Requires an investigation not stop should the alleged abuser or victim depart from the employment or control of the facility or agency. Requires all case records associated with claims of sexual abuse or sexual harassment including all documentation be retained for as long as the alleged abuser is incarcerated or employed by the agency, plus five (5) years.

Requires that all investigators shall receive special training in sexual abuse investigations before conducting PREA investigations, and that all investigations of allegations of sexual abuse or sexual harassment shall be done promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. Requires the gathering and preserving of direct and circumstantial evidence, including physical and DNA evidence and electronic monitoring data, interviews, and reviews of prior complaints and reports of sexual abuse involving the suspected perpetrator. Requires consultation with

prosecutors before conducting compelled interviews and prohibits the use of a polygraph examination or other truth-telling device as a condition for proceeding with an investigation.

Documentation review and an interview with the facility Investigator confirmed he completed the required specialized investigator training as well as the annual PREA education. The facility investigator indicated all allegations are investigated, regardless of how the information is initially obtained and reported that investigations begin immediately upon notification. All allegations of sexual abuse or sexual harassment receive an administrative investigation whether it was through the facility, victim, third party or law enforcement, depending on the type of allegation. An investigation begins with information regarding the allegation, a review of the incident report, interview with the victim, alleged perpetrator, witnesses and evidence gathering. The evidence collected is not limited to videos, statements, and prior complaints. Also, if an allegation is determined to contain criminal elements, the investigation would be referred to Nebraska State Patrol (NSP).

The facility investigator interview confirmed the credibility of the victim is based on evidence found, and that no polygraph examination or truth-telling device is a condition for proceeding with an investigation. Also, the investigator indicated an investigation does not cease until completed, regardless if the alleged perpetrator is released or resigns employment, or if the victim leaves the facility prior to the completion of the investigation. The facility investigator reported that he would assist if the investigation was conducted by Nebraska State Patrol (NSP).

A review of the eight (8) investigation files of alleged staff's or inmates sexual abuse or sexual harassment that occurred in this facility in the past twelve (12) months contained the required information in accordance to NDCS policy and procedure. Also, no investigations were substantiated for allegation of conduct nor appeared to be criminal therefore none were referred for prosecution in the past twelve (12) months.

Based on the review of the agency policy and procedures, observations and information obtained through staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

## Standard 115.72: Evidentiary standard for administrative investigations

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

#### 115.72 (a)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires that a facility investigate the allegation and indicates a standard of a preponderance of the evidence or a lower standard of proof for determining if allegations are substantiated. The NDCS Criminal Investigator and/or the facility's PREA Investigator investigates the allegation and indicates a standard of a preponderance of the evidence or a lower standard of proof for determining if allegations are substantiated, unsubstantiated or unfounded.

Interviews with both facility Investigator and Corrections Warden indicated that they conduct fact finding investigations and make conclusions following their investigations (which are administrative in nature) and provide the information to NDCS for consultation with legal and Human Resources to determine disciplinary actions to be imposed and the standard they would use is the preponderance of evidence.

Based on the review of the agency policy and procedures, observations and information obtained through staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

## Standard 115.73: Reporting to inmates

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

#### 115.73 (a)

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

#### 115.73 (b)

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

#### 115.73 (c)

- Following an inmate's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The staff member is no longer posted within the inmate's unit?  Yes  No
- Following an inmate's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the

resident has been released from custody, does the agency subsequently inform the resident whenever: The staff member is no longer employed at the facility?  Yes  No

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

#### 115.73 (d)

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

#### 115.73 (e)

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

#### 115.73 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires that any inmate who makes an allegation that he or she suffered sexual abuse is informed in writing contains the process for notifying inmates whether the allegation proves substantiated, unsubstantiated or unfounded following an investigation. This policy further requires that following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the facility informs the inmate unless the allegations are "unfounded" whenever the staff member is no longer posted within the inmate's unit; the staff member is no longer employed at the facility; NDCS learns that the staff member has been indicted or convicted on a charge related to sexual abuse within the facility. Investigations involving inmate-on-inmate allegations of sexual abuse, NDCS PREA Coordinator notifies the Corrections Captain/PCM who will then inform the inmate and the Corrections Warden whenever the facility learns that the alleged abuser has been indicted or convicted on a charge related to sexual abuse within the facility.

