

# Prison Rape Elimination Act (PREA) Audit Report

## Adult Prisons & Jails

Interim       Final

Date of Report    10/01/2019

### Auditor Information

Name: Sonya Love      Email: sonya.love@nakamotogroup.com

Company Name: The Nakamoto Group, Inc.

Mailing Address: 11820 Parklawn Dr., Suite 240      City, State, Zip: Rockville, MD 20852

Telephone: 301-468-6535      Date of Facility Visit: July 10-12, 2019

### Agency Information

Name of Agency: New Jersey Department of Corrections      Governing Authority or Parent Agency (If Applicable): State of New Jersey

Physical Address: Whittlesey Road      City, State, Zip: Trenton NJ 08625-0863

Mailing Address: PO Box 863      City, State, Zip: Trenton NJ 08625-0863

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 Website with PREA Information: [www.state.nj.us/corrections/pages/prea](http://www.state.nj.us/corrections/pages/prea)

### Agency Chief Executive Officer

Name: Marcus O. Hicks Esq., Acting Commissioner

Email: Marcus.Hicks@doc.nj.gov      Telephone: 609-826-5660

### Agency-Wide PREA Coordinator

Name: Jennifer Malinowski, Director of Policy & Planning

Email: Jennifer.Malinowski@doc.nj.gov      Telephone: 609-292-4036

PREA Coordinator Reports to:  Suzanne Lawrence	Number of Compliance Managers who report to the PREA Coordinator 13
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## Facility Information

**Name of Facility:** Mid-State Correctional Facility

**Physical Address:** 8401 Range Road

**City, State, Zip:** Fort Dix, NJ 08562

**Mailing Address (if different from above):**  
PO BOX 866

**City, State, Zip:** Wrightstown NJ 08562

**The Facility Is:**

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

**Facility Type:**

Prison

Jail

**Facility Website with PREA Information:** [www.state.nj.us/corrections/pages/prea](http://www.state.nj.us/corrections/pages/prea)

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

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

ACA

NCCHC

CALEA

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

N/A

**If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:**  
N/A

### Warden/Jail Administrator/Sheriff/Director

**Name:** Derick Loury

**Email:** [Derick.Loury@doc.nj.gov](mailto:Derick.Loury@doc.nj.gov)

**Telephone:** 609-723-4221

### Facility PREA Compliance Manager

**Name:** Ryan O'Dea

**Email:** [Ryan.Odea@doc.nj.gov](mailto:Ryan.Odea@doc.nj.gov)

**Telephone:** 609-723-4221

### Facility Health Service Administrator

**Name:** Neo Castro

**Email:** [Castronb@ubhc.rutgers.edu](mailto:Castronb@ubhc.rutgers.edu)

**Telephone:** 609-723-4221

## Facility Characteristics

Designated Facility Capacity:	696	
Current Population of Facility:	647	
Average daily population for the past 12 months:	782	
Has the facility been over capacity at any point in the past 12 months?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Which population(s) does the facility hold?	<input type="checkbox"/> Females <input checked="" type="checkbox"/> Males <input type="checkbox"/> Both Females and Males	
Age range of population:	20-74	
Average length of stay or time under supervision:	9 months	
Facility security levels/inmate custody levels:	Medium	
Number of inmates admitted to facility during the past 12 months:	782	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:	781	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:	735	
Does the facility hold youthful inmates?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Number of youthful inmates held in the facility during the past 12 months: (N/A if the facility never holds youthful inmates)	<input checked="" type="checkbox"/> N/A	
Does the audited facility hold inmates for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<p><b>Select all other agencies for which the audited facility holds inmates: Select all that apply (N/A if the audited facility does not hold inmates for any other agency or agencies):</b></p>	<input type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> U.S. Marshals Service <input type="checkbox"/> U.S. Immigration and Customs Enforcement <input type="checkbox"/> Bureau of Indian Affairs <input type="checkbox"/> U.S. Military branch <input checked="" type="checkbox"/> State or Territorial correctional agency <input type="checkbox"/> County correctional or detention agency <input type="checkbox"/> Judicial district correctional or detention facility <input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail) <input type="checkbox"/> Private corrections or detention provider <input type="checkbox"/> Other - please name or describe: <a href="#">Click or tap here to enter text.</a> <input type="checkbox"/> N/A	
Number of staff currently employed by the facility who may have contact with inmates:	303	

Number of staff hired by the facility during the past 12 months who may have contact with inmates:	25
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	12
Number of individual contractors who have contact with inmates, currently authorized to enter the facility:	12
Number of volunteers who have contact with inmates, currently authorized to enter the facility:	22
<b>Physical Plant</b>	
<p><b>Number of buildings:</b></p> <p>Auditors should count all buildings that are part of the facility, whether inmates are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house inmates, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.</p>	1
<p><b>Number of inmate housing units:</b></p> <p>Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house inmates of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows inmates to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.</p>	18
Number of single cell housing units:	1
Number of multiple occupancy cell housing units:	1
Number of open bay/dorm housing units:	16
Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):	4
In housing units, does the facility maintain sight and sound separation between youthful inmates and adult inmates? (N/A if the facility never holds youthful inmates)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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**Medical and Mental Health Services and Forensic Medical Exams**

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

**Investigations**

**Criminal Investigations**

Number of investigators employed by the agency and/or facility who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment:	80
When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.	<input checked="" type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <input checked="" type="checkbox"/> N/A

**Administrative Investigations**

Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?	80
When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply	<input checked="" type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <input checked="" type="checkbox"/> N/A

# 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.*

### Overview

The on-site Prison Rape Elimination Act (PREA) audit of the Mid-State Correctional Facility (MSCF) is in Fort Dix, New Jersey. The audit was conducted on July 10-12, 2019. The audit was completed by Sonya Love, certified PREA Auditor with The Nakamoto Group, Inc. Mid-State Correctional Facility is classified as a medium security facility. MSCF houses inmates according to their custody level (determined by several factors including the past criminal history and the length of their sentence).

### Pre-Audit Phase

The standards used for this audit became effective August 20, 2012. A meeting took place with management staff to outline the Auditor's sampling strategy, logistics for the facility tour, interview schedule and to discuss the need to review additional directives and supplemental documents.

The Auditor also confirmed through an internet search that New Jersey Department of Corrections (NJDOC) PREA audit cycles run from August 20<sup>th</sup> - August 19<sup>th</sup> each year. NJDOC audits are scheduled in 3-year incremental cycles. In 2016, NJDOC completed PREA audits at Bayside, Northern and New Jersey State Prisons. Mid-State Correctional Facility (MSCF) was decommissioned then recommissioned by the agency and therefore this represents the first PREA audit for this facility. NJDOC website included public information such as:

### The Prison Rape Elimination Act (PREA) at the New Jersey Department of Corrections

The New Jersey Department of Corrections (NJDOC) maintains compliance with the Prison Rape Elimination Act (PREA). Signed into federal law in 2003, PREA is designed to prevent, detect, and respond to incidences of sexual abuse and sexual harassment in confinement facilities.

### Under PREA, inmates who are committed to the custody of the NJDOC:

- Have the right to serve their incarceration free of sexual abuse and sexual harassment;
- Have multiple means by which to report sexual abuse/sexual harassment;
- Have the right to be free from retaliation, whether victim, perpetrator, or reporter of sexual abuse/sexual harassment;
- Have the responsibility not to engage in sexually abusive and/or sexually harassing conduct;
- Are assessed for PREA risk with the goal of keeping separate those inmates at risk of being sexually victimized from those at risk of being sexually abusive;
- Have the right to access medical and mental health services that address sexual abuse; and
- Have access to external sexual abuse emotional support services.

PREA reporting and resource information is available throughout each correctional facility. Additionally, Institutional PREA Compliance Managers are assigned at each correctional facility to oversee and coordinate PREA compliance.

## **NJDOC Zero Tolerance Policy**

The NJDOC maintains a zero tolerance toward all forms of inmate sexual abuse and inmate sexual harassment. The NJDOC will respond to, investigate, and support the prosecution of sexual abuse and sexual harassment within the correctional system and externally in partnership with state and local authorities.

**The NJDOC accepts and investigates** all inmate and third-party verbal, written, and anonymous reports of sexual abuse/sexual harassment. Additionally, the County Prosecutor may be contacted for potential criminal investigation and prosecution.

**All NJDOC staff** members, contractors and volunteers receive training on their duties and responsibilities under the NJDOC's zero tolerance policy and PREA standards.

**All NJDOC staff** members, contractors and volunteers are required to immediately report any occurrence of inmate sexual abuse /sexual harassment.

**NJDOC** any person is subject to disciplinary action who files an allegation of sexual abuse/sexual harassment knowing it to be false.

## **Healthcare for Inmates**

The Health Services Unit establishes NJDOC policy regarding medical, dental, nursing, pharmacy and mental health care of inmates held in state custody. The unit monitors professional activities to ensure compliance with applicable rules, regulations and statutes related to inmate healthcare services, with a goal of assuring that community standards are maintained. The NJDOC Quality Assurance Section develops formal auditing instruments that allow for the performance of objective audits of all areas of inmate healthcare services, which were privatized in 1996.