Interviews with the facility investigator and the Corrections Captain/PCM confirmed all investigation outcomes, whether the allegation proves substantiated, unsubstantiated or unfounded following an investigation, are completed by the facility investigator and the documentation is maintained with the investigation. The staff utilizes an "Inmate PREA Notification" form to advise the inmate of the investigation outcome. Documentation review of eight (8) investigations that occurred in the past twelve (12) months revealed six (6) applicable investigations contained the victim's notification of the investigation outcome.

Based on the review of the agency policy and procedures, observations and information obtained through staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

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

#### 115.76 (a)

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

#### 115.76 (b)

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

#### 115.76 (c)

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

#### 115.76 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 required staff who are terminated or who resign for a violation of the sexual abuse or sexual harassment policies shall be informed of the NDCS's reporting the employment action to any relevant licensing bodies and to law enforcement agencies, unless the activity was clearly not criminal. Requires that staff shall be subjected to the disciplinary sanctions up to and including termination for violation of NDCS sexual abuse or sexual harassment policies. Requires that termination shall be the presumptive disciplinary sanction for staff who had engaged in sexual abuse. Requires that violations of the NDCS policies relating to sexual misconduct 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. The policy also mandates that the violation be reported to the NDCS PREA Coordinator and law enforcement if criminal in nature. Additionally, staff may not escape sanctions by resigning. Staff who resign because they would have been terminated, are reported to the Nebraska State Police (NSP), unless the activities were not clearly criminal.

Interviews with the Tecumseh SCI's Corrections Warden, HR Manager I and documentation review confirmed there had been no employees disciplined, terminated or resigned in the past twelve (12)

months for violation of the facility's sexual abuse or sexual harassment policies. All disciplinary sanctions are maintained in the employee's HR file in accordance with NDCS policy and procedures. Based on the review of the agency policy and procedures, observations and information obtained through staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

## Standard 115.77: Corrective action for contractors and volunteers

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

#### 115.77 (a)

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

#### 115.77 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires that any contractor or volunteer who engages in sexual abuse of inmates shall be prohibited from contact with inmates and shall be reported to the NDCS PREA Office, any relevant licensing bodies and to law enforcement agencies, unless the activity was clearly

not criminal. Requires the facility to take appropriate remedial measures, and shall consider whether to prohibit further contact with inmates, in the case of any other violation of agency sexual abuse or sexual harassment policies by a volunteer or contractor.

Tecumseh SCI's Corrections Warden interview confirmed there were no instances or reports whereby a volunteer or contractor was alleged to have violated the sexual abuse or sexual harassment NDCS policies and procedures in the past twelve (12) months. All volunteers and contractors must sign the "Inmate Sexual Assault/Abuse Agreement for Volunteers and Contractors" form upon completion of the PREA training they received. This was verified with the documentation review.

Based on the review of the agency policy and procedures, observations and information obtained through the staff interview and review of documentation, the facility has demonstrated compliance with this standard.

## Standard 115.78: Disciplinary sanctions for inmates

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

#### 115.78 (a)

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

#### 115.78 (b)

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

#### 115.78 (c)

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

#### 115.78 (d)

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

#### 115.78 (e)

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

#### 115.78 (f)

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

### 115.78 (g)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires an inmate who makes a report of inmate-on-inmate sexual violence or employee sexual abuse or sexual harassment that is determined to be false, may be charged with a disciplinary offense if it is determined the report was made in bad faith following consultation. Requires sanctions to be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.

Requires consideration whether an inmate's mental disabilities or mental illness contributed to his behavior when determining what type of sanction, if any, should be imposed. Requires the consideration whether to require the offending inmate to participate in interventions as a condition of access to programming or other benefits when services, such as therapy, counseling or other interventions designed to address and correct underlying reasons or motivations for abuse, are available. Inmates shall not be charged for reports of sexual abuse made in good faith, based upon a reasonable belief that the alleged conduct occurred. Such a report shall not constitute falsely reporting an incident or lying, even if an investigation does not establish sufficient evidence to substantiate the allegation.

An interview with Tecumseh SCI's Corrections Warden indicated sanctions are addressed at a formal disciplinary hearing and that mental health is conferred with before sanctions are determined. He stated that disciplinary action can include a change in custody level, segregation time, loss of good time and law enforcement charges which may be referred for prosecution if the allegations were criminal, if

applicable. The staff provides each inmate with a NDCS PREA pamphlet entitled “Sexual Assault Awareness” and Institutional Rules that includes their rights and responsibilities, a disciplinary list of violations, disciplinary procedures and transfers. Documentation review indicated there had been no administrative findings of guilt for inmate-on-inmate sexual abuse that have occurred at the facility in the past twelve (12) months that resulted in disciplinary action.

Based on the review of the agency policy and procedures, observations and information obtained through the staff interview and review of documentation, the facility has demonstrated compliance with this standard.

## MEDICAL AND MENTAL CARE

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

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

##### 115.81 (a)

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

##### 115.81 (b)

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

##### 115.81 (c)

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

##### 115.81 (d)

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

##### 115.81 (e)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 and Policy #115.23 (Mental Health Services) revised 9/30/17 requires medical and mental health evaluations and as appropriate, treatment is offered to all inmates victimized by sexual abuse and ensure confidentiality of information. Inmates who report prior sexual victimization or who disclose prior incidents of perpetrating sexual abuse, either in an institution or in the community, are required to be offered a follow-up with a medical or a mental health practitioner within 14 days of admission/screening. Limits access to the screening information to medical and mental health practitioners, and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by federal, state, or local law. Requires medical and mental health to obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of eighteen (18).

Documentation review confirmed that Tecumseh SCI's medical staff had an intake process completing various admission screening forms (i.e. Intra-System Medical Screening, Intake Medical Screening, Patient Questionnaire and Health Screening) and mental health staff completes various forms (i.e. Behavior Suicide Assessment form, Potential for Sexual Assault/Sexual Victimization Screening Instrument, Mental Health Intake and Orientation Receipt, Mental Health Orientation Notes and PREA Screening form) during the initial intake process including informed consent disclosures. Medical and mental health staff interviews confirmed that although there were no disclosures, all inmates were offered follow-up meetings with medical and mental health providers. Also, medical and mental health staff confirmed the referral process for inmates who report sexual victimization or are identified as being sexually abusive at intake is reported within fourteen (14) days. Medical staff provides inmates with health education (including sexual abuse/assault) during the initial intake process and throughout their stay at the facility.

Interviews with both the Corrections Warden and Corrections Captain/PCM confirmed there are no inmates under the age of eighteen (18) housed at this facility. Documentation review confirmed medical and mental health staff conducts risk assessments during the initial intake process including informed

consent disclosures. There were no inmates who disclosed prior victimization during their initial screening process within the past twelve (12) months.

Based on the review of the agency policy and procedures, observations and information obtained through the staff interview and review of documentation, the facility has demonstrated compliance with this standard.

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

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

#### 115.82 (a)

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

#### 115.82 (b)

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

#### 115.82 (c)

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

#### 115.82 (d)

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

### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires the timely and unimpeded access to emergency medical treatment and crisis intervention services for victims of sexual abuse. If there are no qualified medical or mental health practitioners on duty at the time a report of sexual assault or sexual abuse is made, security staff first responders shall take preliminary steps to protect the victim and shall immediately notify the facility's designated medical and mental health practitioner. Requires that victims of sexual abuse while incarcerated shall be offered timely information about and access to emergency contraception and sexually transmitted infections prophylaxis. Requires that treatment services are provided free of cost and regardless of whether the victim identifies the abuser or cooperates with an investigation.

The medical staff had a protocol in place to assist in expediting an inmate to the emergency room with specific documentation (Transportation Order and Emergency Referral) for the correctional officers. Documentation and interviews with medical staff confirmed Bryan LGH West (SANE certified) provides the emergency examinations at no financial cost to the victim. Nebraska Coalition to End Sexual & Domestic Violence is identified to provide sexual assault victims, provide free confidential crisis intervention and emotional support services related to sexual abuse or assault who are calling the toll-free telephone number for the inmates at the facility and forensic examinations. The facility has available the PREA pamphlet "What You Need to Know About Sexual Assault" and identifies for the inmates to call or write the Ombudsman's Office or the Prison Advocacy Coordinator.

Interviews with the medical and mental health staff confirmed that inmates (victims) of sexual abuse receive timely and unimpeded access to emergency medical treatment and crisis intervention services. The medical staff indicated that services begin immediately upon notification of a victim of sexual abuse from the supervisor or any other staff to contact the hospital and medical practitioner. All notifications would be completed to the appropriate individuals and to follow the medical staff's directive regarding any forensic examination. The medical and mental health staff interviews indicated the scope of services is in accordance to their professional judgment, policy and any physician orders or protocols. All orders will be documented in the inmate's medical/mental health record.