## **Reporting Inmate Sexual Abuse/Sexual Harassment**

Inmates who are victims of sexual abuse/ sexual harassment, or have knowledge of sexual abuse/sexual harassment should immediately report the incident by using any of the following reporting methods:

- Verbally or in writing to any NJDOC staff member, contractor or volunteer
- Using the Inmate Remedy System form/GTL Inmate Computer Kiosk
- Contacting the Institutional PREA Compliance Manager
- Contacting the Special Investigations Division (via the confidential SID box at the correctional facility or by dialing \*SID1# on the inmate telephone system)

## **SEXUAL ABUSE SURVIVOR INFORMATION:**

**To obtain a sexual abuse survivor information packet write to Just Detention International at:**

Cynthia Totten, Esq.  
Just Detention International  
3325 Wilshire Blvd., Suite 340  
Los Angeles, CA 90010

## **Contacting the Correction Ombudsman:**

- Inmate Only Toll-Free Number: 1-555-555-5555

## **Inmate Telephone System**

- All calls are subject to recording and/or monitoring, except for legal, AIDS hotline and Ombudsman calls.

### **Third Party Reporting of Inmate Sexual Abuse/Sexual Harassment:**

Family members, friends, attorneys, clergy or any other third party may make a report of sexual abuse/sexual harassment on an inmate's behalf by using any of the following methods:

- Contacting the Correctional Facility's Institutional PREA Compliance Manager;
- Contacting the Special Investigations Division Telephone: (609) 826-5617
- Address for the Correction Ombudsman:

**Telephone: (609) 633-2596**  
**Address:**  
**Office of the Correction Ombudsman**  
**PO Box 855**  
**Trenton, NJ, 08625**

Pursuant to PREA standards 115.87; 115.88 and 115.89 the NJDOC collects and retains incident-based data for all allegations of sexual abuse and sexual harassment reported from the thirteen (13) state correctional facilities under the supervision of the NJDOC as well as from the state's contracted residential community release program (RCRP) facilities

### **Document Request**

The auditor completed a document review of the Pre-Audit Questionnaire (PAQ), applicable policies, procedures, program statements and supplemental information. Telephone calls and emails were exchanged between the NJDOC Management Analysts assigned to monitor the 2019 PREA onsite portion of the audit. The following documentation was requested for review during the onsite visit:

- Roster of inmates by unit
- Roster of inmates with disabilities
- Roster of inmates who were Limited English Proficient (LEP)
- LGBTI inmates
- Inmates who reported sexual abuse
- Inmates who reported sexual victimization during risk screening
- Staff roster by shifts
- Specialized staff roster
- Inmate census the first day of the audit
- A roster of new employees hired in the past 12 months
- Unannounced institutional rounds
- List of contact information for volunteers
- SANE/SAFE point of contact information
- Copies of training acknowledgments for volunteers and contractors

### **Applicable PREA Related Policies - New Jersey Department of Corrections**

Policies at the NJDOC are promulgated through the Administrative Policies and Procedures Manual (APPM) Unit. APPM is the operational unit responsible for the generation, distribution and maintenance of NJDOC policy statements and internal management procedures, which are documents that impact the operation of all organizational units under the authority of the Commissioner of the NJDOC. Special emphasis is placed on the development of standardized, custody-related policies and procedures that impact the safety and security of the public, staff and inmates.

There are two basic types of documents found: NJDOC's in the Administrative Policies and Procedures Manual (APPM), agency level policy statements, and Internal Management Procedures (IMPs), Agency Level 1 termed. Where appropriate, each facility is responsible for disseminating its own Level III Internal Management Procedures (IMPs) to correspond with an agency Level 1 policy or IMP. An agency policy

statement or Level I IMP is applicable to all facilities under the NJDOC umbrella. A Level I IMP is facility specific and provides guidance for the unique operations of Mid-State Correctional Facility.

The following NJDOC agency and local policies serve as the primary directives to guide operational and performance compliance with the Prison Rape Elimination Act (PREA): IMM.001.004 (Zero Tolerance of Sexual Assault); PCS.001.PREA.ICM (Institutional PREA Compliance Manager); PCS.001.PREA.EMS (PREA E-Management System); MED.IMA.001 (Health Appraisals at Reception); ADM.006.007 (Pre-Employment and ID Card Renewal Background Checks: Issuance of Employee/Volunteer ID Cards); ADM.006.011 (Investigations of SID); IMP # 14 (Procedures for Sexual Offenses); IMP # 35 (Investigative Procedures); ADM.010.004 (Standards of Professional Conduct; Staff/Inmate Over Familiarity); PSM.001.011 (Staff Selections and Promotions); IMM.002.001(Inmate Remedy and Grievance Process); IMM.002.IRS.001 (Inmate Remedy System); PCS.001.PREA.001(Sexual Assault/PREA Advisory Committee); PSM.001.000 (Office of Human Resources MGO); E3-HRB 84-17 (Human Resources Bulletin); CUS.001.CSM.001(Crime Scene Management); CUS.110.011 (Searches of Inmates and Correctional Facilities); CUS.001.SEA.001 (Searches); CUS.003.001(Gender Restricted Posts); New Jersey Administrative Code (NJAC) 10A:4-12.2(Inmate Discipline); MED.MLI.007 (Sexual Assault); ADM.019.TCC.01 (Temporary Close Custody Status); PCS.001.006 (Transgender-Intersex Inmates); CLS.002.INT (Classification and Intake Process); and CLS.005.001 (Review of Inmate by Classification).

This Auditor should mention that during this audit cycle, some NJDOC Level 1 directives were created, updated, or modified during this audit cycle to better align with PREA standards and requirements. Specifically, the policy on zero tolerance of inmate sexual abuse/sexual harassment was updated. The policy on "Temporary Close Custody (TCC) Status" was updated to provide uniform guidelines for the placement and short term housing of inmates in a secure unit designated to limit an inmate's contacts with others when an immediate need to be separated from the general population for special observation (other than a healthcare need) and/or investigation exists to determine an appropriate custody or housing placement. The agency also has an established multi-disciplinary Sexual Assault Advisory Council (SAAC). The council convenes at both the correctional facility and departmental level to review all allegations and instances of sexual abuse/sexual harassment with the purpose of assessing and improving PREA prevention, detection and response.

### **Entrance Briefing and Tour (On-site Audit)-First Day**

An opening meeting took place with management staff to outline the Auditor's sampling strategy, logistics for the facility tour, interview schedule and to discuss the need to review additional directives and supplemental documents. The Auditor was provided a private room in which to work and conduct confidential interviews. All requested files and rosters, both staff and inmates were made available to the Auditor for review. The population on the first day of the audit was 647 adult males.

### **Site Review/Tour**

Immediately following the opening meeting, a tour of the facility was completed. The Auditor was escorted by the Assistant Superintendent/IPCM and NJDOC staff. During the tour, the Auditor reviewed PREA related documentation and materials located on bulletin boards and throughout the facility. The Auditor also observed camera surveillance, physical supervision, and electronic monitoring capabilities throughout the facility. Some cameras were checked from the control room to determine and verify angle positioning. Other areas of focus during the facility tour included, but were not limited to, levels of staff supervision, and limits to cross-gender viewing. All signs and postings were in both English and Spanish.

The tour of MSCF included the Receiving and Discharge (R&D), intake processing areas, all housing units, the Special Housing Unit (SHU), the Health Services Department, Recreation, Food Service, facility support areas, Education, Visiting Room, Psychology Services and other programming areas. MSCF has a Special Housing Unit (SHU) consisting of 4 administrative and disciplinary segregation cells. During the onsite visit, zero inmates were housed in SHU as a result of sexual victimization. During the tour of MSCF, the Auditor noted the following deficiencies in need of corrective action:

1. Mirror needed in a Social Service Office to eliminate a blind spot.
2. Coverings over intermediate custody staff door windows preventing monitoring to identify and deter staff sexual abuse and sexual harassment.
3. Coverings over Union office door window when not in use with for privacy preventing monitoring to identify and deter staff sexual abuse and sexual harassment.
4. Control room custody staff were observed watching game shows on big screen television in real-time in lieu of monitoring kitchen activity to identify and deter sexual abuse and sexual harassment.
5. Storehouse left unsecure and unstaffed.

All areas noted deficiencies were corrected.

**Other observations noted during the tour:**

- Zero inmates were housed in SHU because of an allegation of sexual victimization.
- Mid-State Correctional Facility does not house youthful inmates.
- GTL telephones were accessible to inmates and all were found in good working order.
- The Auditor tested telephones throughout the facility to determine PREA audit notifications were available to inmates from the housing units.

**Inmate Interviews**

At the time of the audit, there were 647 male inmates at Mid-State Correctional Facility and a designated capacity of 696. A total of 55 random male and targeted inmates were interviewed. No inmates refused to be interviewed. Interviews were conducted using the Department of Justice (DOJ) protocols to assess inmate's knowledge of the PREA and the reporting mechanisms available to them.

Number and categories of inmates are as follows:

Random inmates	35
Targeted inmates	20
<b>Total inmates interviewed</b>	<b>55</b>

Inmates who are Limited English Proficient (LEP)	5
Inmates who are Blind, Deaf, or Hard of Hearing	0
Inmates who identify as Transgender	0
Inmates with a Cognitive Disability	2
Inmates in Segregated Housing for Risk of Victimization	0
Inmates with a Physical Disability	2
Youthful Inmates	0
Inmates who Reported Sexual Abuse	1
Inmates who Identify as Lesbian, <b>Gay, or Bisexual</b>	5
Inmates who Reported Sexual Victimization During Risk Screening	5
<b>Total Number of Targeted Inmates Interviews</b>	<b>20</b>

**Staff Interviews**

Mid-State Correctional Facility employs 303 full-time staff and a total of 31 were interviewed to include correctional officers from all shifts and administrative/specialized staff. All staff interviewed confirmed having received training to act as first responders in the event of a PREA related incident. Both random and specialized staffs were interviewed on each day of the on-site audit.