Also, the medical staff's interviews indicated that a referral could be made to the hospital to begin any sexually transmitted infection prophylaxis treatment/services and orders for follow-up services. Mental health services would begin when the victim is available once the forensic examination has been completed at the hospital. Mental health staff interviews indicated that they would see the victim no later than 24 hours of an incident and provide one-on-one counseling and make available outside emotional support services and follow-up care. Documentation in the reports indicated that services are provided immediately upon notification. In the past twelve (12) months, there has been no allegation where a victim required a forensic medical examination.

Based on the review of the agency policy and procedures, observations and information obtained through the staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

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

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

### 115.83 (a)

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

### 115.83 (b)

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

### 115.83 (c)

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

### 115.83 (d)

- Are inmate victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if all-male facility.)  Yes  No  NA

### 115.83 (e)

- If pregnancy results from the conduct described in paragraph § 115.83(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if all-male facility.)  Yes  No  NA

### 115.83 (f)

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

### 115.83 (g)

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

### 115.83 (h)

- If the facility is a prison, does it attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment

when deemed appropriate by mental health practitioners? (NA if the facility is a jail.)  
 Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse revised 3/31/18 and Policy #201.13 (Identification of Potential Aggressors and Victims) revised 3/31/18 requires ongoing medical and mental health care for sexual abuse victims and abusers. This will include medical and mental health evaluation and treatment, follow-up services, treatment plans and referrals. Requires pregnancy tests, as necessary and timely access to all lawful pregnancy-related medical services. Requires offered tests for STD's as medically appropriate. Requires treatment services to be free of financial cost regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. The facility is required to provide such victims with medical and mental health services consistent with the community level of care. All prisons are required to attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within fourteen (14) days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

Interviews with the medical staff confirmed that victims are offered a sexual assault assessment, individual counseling, referral to the psychiatrist, medications as ordered by the physician, laboratory testing for STD and HIV and follow-up. The mental health staff interviews indicated their plan for services would include individual or group treatment, including trauma resolution and PTSD, as well as follow-up. Also, the mental health staff would conduct mental health evaluations of all known inmate-on-inmate abusers and offer treatment services within fourteen (14) days. Mental health staff also reported that all inmates receive a mental health evaluation during their first few weeks at the facility.

Victims of sexual abuse will be transported to the Nebraska Coalition to End Sexual & Domestic Violence as the victim advocate services for this facility where they will receive treatment and where physical evidence can be gathered by a certified SANE medical examiner. There is a process in place to ensure staff track on-going medical and mental health services for victims who may have been sexually abused and medical staff track the follow-up medical visits. Mental health staff completes an evaluation and follow-up for mental health visits. There have been six (6) investigations of alleged inmate's sexual abuse that occurred in this facility in the past twelve (12) months. The medical and mental health staff have a protocol in place to assist inmates upon discharge from the facility to continue services if needed.

Based on the review of the agency policy and procedures, observations and information obtained through the staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

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

#### 115.86 (a)

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

#### 115.86 (b)

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

#### 115.86 (c)

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

#### 115.86 (d)

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

improvement and submit such report to the facility head and PREA compliance manager?  
 Yes  No

### 115.86 (e)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires incident reviews to be conducted at the conclusion of every sexual abuse investigation including where the allegation has been substantiated and unsubstantiated. Requires the sexual abuse incident review to be conducted within thirty (30) days of the conclusion of the investigation. Requires the review team to include upper-management officials, with input from line supervisors, investigators, and medical or mental health practitioners. Requires the review of the allegation for: the need for policy or practice change, motivation for the incident, check of the physical area for barriers, staffing levels at the time of the incident, and information regarding any enhancement of current monitoring technology. Requires a written report completed that includes any recommendations and corrective action, as well as documentation showing implementation of the recommendations or the reason for not implementing the recommendations.

An interview with the Corrections Warden, other staff interviews and documentation review of the investigation reports confirmed that a report (Sexual Abuse Incident Review) is prepared upon completion of sexual abuse incident reviews. The report would include: brief chronological summary, acknowledgment of what went well during the incident, whether the incident response/action was in compliance with relevant NDCS rules, policies, and procedures, corrective actions taken or still needed to improve outcomes in future similar incidents, policy changes, motivation of the incident, motivated or caused by group dynamic, physical barriers, monitoring technology, medical and mental health services provided, outcome of the investigation/corrective actions, and inmate notification of investigation outcome.