**File Review**

Following the interviews, the Auditor reviewed the files requested during the Pre-Audit phase. The Auditor reviewed 25 training records to establish compliance with PREA training mandates. This Auditor confirmed that new employees completed background checks before hire, and all received National Crime Information Clearance before working around inmates. The Auditor reviewed four volunteer files. Screening and intake procedures were evaluated by reviewing 35 inmate files which included a vulnerability assessment instrument and inmate education verification documentation.

## **Investigations**

During the current auditing period, Mid-State Correctional Facility indicated in the Pre-Audit Questionnaire, zero reported allegations of sexual abuse/sexual harassment and that all administrative investigations are handled by the facility/agency investigator. Criminal investigations when necessary are transmitted quickly to the appropriate investigating agency with the legal authority to conduct criminal investigations. Additionally, sexual abuse investigative outcomes are submitted to, reviewed by, and finalized by the Assistant Superintendent/IPCM as the facility designee. The Auditor reviewed four (4) investigations while on site and found Mid-State Correctional Facility utilized a system to triage inmate complaints alleging PREA but determined by management not PREA related and categorized the complaint "not PREA." For more information see the applicable standard.

## **Inmate Correspondence**

The Auditor did not receive any correspondence from inmates or staff from Mid-State Correctional Facility.

## **Advocacy Contact**

The Auditor contacted Just Detention International (JDI), Leelyn Aquino-Shinn, Operations Director by email on July 1, 2019. JDI indicated they have not received any complaints against Mid-State Correctional Facility. More, JDI did not indicate any concerns about Mid-State Correctional Facility.

The Auditor conducted a telephone interview with a local community victim advocacy organization (New Jersey Coalition Against Sexual Violence), regarding their relationship with MSCF and to determine if this organization received any complaints from inmates at Mid-State Correctional Facility. The conversation confirmed that New Jersey Coalition Against Sexual Violence had not received any complaints from inmates at Mid-State Correctional Facility nor third-party complaints from friends or family members. MSCF has a victim advocacy provider relationship with CONTACT of Burlington County, a county victim advocacy organization that will provide, a 24 hour per day, seven days per week Sexual Assault Hotline, medical accompaniment and advocacy for an inmate victim of sexual assault during a SANE/SAFE examination. CONTACT of Burlington's mailing address is listed as:

**CONTACT of Burlington  
P.O. Box 333  
Moorestown, NJ 08057**

Forensic examination are conducted at Deborah Heart and Lung Center, Browns Mills, New Jersey, trained Sexual Assault Nurse and Forensic Examiners.

## **Closeout**

A closing meeting was held with the Auditor and administrative staff on July 12, 2019. Discussions centered on the audit process, preliminary findings, and the post-audit process. The Auditor discussed the next step in the PREA process audit process.

## **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.

### Facility Mission:

The mission is to promote and prepare the offender to leave in better shape than when they arrived, giving them the best chance to never come back and thus lower the state's recidivism rate.

### Facility Characteristics

Mid-State Correctional Facility (MSCF) was closed in June 2014 and reopened in April 2017. Mid-State is the first licensed, clinically driven drug treatment program provided by the NJDOC. MSCF is in Burlington County, at 8401 Range Road in Wrightstown, NJ. Inmates are placed at the facility according to their custody level (determined by several factors including the past criminal history and the length of their sentence). Mid-State Correctional Facility is composed of one building with one single cell housing unit, 1 multiple occupancy cell housing unit, 16 open bay/dorm housing unit and 4 segregation cells (administrative and disciplinary). This medium security level facility has a rated capacity is 686 inmates. The age range of the inmate population is 20-74 years old. The number of inmates admitted to the facility during the past 12 months whose stay was 72 hours, or more was 781. The average length of stay at Mid-State Correctional Facility is 9 months. The average daily number of inmates in last year was 640 with a facility staffing plan predicated on a population factor of 696 inmates. All inmates are assigned to work details and can participate in various programs. The facility offers a variety of services, included but not limited to, educational and vocational training, medical and dental care, psychiatric, psychological, social services, inmate victim advocacy, and social programs. All which can be found on the NJDOC website (<https://www.inmateaid.com/prisons/nj-doc-mid-state-correctional-facility>).

## Summary of Audit Findings

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

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

### Standards Exceeded

Number of Standards Exceeded: 1  
List of Standards Exceeded: §115.31

### Standards Met

Number of Standards Met: 44

§115.11; §115.12; §115.13; §115.14; §115.15; §115.16; §115.17; §115.18  
§115.21; §115.22  
§115.32; §115.33; §115.34; §115.35  
§115.41; §115.42; §115.43  
§115.51; §115.52; §115.53; §115.54  
§115.61; §115.62; §115.63; §115.64; §115.65; §115.66; §115.67; §115.68  
§115.71; §115.72; §115.73; §115.76; §115.77; §115.78  
§115.81; §115.82; §115.83; §115.86; §115.87; §115.88; §115.89

## Standards Not Met

**Number of Standards Not Met:**

**List of Standards Not Met:**

### Summary of Corrective Action (if any)

#### Standard 115.13: Supervision and monitoring

During the tour of MSCF, the Auditor noted the following deficiencies in need of correction action:

1. Mirror needed in a Social Service Office to eliminate a blind spot. Corrected
2. Coverings over intermediate custody staff door windows preventing monitoring to identify and deter staff sexual abuse and/sexual harassment. Corrected
3. Covering over the Union Office door window when not in use for privacy preventing monitoring to identify and deter staff sexual abuse and/or sexual harassment. Corrected
4. Control room custody staff were observed watching game shows on the big screen television in real-time in lieu of monitoring kitchen activity to identify and deter possible incidents of sexual abuse and/or sexual harassment. Corrected

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

Mid-State Correctional Facility and the Sexual Assault Advisory Council Incident Review employ incident review determinations of Substantiated, Unsubstantiated, Unfounded and an add-on category termed "NOT PREA." More, the PAQ, 115.22a (2-4) indicated that during the past 12 months, the number of allegation of sexual abuse and sexual harassment that were received was zero, the number of allegations resulting in an administrative investigation as zero and the number of allegations referred for criminal investigation as zero.

#### Corrective Action:

NJDOC will implement the auditor's recommendation that such cases be deemed unfounded rather than use of the term "not PREA." Corrected.

#### Standard 115.71: Criminal and administrative agency investigations

The Auditor reviewed a case in which the inmate filed a grievance about the manner of a pat frisk conducted by a MSCF custody staff that he characterized as "borderline PREA" and asked for the matter to be addressed. A Custody Supervisor initially met with inmate to determine the nature of the complaint and to assess the inmate's immediate safety concerns. The inmate indicated that he was not presently "in danger" at MSCF and that the remedy was a "misunderstanding." The matter was then referred the Special Investigations Division.

The inmate was interviewed by the Special Investigations Division Investigator. The inmate reported during the investigation that he was pat frisked by an officer and he felt that the pat frisk was a bit excessive and the officer was new. The inmate stated that the interaction was not PREA related. Relying on the inmate's statement and the pat frisk as conducted as part of routine duties, the investigator found that the allegation was "not PREA" in that it did not meet the definition of sexual abuse as defined in the definitions outlined in standard 115.6. The Auditor could not rule out fear of retaliation or fear of TCC as a motivating factor for recanting the grievance. The auditor recommends a corrective action that the facility deem such cases unfounded and rely upon other forms of evidence such as video footage of the incident or other witnesses to the incident to determine if an allegation is unfounded. The auditor recommends that this case be deemed unfounded.

## Corrective Action

A meeting took place with Mid-State Correctional Facility Assistant Superintendent and Institutional PREA Compliance Manager and NJDOC PREA staff. The auditor provided instruction that allegations that do not meet the definition of prohibited conduct as defined by standard 115.5 should be unfounded, meaning no evidence existed to confirm the incident was a PREA incident. This finding must be supported by a thorough and objective investigation to interviews of the alleged victims, suspected perpetrators and witnesses and any physical, testimonial and documentary evidence. The auditor reinforced that in a thorough investigation, the credibility of the alleged victims, perpetrators and witnesses must be assessed. NJDOC can rely on investigations conducted in accordance with the requirements of standard 115.71 to make the determination of substantiated, unsubstantiated or unfounded. This corrective action confirms compliance with the requirements of standard 115.71 that investigations are done promptly, thoroughly and objectively and allegations are not screened or ruled out by any preliminary investigation.

To implement the corrective action prescribed by the auditor NJDOC deemed this case unfounded and all investigations will be conducted in accordance with 115.71. NJDOC will implement the auditor's recommendation that such cases be deemed unfounded rather than use of the term "not PREA." Corrected.

# 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.*

IMM.001.004 (Zero Tolerance of Sexual Assault) and NJAC 10A:4-12.2 (Zero Tolerance Policy), NJDOC mandates zero tolerance toward all forms of sexual abuse and sexual harassment as required by Standard 115.11. The Auditor reviewed the organization chart which demonstrates that a PREA Coordinator and Institutional PREA Compliance Manager has been designated by the agency. PCS.001.008, PREA Compliance Overview, establishes the roles of the agency PREA Coordinator and the Institutional PREA Compliance Manager. More, both job descriptions were reviewed by the Auditor. NJDOC has a designated agency-wide PREA Coordinator with the time and authority to develop, implement, and oversee NJDOC's efforts to comply with the Prison Rape Elimination Act (PREA). An interview of the PREA Coordinator for the 2019 cycle remains on file with The Nakamoto Group. Likewise, Mid-State Correctional Facility has designated the Assistant Superintendent as the Institutional PREA Compliance Manager (IPCM). The Auditor interviewed the Assistant Superintendent/IPCM who indicated that he has the time and the authority to develop, implement, and oversee the facility's efforts to comply with the Prison Rape Elimination Act (PREA). Mid-State Correctional Facility met the requirements of Standard 115.11.

### Evidence relied upon to make auditor determination:

- Pre-Audit Questionnaire
- NJAC 10A:4-12.2 (Zero Tolerance Policy)
- IMM.001.004 (Zero Tolerance of Sexual Assault)
- Mid-State Organizational Chart
- PCS.001.PREA.AC/Prison Rape Elimination Act (PREA) Agency Coordinator
- PCS.001.008 PREA Compliance Overview
- PCS.001.PREA.ICM Institutional Prison Rape Elimination Act (PREA) Compliance Manager
- Interview with the PREA Coordinator (on file)
- Interview with the Institutional PREA Compliance Manager

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

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

### 115.12 (a)

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

### 115.12 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

A review of the uploaded documentation confirmed the agency requires contracts with other entities. The contractor is expected to adopt and comply with the PREA standards. All agency contractual agreements include the language requiring all contractors to adopt and comply with the PREA standards. The agency has a contract monitoring system to ensure that the contractor is complying with the PREA standards. Mid-State Correctional Facility met the requirements of Standard 115.12.

### Evidence relied upon to make auditor determination:

- Pre-Audit Questionnaire
- Interview with the PREA Coordinator (on file)
- PCS.000.000 (Division of Programs and Community Services Vision, Mission, Goals, Objectives and Organizational Structure)

- PCS.011.000 (Community Programs, Mission Goals and Objections)
- IMM.001.004 (Zero Tolerance of Sexual Assault)
- Contract Compliance Evaluation System

## Standard 115.13: Supervision and monitoring

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

#### 115.13 (a)

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

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

#### 115.13 (b)

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

#### 115.13 (c)

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

#### 115.13 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

NJDOC Post Trick Analysis/Baseline Custody Staffing policy statement 3301; the 2018 Internal PREA Audit; CUS 001.CRP.01 (Camera Review Procedures); CUS.001.011 (Searches of Inmates in Facility); and IMM 001.004 (Zero of Tolerance Sexual Assault) address the requirements of PREA standard 115.13. These policies require frequent monitoring of the staffing plan, frequent reporting on the effects of staffing on PREA supervision objectives, and regular facility rounds to assess sexual abuse vulnerabilities caused by staffing issues. In addition, the same policies require that MSCF has a written staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse. The Assistant Superintendent/IPCM indicated that during staffing analysis and the development and review of the facility's staffing plan, they would consider generally accepted detention and correctional practices; the need for additional video monitoring; any judicial findings of inadequacy; the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated); and the prevalence of substantiated and unsubstantiated incidents of sexual abuse. The Assistant Superintendent/IPCM confirmed that in the past 12 months, 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.

The unannounced rounds were conducted by upper-level and intermediate-level custody management staff. Random unannounced rounds were examined (Jan 2019, June 2019, and December 2018) by the Auditor. The examination confirmed that Mid-State Correctional Facility conducted unannounced rounds on every shift and the unannounced rounds were conducted by a member of intermediate-level or upper-level management. Likewise, the facility has a procedure in place that allows custody managers to enter the facility without staff having an opportunity to alert other staff.

The Assistant Superintendent/IPCM confirmed during his interview that deviations from the approved staffing plan would be documented. The Auditor confirmed that Mid-State Correctional Facility documented and justified all deviations from the established staffing plan for reasons such as:

- Unscheduled medical appointments
- Constant suicide watch
- Emergency maintenance
- An emergency inmate transfer
- A state of emergency

#### **Corrective Action:**

During the tour of MSCF, the Auditor noted the following deficiencies in need of corrective action:

1. Mirror needed in a Social Service Office to eliminate a blind spot. Corrected
2. Coverings over intermediate custody staff door windows preventing monitoring to identify and deter staff sexual abuse and sexual harassment. Corrected
3. Coverings over Union office door window when not in use with for privacy preventing monitoring to identify and deter staff sexual abuse and/or sexual harassment. Corrected
4. Control room custody staff were observed watching game shows on big screen television in real-time in lieu of monitoring kitchen activity to identify and deter possible incidents of sexual abuse and/or sexual harassment. Corrected

Mid-State Correctional Facility now meets the requirements of Standard 115.13.

#### **Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- CUS.001.012 (Security at Facility Entry Points)
- CUS.001.CRP.01 (Camera Review Procedures)
- CUS.001.011 (Searches of Inmates in Facility)
- 10A:4-12.2 (Zero Tolerance Policies)
- Baseline post trick analysis policy
- CUS.001.SEA.001 (Searches Confidential)
- Mid-State Annual Staffing Plan
- Classification Data/ Institution Capacity/Shift Roster/Visitor Log/Group Shift Report
- Auditor review unannounced rounds
- Interview with the PREA Coordinator (on file)
- Interview with the Institutional PREA Compliance Manager
- Interviews with staff (random)

## 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.*

Mid-State Correctional Facility does not house youthful offenders based on the 2015 New Jersey Revised Statutes Title 2A- Administration of Civil and Criminal Justice Section 2A:4A-261- Filing motion seeking waiver of jurisdiction. The statute states “there shall be a presumption that the juvenile shall serve any custodial sentence imposed in a State juvenile facility operated by the Juvenile Justice Commission until the juvenile reaches the age of 21”. Mid-State Correctional facility met the requirements of Standard 115.14.

#### Evidence relied upon to make auditor determination:

- Pre-Audit Questionnaire
- 2015 New Jersey Revised Statutes Title 2A - Administration of Civil and Criminal Justice Section 2A:4A-261
- Daily population reports
- Interviews with the Assistant Superintendent/IPCM

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

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

#### 115.15 (a)

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

#### 115.15 (b)

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

#### 115.15 (c)

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

#### 115.15 (d)

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

CUS.001.011, Searches of Inmates in Facilities, CUS.001.SEA.001, Searches Confidential, and PCS.001.006, Transgender/Intersex Inmates, address the requirements of Standard 115.15. NJDOC does not allow cross-gender strip searches or visual cavity searches except as indicated in Standard 115.15 in exigent circumstances. During interviews random staff detailed examples of an exigent circumstance and each staff (100%) interviewed firmly declared the agency's position of cross-gender viewing and searches. All staff (100%) interviewed confirmed receiving training on the agency's rules regarding the parameters for pat searches, strip searches and body cavity searches. Staff training files confirm that custody staff are trained. NJDOC policy does not allow cross-gender strip searches, cross-gender visual body cavity searches, and cross-gender pat down searches be conducted.

Of the fifty-five (55) random and targeted inmates interviewed (50) confirmed that most opposite gender staff announce their presence before entering the male living units. Five (5) inmates from the sample indicated that they either did not pay attention to the announcements, were working or could not hear the announcement because of the chatter on the unit. Staff sampled (random and specialized) indicated that all opposite gender staff make announcement when entering a unit.

The Auditor confirmed by examination that Mid-State Correctional Facility has policies in place that enable inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Moreover, the Auditor observed, during the tour that in the housing unit inmates are permitted to shower, perform bodily functions and change clothes privately. Further, all inmates (100%) confirmed that they are provided a measure of privacy to shower, perform bodily functions and change their clothes. Staff sampled (random and specialized) also confirmed that inmates can perform bodily functions such as bathe, change clothes and perform bodily function privately and that transgender and intersex inmates can shower separately from other inmates. Mid-State Correctional Facility does not house females therefore 115.15 (b) is not applicable. Random staff (100%) sampled also confirmed during interviews that Mid-State Correctional Facility always refrains from searching or physically examining transgender or intersex inmates for the sole purpose of determining the inmate's genital status. If an inmate's genital status is unknown, the facility could 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. Mid-State Correctional Facility met the requirements of Standard 115.15.

### **Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- CUS.001.011 (Searches of Inmates in Facilities)
- CUS.001.SEA.001 (Searches Confidential)
- CUS.003.001 (Gender Restrictions of Custody Posts)

- NJAC 10A:3-5.7 (Strip searches)
- NJAC 10A:3-5.6 (Pat search)
- PCS.001.006 (Transgender/Intersex Inmates)
- Security Skills Refresher Evaluation
- Strip and Cavity Searches
- Training sign in sheets and curriculum
- Inmate handbook
- Interview with staff (random and specialized)
- Interview with inmates (random and targeted)
- Interview with the Assistant Superintendent/IPCM
- Observations of Auditor during the on-site portion of the audit

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

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

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

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are deaf or hard of hearing?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are blind or have low vision?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have intellectual disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have psychiatric disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have speech disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Other (if "other," please explain in overall determination notes)?  Yes  No
- Do such steps include, when necessary, ensuring effective communication with inmates who are deaf or hard of hearing?  Yes  No

- Do such steps include, when necessary, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary?  Yes  No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have intellectual disabilities?  Yes  No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have limited reading skills?  Yes  No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Are blind or have low vision?  Yes  No

#### 115.16 (b)

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

#### 115.16 (c)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

PCS.001.DFH.01, Deaf/Hard of Hearing Inmates, IMM.002.003 Americans with Disabilities Act and New Jersey Law Against Discrimination Reasonable Accommodations for Inmates, ADM.008.LEP.01, Hearings Held on Limited English Proficiency (LEP) Inmates, SUP.004.001 Limited English Proficient (LEP) Language Assistance: Bilingual Staff and Use of the Language Line, and New Jersey Department of Corrections Deaf and Hard of Hearing Waiver for the Hearing Loss Identification collectively address Standard 115.16. Through policy and practice, Mid-State Correctional Facility ensures that inmates with disabilities have an equal opportunity to participate in and benefit from all aspects of the agency's efforts to prevent, detect and respond to sexual abuse and sexual harassment. The Auditor interviewed five (5) Limited English Proficient (LEP) inmates and each LEP inmate confirmed through an interpreter that they were provided PREA related information and orientation in a language they understood. It should be mentioned that the interpreter was a custody staff person.