Tecumseh SCI's Sexual Abuse Incident Review Team consisted of the Corrections Warden, Corrections Assistant Warden, Corrections Deputy Warden, Corrections Major, Corrections Captain/PCM, Corrections Unit Administrator, facility investigator and medical and mental health staff. The facility has

reported eight (8) investigations of criminal and/or administrative investigation of alleged sexual abuse or sexual harassment that occurred in this facility in the past twelve (12) months however only two (2) investigations were followed with a sexual abuse incident review.

Based on the review of the agency policy and procedures, observations and information obtained through the staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

## Standard 115.87: Data collection

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

#### 115.87 (a)

- Does the agency collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions?  Yes  No

#### 115.87 (b)

- Does the agency aggregate the incident-based sexual abuse data at least annually?  Yes  No

#### 115.87 (c)

- Does the incident-based data include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice?  Yes  No

#### 115.87 (d)

- Does the agency maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews?  Yes  No

#### 115.87 (e)

- Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates? (N/A if agency does not contract for the confinement of its inmates.)  Yes  No  NA

#### 115.87 (f)

- Does the agency, upon request, provide all such data from the previous calendar year to the Department of Justice no later than June 30? (N/A if DOJ has not requested agency data.)  Yes  No  NA

### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires the collection of accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. Also, the policy and procedure requires annual aggregate of the sexual abuse data, the collection of necessary data to respond to the DOJ – Survey of Sexual Violence and the data provided to the DOJ no later than June 30 of each year. Requires that data will be collected from any private facility with which it contracts for the confinement of offenders.

Tecumseh SCI Corrections Captain/PCM completes the collected data related to PREA forwards the report to the Corrections Warden for review and approval prior to forwarding to the NDCS PREA Coordinator. NDCS has a data collection instrument to answer all questions for the U.S. Department of Justice Survey of Sexual Abuse Violence. The NDCS PREA Coordinator is responsible for monitoring the PREA data and alerting the NDCS Director of any notable trends. An interview with the NDCS PREA Coordinator indicated that she maintains all related data and document information as required by policy and procedure from each facility on a monthly basis. This information is used to identify trends and create corrective actions for an individual facility.

Documentation review of the 2016 DOJ SSV-2 form and 2017 NDCS Sexual Abuse Annual Assessment (annual report) revealed they were detailed, comprehensive and identified all state facilities within the Nebraska Department of Correctional Services. Based on the review of the agency policy and procedures, observations and information obtained through the staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

## Standard 115.88: Data review for corrective action

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

#### 115.88 (a)

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies,

practices, and training, including by: Taking corrective action on an ongoing basis?  
 Yes  No

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole?  Yes  No

#### 115.88 (b)

- Does the agency's annual report include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse  Yes  No

#### 115.88 (c)

- Is the agency's annual report approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means?  Yes  No

#### 115.88 (d)

- Does the agency indicate the nature of the material redacted where it redacts specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires the review of data for corrective action to improve the effectiveness of its prevention, protection and response policies, practices and training by identifying problem areas, taking on-going corrective action and preparing an annual report of its findings for individual facilities and the agency as a whole. Also, the policy and procedure requires the report to

include comparison data and corrective actions from prior years, approved by the Director, made public and allows the redaction of specific material and an indication of the material redacted.

An interview with the NDCS PREA Coordinator reports that information is gathered and submitted to the public through Sexual Abuse Annual Assessments that is available on the website, and includes comparison data and any facility modifications or agency policy changes. Also, she indicated the information is security retained and on-going corrective action is tracked. Tecumseh SCI Corrections Captain/PCM monitors collected data to determine and assess the need for any corrective actions and forwards the information to the NDCS PREA Coordinator. Documentation review of the 2017 NDCS Annual PREA Assessment (annual report) contained the comparison data and corrective actions specific to NDCS facilities as well as to the agency. The review of 2017 Tecumseh SCI's Annual PREA Assessment contained specific data and corrective action plans specific to the facility.

Based on the review of the agency policy and procedures, observations and information obtained through the staff interviews and review of documentation, the facility has demonstrated compliance with this standard.