Random inmates sampled also confirmed that they received PREA education in a language they understood. More, all inmates sampled (100%) confirmed they were knowledgeable regarding multiple ways to report an incident of sexual abusive behavior or sexual harassment to authorities. All PREA related information, including posters, brochures and handouts were available in English and in Spanish. The Auditor observed PREA related educational information posted in multiple languages displayed throughout the facility.

The Assistant Superintendent/IPCM indicated that during intake facility staff will employ bi-lingual staff or utilize a language line service to meet the need of LEP inmates. Likewise, the agency provides PREA related videos with closed captions for hearing impaired inmates assigned to the facility. The Assistant Superintendent/IPCM confirmed that the facility does not use inmate interpreters, inmate readers or other types of inmate assistants in the performance of first responder duties or during the investigation of an inmate's allegations. Interviews with first responders, medical and mental health staff, and the Assistant Superintendent/IPCM confirmed their awareness of the prohibition of using inmate interpreters for any PREA investigative purpose. Interviews with staff and an examination of supporting documentation confirmed compliance with Standard 115.16.

#### **Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- PCS.001.DFH.01 (Deaf/Hard of Hearing Inmates)
- IMM.002.003 Americans with Disabilities Act and New Jersey Law Against Discrimination Reasonable Accommodations for Inmates
- ADM.008.LEP.01 Hearings Held on Limited English Proficiency (LEP) Inmates
- SUP.004.001 Limited English Proficient (LEP) Language Assistance: Bilingual Staff and Use of the Language Line
- New Jersey Department of Corrections Deaf and Hard of Hearing Waiver for the Hearing Loss Identification
- Interview with inmates (random and targeted)
- Interview with staff (random and specialized)
- Interview with the Assistant Superintendent/IPCM
- Observations of Auditor during the on-site portion of the audit
- Review of various forms translated into languages other than English and for those with disabilities

## **Standard 115.17: Hiring and promotion decisions**

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

#### **115.17 (a)**

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

#### 115.17 (b)

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

#### 115.17 (c)

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

#### 115.17 (d)

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

### 115.17 (e)

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

### 115.17 (f)

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

### 115.17 (g)

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

### 115.17 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

ADM.006.007 Pre-Employment Background Checks and Issuance of ID Cards, HR Memo PREA Promotional Background Checks, PSM.001.011 Staff Selection and Promotions, PSM.SSP.003 Panel Interviews, and PSM.001.001 Reporting of Summons, Arrests, etc. of NJDOC Staff all collectively address the policy requirements for Standard 115.17. NJDOC by policy indicates that the agency prohibits hiring or promoting anyone who may have contact with inmates, and prohibits enlisting the 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). NJDOC policies support the requirement that criminal background records check be conducted at least every five years of current employees. The Auditor sampled five (5) contractor background checks. In addition, NJDOC requires three-year background checks conducted on contractors, temporary employees and volunteers who may have contact with inmates per Standard 115.17. During an interview with the Assistant Superintendent/IPCM he confirmed the Mid-State Correctional Facility hiring practices which were in line with the agency's policies. The Human Resource Manager was unavailable for interview before the submission of this report. It should be mentioned that a NJDOC Human Resource representative was previously interviewed by a member of the PREA audit team for The Nakamoto Group during the 2019 cycle.

The Human Resource representative previously confirmed that the agency attempts to contact prior employers for information on substantiated allegations of sexual abuse or resignations which occurred during a pending investigation of sexual abuse. Likewise, the HR representative also confirmed that the agency provides 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. NJDOC notifies appropriate licensing/certifying agencies, when professional personnel are terminated for substantiated allegations of sexual abuse or sexual harassment. All applicable policies and a memorandum were examined by the Auditor, coupled with an interview with the Assistant Superintendent all confirmed compliance with Standard 115.17.

**Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- ADM.006.007 (ADM.006.007, Pre-Employment Background Checks and Issuance of ID Cards)
- PSM.001.001 Reporting of Summons, Arrests, etc. of NJDOC Staff
- Interviews with staff
- Interview with Human Resources Manager (on file 2019)
- Interview with PREA Coordinator (on file 2019)
- Application for clearance
- Executive order # 11
- Human Resources Memorandum regarding PREA Promotional Background Checks
- PSM.001.011 Staff Selection and Promotions
- PSM.SSP.003 Panel Interviews

**Standard 115.18: Upgrades to facilities and technologies**

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

**115.18 (a)**

- If the agency designed or acquired any new facility or planned any substantial expansion or modification of existing facilities, did the agency consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not acquired a new facility or made a substantial expansion to existing

facilities since August 20, 2012, or since the last PREA audit, whichever is later.)

Yes  No  NA

### 115.18 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

SUP.001.000 Capital Planning and Construction: Mission, Goals and Objectives addresses requirement of Standard 115.18. Mid-State Correctional Facility has not acquired a new facility or made any substantial expansions or modifications to the existing facility since August 20, 2012. In separate interviews with the Assistant Administrator and the Assistant Superintendent/IPCM both confirmed that NJDOC has installed and updated the video monitoring system, by adding additional cameras. Intent for the updates to the monitoring technology was to eliminate blind spots. The cameras were visible during the tour. Mid-State Correctional Facility met Standard 115.18.

### Evidence relied upon to make auditor determination:

- Pre-Audit Questionnaire
- SUP.001.000 Capital Planning and Construction: Mission, Goals and Objectives
- Observations of the Auditor during the on-site tour
- Observations of the Auditor of video monitoring from the control room
- Interviews with staff
- Interview with the Assistant Superintendent/IPCM
- Interview with the Assistant Administrator

## 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 evidentiary or medically appropriate?  Yes  No
- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible?  Yes  No
- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)?  Yes  No
- Has the agency documented its efforts to provide SAFEs or SANEs?  Yes  No

### 115.21 (d)

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

- Has the agency documented its efforts to secure services from rape crisis centers?  
 Yes  No

#### 115.21 (e)

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

#### 115.21 (f)

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

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

ADM.SID.014 Sexual Assault/Sexual Offenses Procedures, ADM.SID.035 Investigation Procedures Confidential, MED.MLI.007 Sexual Assault, MED.MHS.002.001 Emergency Mental Health Services,

and MED.MLI.005 Forensic Specimen Collection collectively address Standard 115.21. Mid-State Correctional Facility has assigned agency investigators who are responsible for investigating allegations of administrative and criminal sexual abuse/sexual harassment that occur in the facility. NJDOC maintains an investigative department which follows the uniform evidence protocol and maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutorial requirements for investigating allegations of sexual abuse. The investigative protocol is developmentally appropriate for adults and not applicable for youthful inmates as the facility does not house youthful inmates.

NJDOC assigns the responsibility of conducting investigations to the Special Investigative Division (SID). SID responsibilities extend to investigating violations of the laws of the United States, the State of New Jersey, as well as violations of the New Jersey Administrative Code (10A), New Jersey Criminal Code Title 2C and NJDOC policies and procedures by inmates, staff and other individuals who visit NJDOC facilities.

Moreover, the Special Investigations Division (SID), is responsible for conducting investigations at the discretion of the Commissioner or designee. SID is a division within the Office of the Commissioner whose duties include, but are not limited to, ensuring that possible violations of the laws of the State of New Jersey, as well as violations of the New Jersey Administrative Code (10A), the NJ Criminal Code Title 2C, the Prison Rape Elimination Act of 2003 (PREA) and NJDOC policies and procedures by inmates, employees and individuals who visit NJDOC correctional facilities are investigated. Additionally, SID serves as the NJDOC liaison to all other law enforcement agencies, conducts cooperative investigations in conjunction with federal, state, county and municipal law enforcement agencies and supervises the safety and security of the NJDOC Central Office Complex. The Auditor confirmed by examination that SID investigators complete specialized training to include conducting investigation in confinement settings to ensure that each investigation is conducted in a thorough, competent, and objective manner.

NJDOC protocol was 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 according to an interview with a NJDOC Principal Investigator.

MED.MLI.007 Sexual Assault, directs NJDOC medical and mental health staff to respond quickly and appropriately to sexual victimizations. More, facility staff are directed by policy to transport the inmate to an Emergency Department such as Deborah Heart and Lung Center which is the closest medical facility with SANE/SAFE providers to assess and deliver the health needs of the inmate to include medical treatment, prophylaxis and evidence collection. NJDOC and Mid-State Correctional Facility by extension offers all inmates who experience sexual abuse access to forensic medical examinations off-site, without financial cost, where evidentiary or medically appropriate. The facility has two alternatives in providing emergency care for an inmate who was the victim of a sexual assault, a local specialty hospital called Deborah Heart and Lung Center and Saint Francis Medical Center, Trenton NJ. Mid-State Correctional Facility does not have a MOU with Deborah Heart and Lung Center. The agency maintains a secure medical wing in Saint Francis Hospital strictly for inmates. Aftercare and medical follow-up care would be completed by Inmate Health Care Services for The New Jersey Department of Corrections. NJDOC has a contractual agreement with Saint Francis Hospital.

The services provided are as follows:

- Exams by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs);

- SAFE or SANE examiners are available or on call 24 hours and seven days a week; provides the inmates with Victim Advocacy, emotional support, crisis intervention, information, and referrals.

Further, NJDOC Counseling Services for Victims of Sexual Assault, MED.MHS.002.010, mandates that all incarcerated individuals under the control of the Department of Correction will have access to Mental Health Services which shall include, but not be limited to counseling by trained mental health services staff for inmates who are victims of sexual assault, in addition to counseling offered by the emergency department of the hospital to which the inmate is referred.

Random staff and inmate questionnaires were conducted, and staff and inmates displayed knowledge of services available to victims of sexual abuse and the agency’s policy of no payment for this type of emergency service or follow-up care. Mid-State Correctional Facility met the requirements of Standard 115.21.

**Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- Interview with the Institutional PREA Compliance Manager
- Memorandum of Agreement, Inmate Health Care Services for The New Jersey Department of Corrections by Rutgers, The State University of New Jersey
- ADM.SID.014 Sexual Assault/Sexual Offenses Procedures
- IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault
- MED.MLI.007 Sexual Assault/Section:52:4B-50: Findings, declarations relative to Sexual Assault
- ADM.SID.035 Investigation Procedures Confidential Interviews with staff (random and specialized)
- Inmate interviews (random and targeted)
- Telephone conversation with staff from the outside entity providing services
- Interview with the PREA Coordinator (on file)

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

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

**115.22 (a)**

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

**115.22 (b)**

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

- Does the agency document all such referrals?  Yes  No

#### 115.22 (c)

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

#### 115.22 (d)

- Auditor is not required to audit this provision.

#### 115.22 (e)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

ADM.006.011, Investigations by the Special Investigations Division is in place to ensure that allegations of sexual abuse or sexual harassment are investigated by a legal authority to conduct criminal investigations. The policy addresses Standard 115.22. NJDOC assigns to the SID the responsibility of investigating violations of the laws of the United States, the State of New Jersey, as well as violations of the New Jersey Administrative Code (10A), New Jersey Criminal Code Title 2C and NJDOC policies and procedures by inmates, staff and other individuals who visit NJDOC facilities. The Auditor confirmed through examination that NJDOC has policies in place directing SID to complete administrative or criminal investigation for all allegations of sexual abuse.

A review of four allegations that resulted in 2 of 4 investigations determined and designated as "Not PREA." The auditor provided instruction that allegations that do not meet the definition of prohibited conduct as defined by standard 115.5 should be unfounded, meaning no evidence existed to confirm the incident was a PREA incident. This finding must be supported by a thorough and objective investigation which should include interviews of the alleged victims, suspected perpetrators and witnesses, any physical, testimonial and documentary evidence. The auditor reinforced that in a thorough investigation, the credibility of the alleged victims, perpetrators and witnesses must be assessed. NJDOC can rely on investigations conducted in accordance with the requirements of standard 115.71 to make the determination of substantiated, unsubstantiated or unfounded. The PAQ, 115.22a (2-4) indicated that during the past 12 months, the number of allegation of sexual abuse and

sexual harassment that were received was zero, the number of allegations resulting in an administrative investigation as zero and the number of allegations referred for criminal investigation as zero.

A review of training documents confirmed that investigators received instruction in conducting sexual assault investigations in confinement. The specialized training received by members of the SID helps to ensure that such investigations are conducted in a thorough, competent, objective manner and using the most current techniques and equipment possible. While remaining cognizant of the limitations and ramifications of the use of such investigatory techniques, any lawful techniques to perform an investigation may be used. Interviews with SID staff and an examination of training documentation, such as the training records confirm the facility's compliance to this Standard 115.22. The properly trained investigators should triage the incidents to ensure the standards are adhered to.

**Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- ADM.006.011, Investigations by the Special Investigations Division
- Review of investigation files
- Review of the agency's website
- Interview with the Assistant Superintendent/IPCM
- Interviews with SID investigators
- Review of SID training records

**Corrective Action:**

The Auditor reviewed relevant PRC Frequently Asked Questions to determine the corrective action for this standard. In addition, the Auditor reviewed the webinar about investigation of sexual abuse in confinement. The narrator clearly defined terms such as unfounded. The allegation in the cases reviewed, fell into the category of "unfounded" meaning no evidence to confirm the incident was PREA related in lieu of a designation of "NOT PREA." A meeting took place with Mid-State Correctional Facility, Assistant Superintendent/IPCM and NJDOC PREA Unit staff. The determination of "NOT PREA" was removed from the determination and all investigations will be fully investigated by SID staff with the legal authority to conduct this type of investigation. Corrected

## 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.*

ADM.010.004 Standards of Professional Conduct: Staff/ Inmate Over Familiarity and IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault Random collectively addresses Standard 115.31. The agency trains all employees who may have contact with inmates:

- on its zero-tolerance policy for sexual abuse and sexual harassment
- how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures,
- inmates' right to be free from sexual abuse and sexual harassment, 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,
- how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates and
- how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Staff training files were examined by the Auditor. All training files reviewed reflected that the staff received the appropriate training. Interviews with random and specialized staff, all confirmed that they understood the agency's current sexual abuse and sexual harassment policies and procedures. The training curriculums provided by the agency is tailored to the unique needs and attributes of inmates and staff. In 2018, the NJDOC PREA Unit staff developed PREA educational enhancements to further expand the knowledge base of NJDOC staff. The PREA Unit is currently working on additional reference material to enhance the delivery of informative PREA education for NJDOC. The hard work and dedication of the PREA Unit staff is evident in the quality of the document produced such as:

- "Understanding P.R.E.A." educational guide
- PREA Inmate Handout
- PREA Inmate Handout for RCRP
- EMCF PREA Hotline Announcement
- EMCF PREA Overview Poster
- Hunterdon PREA Resource Guidebook
- PREA Emotional Support Services Poster

Mid-State Correctional exceeded the requirements for Standard 115.31.

### Evidence relied upon to make auditor determination:

- Pre-Audit Questionnaire

- ADM.010.004 Standards of Professional Conduct: Staff/ Inmate Over Familiarity
- 10.19 Prison Rape Elimination Act
- IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault
- Curriculum/Basic Course and In-Service for Correctional Staff Employees
- Receipt of Acknowledgment
- Auditor review of training files
- Auditor review of training curriculum/brochures
- Interviews with staff (random and specialized)
- Interview with the Institutional PREA Compliance Manager

## 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.*

PCS.001.003 Volunteer Service Program addresses the agency requirements for Standard 115.32. The Auditor confirmed by interview and review of documentation that volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency's policies and procedures regarding sexual abuse and sexual harassment prevention and detection. The curriculum the agency utilized for training provide the level and type of training that is based on the services they provide and level of contact they have with inmates. The curriculum also covers the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents. Mid-State Correctional Facility met the requirements of Standard 115.32.

**Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- Interview with the Assistant Superintendent/IPCM
- Acknowledgment of receipt of training
- Application for clearance
- NJDOC volunteer rules and responsibilities
- PCS.001.003 Volunteer Service Program
- Interview with contractors (medical staff)
- Interview with volunteers

**Standard 115.33: Inmate education**

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

**115.33 (a)**

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

**115.33 (b)**

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

**115.33 (c)**

- Have all inmates received the comprehensive education referenced in 115.33(b)?  
 Yes  No

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

#### 115.33 (d)

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

#### 115.33 (e)

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

#### 115.33 (f)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

IMM.001.004 Zero Tolerance Prison Sexual Assault and SUP.004.001 Limited English Proficient (LEP) Language Assistance: Bilingual Staff and Use of the Language Line collectively address the requirements of Standard 115.33. Mid-State Correctional Facility documents inmate PREA education in the inmate's institutional and clinical files. Documentation was examined to confirm that inmates received information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment during their intake process. The inmate handbook and brochure covered how to report incidents or suspicions of sexual abuse or sexual harassment. This same information was also provided to inmates who are limited English proficient (hearing or visually impaired), in an educational platform conducive for communicating with targeted inmates on a case-by-case basis. All inmates sampled (random and targeted) 100% confirmed to the Auditor that they understood their rights and provided the Auditor with multiple ways to report sexual abuse and sexual harassment.

Moreover, PREA Inmate Informational Handouts in both English and Spanish – were provided to all inmates which included an overview of the Department's zero tolerance for sexual abuse and other PREA related educational information was further enhanced by the PREA Unit in 2018. The enhancements included more PREA related information for inmates and interested parties, inmate rights and responsibilities under PREA, definitions of sexual abuse/sexual harassment reporting procedures, correctional facility PREA contact information and available services related to sexual abuse. Intake staff confirmed that PREA educational handouts and brochures are provided to inmates and the information is reviewed with inmates during inmate orientation to the facility.

Inmates (100%) sampled during the onsite portion of the audit also confirmed that within 30 days of intake, the agency provided age-appropriate comprehensive education to inmates such: their rights to be free from sexual abuse and sexual harassment and their rights to be free from retaliation for reporting such incidents.