## Standard 115.89: Data storage, publication, and destruction

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

#### 115.89 (a)

- Does the agency ensure that data collected pursuant to § 115.87 are securely retained?  
 Yes  No

#### 115.89 (b)

- Does the agency make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means?  Yes  No

#### 115.89 (c)

- Does the agency remove all personal identifiers before making aggregated sexual abuse data publicly available?  Yes  No

#### 115.89 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise?  Yes  No

### Auditor Overall Compliance Determination

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

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

**Instructions for Overall Compliance Determination Narrative**

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

A review of the Nebraska Department of Correctional Services (NDCS) Policy #203.11 (Sexual Assault/Abuse) revised 3/31/18 requires that the NDCS shall ensure that data collected of allegations of sexual abuse is securely retained, and makes information readily available to the public through an annual report on its website. Also, the policy and procedure requires that before making the report public, the NDCS shall remove all personal identifies and to maintain this information for at least ten (10) years after the date of initial collection unless Federal, State or local law requires otherwise. Also, NDCS has a data collection retention schedule that identifies the completion of ten (10) years and then to be destroyed.

An interview with NDCS PREA Coordinator confirmed that data is collected and securely retained for a minimum of ten (10) years. A review of the 2017 NDCS Annual PREA Assessment (annual report) confirmed there were no personal identifiers within the document and it is posted on the NDCS Website and readily available for public review.

Based on the review of the agency policy and procedures, observations and information obtained through the staff interview and review of documentation, the facility has demonstrated compliance with this standard.

**AUDITING AND CORRECTIVE ACTION**

**Standard 115.401: Frequency and scope of audits**

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

**115.401 (a)**

- During the three-year period starting on August 20, 2013, and during each three-year period thereafter, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (N/A before August 20, 2016.)  
 Yes    No    NA

**115.401 (b)**

- During each one-year period starting on August 20, 2013, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited?  Yes  No

#### 115.401 (h)

- Did the auditor have access to, and the ability to observe, all areas of the audited facility?  Yes  No

#### 115.401 (i)

- Was the auditor permitted to request and receive copies of any relevant documents (including electronically stored information)?  Yes  No

#### 115.401 (m)

- Was the auditor permitted to conduct private interviews with inmates, residents, and detainees?  Yes  No

#### 115.401 (n)

- Were inmates permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel?  Yes  No

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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This auditor reviewed the Nebraska Department of Correctional Services (NDCS) web page at <https://corrections.nebraska.gov/about/prison-rape-elimination-act-0> containing the ten (10) audit reports for PREA audits completed from August 25, 2015 through October 26, 2017. One third of each facility type operated by this Agency was completed during the first PREA review cycle in accordance with the standard. All ten (10) facilities have been scheduled for the second PREA review cycle. This facility is one of the facilities scheduled for the second year of the second PREA review cycle. This auditor had access to the entire facility and was able to conduct staff and inmate interviews in a private

room and provided with documentation in accordance to the standard. Inmates were permitted to send confidential information or correspondence to this auditor, the same method as sending to their legal counsel. Posters (pre-audit notices) for communicating to the auditor were in all areas of the facility.

## Standard 115.403: Audit contents and findings

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

#### 115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. In the case of single facility agencies, the auditor shall ensure that the facility's last audit report was published. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.)  Yes  No  NA

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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This auditor reviewed the Nebraska Department of Correctional Services (NDCS) web page <https://corrections.nebraska.gov/about/prison-rape-elimination-act-0> containing the ten (10) PREA Final Reports that were audited for the previous three years and published within 90 days after the final report was issued by the auditor. Also, two (2) facilities that were audited for the first year of the second cycle their reports were published within 90 days after the final report was issued by the auditor.

## AUDITOR CERTIFICATION

I certify that:

- The contents of this report are accurate to the best of my knowledge.
- No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and
- I have not included in the final report any personally identifiable information (PII) about any inmate or staff member, except where the names of administrative personnel are specifically requested in the report template.

### Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.<sup>1</sup> Auditors are not permitted to submit audit reports that have been scanned.<sup>2</sup> See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

Dorothy Xanos

December 22, 2018

**Auditor Signature**

**Date**

<sup>1</sup> See additional instructions here: <https://support.office.com/en-us/article/Save-or-convert-to-PDF-d85416c5-7d77-4fd6-a216-6f4bf7c7c110>.

<sup>2</sup> See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.