The Assistant Superintendent/IPCM during his interview confirmed that in addition to providing PREA related education during the intake process, Mid-State Correctional Facility ensures that key information is continuously and readily available or visible to inmates through posters, inmate handbooks and informal PREA conversations. The Auditor observed PREA related education throughout the facility on posters printed in Spanish and English. Mid-State Correctional facility met the requirements of Standard 115.33.

**Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- SUP.004.001 Limited English Proficient (LEP) Language Assistance: Bilingual Staff and Use of the Language Line
- IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault
- Auditor review of inmate education materials and inmate brochures
- Inmate PREA education acknowledgment forms
- Auditor review of inmate's files
- Interviews with staff
- Interviews with inmates (random and targeted)
- Interviews with the Assistant Superintendent/IPCM

## **Standard 115.34: Specialized training: Investigations**

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

### **115.34 (a)**

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

#### 115.34 (b)

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

#### 115.34 (c)

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

#### 115.34 (d)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's*

*conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

ADM.006.000 Special Investigation Mission, Goals and Objectives, Reporting and Handling of Sexual Assault Incidents PowerPoint, In–Service Training for Special Investigation Division PowerPoint, Internal Management Procedure #035 Investigation Procedures document, 10.19 Prison Rape Elimination Act PowerPoint, and NJDOC Special Investigations Division (SID) Sexual Assault Protocol (PREA) PowerPoint collectively address the requirements of Standard 115.34. NJDOC conducts criminal and administrative sexual abuse and sexual harassment investigations. Administrative investigations are considered informal and are only conducted to determine staff misconduct.

Specialized training for SID investigators includes techniques for interviewing sexual abused victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and what evidence is required to substantiate a case for administrative action or prosecution referral as confirmed by a SID investigator interviewed during the onsite portion of the audit.

Mid-State Correctional Facility utilizes SID investigators to investigate all PREA allegations. If any allegation is determined to be criminal in nature, SID investigators will refer the case for prosecution. The Auditor examined specialized training certification for investigators that have been trained on conducting sexual abuse investigations. The agency maintains documentation that SID investigators have completed the required specialized training in conducting sexual abuse investigations. Mid-State Correctional facility met the requirements of Standard 115.34.

**Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- Internal Management Procedure #035 Investigation Procedures document
- ADM.006.000 Special Investigation Mission, Goals and Objectives, Reporting and Handling of Sexual Assault Incidents PowerPoint
- NJDOC Special Investigations Division (SID) Sexual Assault Protocol (PREA) PowerPoint
- Interview with the PREA Coordinator (on file)
- Interview with the Assistant Superintendent/IPCM
- Interview of agency SID Investigators
- Certificate of completion of specialized training
- 10.19 Prison Rape Elimination Act Special Investigations Division PowerPoint
- In–Service Training for Special Investigation Division PowerPoint

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

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

#### **115.35 (a)**

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

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

#### 115.35 (b)

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

#### 115.35 (c)

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

#### 115.35 (d)

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

#### Auditor Overall Compliance Determination

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

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

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

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

IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault, MED.002.004 Mental Health Services Staff, and Power Point Presentation on “Addressing Sexual Abuse and Harassment of Inmates – Medical and Mental Health Staff Training 2014” collectively address the requirements of Standard 115.35. The agency has an uploaded policy University Correctional Healthcare related to the training of medical and mental health practitioners who work regularly in its facilities. They are also trained on topics such as; Addressing Sexual Abuse & Harassment of Inmates, Medical & Mental Health Staff Training 2014.

MSCF medical staff does not conduct forensic medical exams. NJDOC maintains documentation that medical and mental health practitioners have received the training referenced in this standard and it was verified through upload in section 115.35 (c)-1. Documentation provided to the Auditor confirmed that training files were examined, and medical and mental health providers sampled completed PREA specialized training for medical or mental health providers. Mid-State Correctional facility met the requirements of Standard 115.35.

#### **Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault
- MED.002.004 Mental Health Services Staff
- Power Point Presentation on “Addressing Sexual Abuse and Harassment of Inmates – Medical and Mental Health Staff Training 2014”
- The review of University Correctional Healthcare Curriculum
- Curriculum for Addressing Sexual Abuse & Harassment of Inmates, Medical & Mental Health Staff Training 2014
- Interviews with Medical and Mental Health Staff
- Interview with the Assistant Superintendent/IPCM
- Review of training certifications for completion of specialized training for medical and mental health staff

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

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

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

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

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

#### 115.41 (b)

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

#### 115.41 (c)

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

#### 115.41 (d)

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

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

#### 115.41 (e)

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

#### 115.41 (f)

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

#### 115.41 (g)

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

#### 115.41 (h)

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

#### 115.41 (i)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault, MED.IMA.005 Intra-system Transfers, MED.IMA.001 Health Appraisals at Reception, MED.MHS.001.002 Mental Health Services: Mental Health Reception and Evaluation, CLS.002.INT.01 Classification Intake Procedures, CLS.005.001 Review of Inmates by Classification and Review Committees, IMM.002.IRS.01 Inmate Remedy System, IMM.002.JPG.001 JPay Guidelines, Level 3 IMP on Multi-dimensional Sexual Victimization and Abusiveness Risk Assessment Checklist and Electronic Medical Record (EMR) Module on PREA Monitoring collectively address the requirements in Standard 115.41.

The Auditor interviewed intake staff to confirm the intake procedures. Intake staff indicated that initial assessments are completed on incoming inmates within 72 hours of admission. Further, a sexual victimization/abusiveness screening assessment instrument is completed by Mid-State Correctional facility staff to determine an inmate's risk of being sexually victimized or vulnerability or their level of abusiveness toward other inmates. The Auditor examined the screening instrument and determined it was objective. An example of the PREA screening assessments was provided to the Auditor for review to determine compliance with section 115.41 (b) 1 and to validate the use of an objective screening instrument by the facility.

NJDOC Level 3 instructions indicate that after the completion of the intake screening assessment, all inmates will undergo healthcare monitoring re-assessment within 30 days to reassess risk factors, vulnerability or abusive behavior or any relevant information received after the inmate arrived at Mid-State Correctional Facility. As previously mentioned, NJDOC prohibits inmates from being disciplined for refusing to answer screening questions or for not disclosing complete information during the intake screening process. Information received, during the screening process, is deemed confidential and only limited select staff have access to sensitive information on a need-to-know.

Inmate (random and targeted) interviews confirmed that each was screened during the intake process. More, inmates sampled also confirmed that the intake screening assessment considered, at a minimum, the following criteria to assess inmates for risk of sexual victimization: Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming. The facility 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. The thirty-five (35) institutional and clinical files documented that assessments and re-assessments were conducted. Through record review the facility demonstrates inmates were screened again within thirty (30) days but initial screening took place within 72 hours of arrival to the facility. Mid-State Correctional Facility met the requirements of Standard 115.42.

**Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- PREA Monitoring Test
- CLS.002.INT.001 Classification Intake Procedures
- CLS.005.001 Review of Inmates by Classification and Review Committees
- IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault
- MED.IMA.005 Intra-system Transfers
- MED.IMA.001 Health Appraisals at Reception
- MED.MHS.001.002 Mental Health Services: Mental Health Reception and Evaluation
- IMM.002.IRS.01 Inmate Remedy System
- IMM.002.JPG.001 JPay Guidelines
- Electronic Medical Record (EMR) Module on PREA Monitoring Multidimensional
- Sexual Victimization and Abusiveness Risk Assessment Checklist
- Observations made during the on-site portion of the audit
- Auditor interviews with specialized staff
- Auditor interviews with inmates (random and targeted)
- Auditor Interviews with Assistant Superintendent/IPCM

**Standard 115.42: Use of screening information**

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

**115.42 (a)**

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

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

#### 115.42 (b)

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

#### 115.42 (c)

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

#### 115.42 (d)

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

#### 115.42 (e)

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

#### 115.42 (f)

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

#### 115.42 (g)

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

transgender inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.)  Yes  No  NA

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault, PCS.001.006 Transgender/Intersex Inmates, CLS.002.INT.001 Classification Intake Procedures , CLS.005.001 Review of Inmates by Classification and Review Committees, 10A:9-3.1 Responsibilities of the Institutional Classification Committee, 10A:9-3.3 Institutional Classification Committee (I.C.C.) decision-making criteria, 10A:9-3.5 Review dates, 10A:9-3.6 Special reviews collectively all address the requirements of Standard 115.42. These policies require risk screening information to be used to determine housing, bed, work, education and program assignments. NJDOC policies require these determinations for various assignments to be made on a case-by-case basis, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. In an interview with the Assistant Superintendent/IPCM, he indicated that the agency makes individualized determinations about how to ensure the safety of each inmate.

The classification review of a transgender or intersex inmate is an in-person review. Furthermore, the Assistant Superintendent/IPCM indicated that when Mid-State Correctional Facility makes housing or other program assignments for transgender or intersex inmates, it does so on a case-by-case basis. The case-by-case determination considers whether a particular placement would ensure the inmate's health and safety, and whether a placement would present management or security problems. During the onsite audit, there were zero transgender or intersex inmates assigned to the facility. More, the Assistant Superintendent/IPCM also confirmed that placement and programming assignments for each transgender or intersex inmate would be reassessed at least twice each year to review any threats to

safety experienced by the inmate, that a transgender or intersex inmate's own views with respect to his own safety would be given serious consideration when making facility decisions.

Interviews with targeted inmates from the sample population denied being placed in a dedicated facility on the basis of their gender identity. The Auditor reviewed the inmate housing roster and determined that the LGBTI population was placed in various housing units. The Assistant Administrator during her interview denied the use of a dedicated unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting gay, bisexual, transgender, or intersex inmates. Additionally, the Assistant Administrator and PREA Coordinator indicated that NJDOC would always refrain from placing gay, and bisexual inmates in dedicated facilities, units, or wings solely on the basis of such identification or status. Interviews with staff and an examination of documentation/policy confirm MSCF is met the requirements of Standard 115.42

**Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault
- Review of sexual vulnerability assessment documentation
- PREA Monitoring Test
- CLS.002.INT.001 Classification Intake Procedures
- CLS.005.001 Review of Inmates by Classification and Review Committees
- 10A:9-3.1 Responsibilities of the Institutional Classification Committee
- 10A:9-3.3 Institutional Classification Committee (I.C.C.) decision-making criteria
- 10A:9-3.5 Review dates
- 10A:9-3.6 Special reviews
- 10A:9-3.7 Discussions
- PCS.001.006 Transgender/Intersex Inmates
- Interviews with the PREA Coordinator
- Interview with the Assistant Superintendent/IPCM
- Interviews with Assistant Administrator
- Interviews with Inmates (random and targeted)
- Auditor observations
- Review of facility schematics

## Standard 115.43: Protective Custody

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

#### 115.43 (a)

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

#### 115.43 (b)

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

#### 115.43 (c)

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

#### 115.43 (d)

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

#### 115.43 (e)

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

#### Auditor Overall Compliance Determination

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

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

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

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

ADM.019.TCC.01 Temporary Close Custody, CUS-104 Authorization for Temporary Close Custody, ADM.019.002 Restrictive Housing, ADM.019.PCS.01 Protective Custody Status, New Jersey Administrative Code 10A:5-5.1 Assignment to Prehearing Protective Custody or Admission to a Protective Custody Unit, New Jersey Administrative Code 10A:5-7.1, and Placement in temporary close custody status collectively address the requirements of Standard 115.43. The New Jersey Department of Corrections mandates that housing units designated as "Close Custody Units" to be maintained in designated correctional facilities.

NJDOC Policy, ADM.019.002, provides uniform guidelines for placement of inmates into a Restrictive Housing Unit. Restrictive Housing is a form of housing for inmates whose continued presence in the general population would pose a serious threat to life, property, self, staff or other inmates, or to the security or orderly operation of a correctional facility. Restrictive housing also includes the removal of an inmate from the general population for personal protection or as a punitive sanction for the commission of an infraction(s). According to the SID investigator, restrictive housing is designed to support a safe and productive environment for facility staff and inmates assigned to general population as well as to create a path for inmates assigned to the units to successfully transition to a less restrictive setting. The NJDOC has housing units, designated types of "Restrictive Housing", such as: Temporary Close Custody.

A Temporary Close Custody status by definition means the non-punitive removal of an inmate from general population or other assigned housing, with restriction to the inmate's cell or to a close custody unit for a period not to exceed 72 hours, for special observation (other than a healthcare need) or investigation, unless information or evidence warrants an extension beyond 72 hours.

The SID investigator interviewed during the onsite portion of the audit indicated that NJDOC has a policy that also allows involuntary segregated housing placement when a PREA allegation is received that requires victims be separated from perpetrators after all alternative means of separation have been assessed and no alternative means of separation are available (i.e. cell assignment/housing unit assignment change, intra-institutional transfer). More, the same SID investigator indicated that placement in TCC is not default placement for inmates making an allegation of sexual abuse. Mid-State Correctional Facility met the requirements of Standard 115.43.

#### **Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- Policy 02-11-115 (Sexual Abuse Prevention)
- Interview with the Assistant Superintendent/IPCM
- ADM.019.002 Restrictive Housing
- IMM.012.001 Administrative Segregation

- IMM.012.AD SEG.001 Admission to Administrative Segregation
- IMM.012.AD SEG.03 Administrative Segregation Two-Level Program
- Policy ADM.019.PCS.01 Protective Custody Status
- Policy ADM.019.TCC.01 Temporary Close Custody
- Inmate institutional files
- Inmate Placement Investigation Form
- Voluntary – Protective Custody – Consent
- Policy 10A:5-5.1 Assignment to Prehearing Protective Custody or Admission to a Protective Custody Unit
- Policy 10A:5-7.1 Placement in temporary close custody
- Prehearing Protective Custody Placement Form
- Authorization For Temporary Close Custody

## REPORTING

### Standard 115.51: Inmate reporting

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

#### 115.51 (a)

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

#### 115.51 (b)

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

#### 115.51 (c)

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

#### 115.51 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

IMM.002.001 Inmate Request, Interview, Administrative Remedy and Grievance Process, IMM.002.JPG.001 JPay Guidelines, IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault, PCS.001.PREA.OMB Allegations of Sexual Abuse Assault, Harassment and Retaliation Reported to the Office of the Ombudsman, and IMM.002.IRS.01 Inmate Remedy System collectively address the requirements Standard 115.51.

NJDOC requires all staff to immediately report to his or her supervisor any knowledge, suspicion or information regarding inmate sexual abuse, sexual harassment, retaliation against an inmate or staff for reporting an incident of sexual abuse, or any staff neglect or violation of responsibilities that contributed to an incident of sexual abuse or harassment or retaliation. An employee, contractor or volunteer who fails to report an allegation, or coerces or threatens another person to submit inaccurate, incomplete or untruthful information with the intent to alter a report, may face disciplinary charges, up to and including dismissal, even on a first offense. Interviews with random and specialized staff confirmed that each receive regular training on their responsibility to report PREA related complaints or concerns.

The Assistant Superintendent/IPCM indicated that NJDOC has established procedures allowing for multiple internal ways for inmates to report privately to agency officials about:

- 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.

The Auditor examined procedures for reporting sexual abuse or sexual harassment in the inmate handbook, on the agency's website and observed during the facility tour, PREA information displayed on living units

and victim advocacy information easily visible in each common area. In addition, inmates are provided PREA brochures during the intake process. PREA posters were also displayed in English and Spanish throughout the facility. NJDOC also provides reporting access through the Correction Ombudsman Office:

**Correction Ombudsman**  
**Telephone: (609) 633-2596**  
**Address:**  
**Office of the Correction Ombudsman**  
**PO Box 855**  
**Trenton, NJ, 08625**

The multiple internal ways for inmates to privately report sexual abuse and sexual harassment is also available through the JPay grievance process, a hotline and simply telling a trusted staff person. During the inmate (100%) interviews they were able to articulate several ways of reporting sexual abuse or sexual harassment including third-party reporting. Most (84%) inmates indicated that they would simply tell staff. All inmates were also knowledgeable of the electronic JPay grievance process. Mid-State Correctional Facility met the requirements of Standard 115.51.

**Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- Policy IMM.002.001 Inmate Request, Interview, Administrative Remedy and Grievance Process
- IMM.002.JPG.001 JPay Guidelines
- IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault
- PCS.001.PREA.OMB Allegations of Sexual Abuse Assault, Harassment and Retaliation Reported to the Office of the Ombudsman
- IMM.002.IRS.01 Inmate Remedy System
- Ombudsman Request for Assistance Form
- How Inmates Can Report Allegations of Sexual Abuse/Harassment Guidelines
- Inmate grievance
- Inmate Grievance System Redirection Form
- Form: IRSF 102 STAFF RESPONSE FORM
- Interviews with inmates (random and targeted)
- Interviews with staff (random and specialized)
- Interview with the PREA Coordinator (on file)
- Interview with the Assistant Superintendent/IPCM
- Brochures/PREA posters
- Inmate handbook

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

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

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

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

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

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

#### 115.52 (c)

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

#### 115.52 (d)

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

#### 115.52 (e)

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

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

#### 115.52 (f)

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

#### 115.52 (g)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

IMM.002.001 Inmate Request, Interview, Administrative Remedy and Grievance Process, IMM.002.IRS.01 Inmate Remedy System, IMM.002.JPG.001 JPay Guidelines, and 10A:5-5.1 Assignment to Prehearing Protective Custody or Admission to a Protective Custody Unit, collectively address the requirements of Standard 115.52.

NJDOC policies indicate that Mid-State Correctional Facility is not exempt from this standard. IMM.002.IRS.01, Inmate Remedy System explains in detail the procedures of the Inmate Remedy System. The Inmate Remedy System provides a vehicle for inmates to address complaints, concerns, questions, problems and/or grievances to Mid-State Correctional Facility management and seek a resolution. Methods for accessing the Inmate Remedy System are available through the Inmate Inquiry Form, the Inmate Grievance Form or electronically through the JPay Kiosk.

An Inmate Remedy filed that alleges sexual abuse is immediately forwarded to SID and to the facility Administrator. Random and specialized staff (100%) affirmed their understanding that a third-party report can be filed as a remedy on behalf of another inmate when there is an allegation of sexual abuse. Grievances filed alleging sexual abuse/sexual harassment would result in the immediate opening of a formal investigation. NJDOC policy indicates that there is no time limit for filing a grievance relating to sexual abuse or sexual harassment. Additionally, the policies do not require an inmate to use any informal grievance process before filing an allegation involving sexual abuse/sexual harassment. NJDOC policy requires that a decision on the merits of any portion of a grievance alleging sexual abuse be made within 90 days of the filing.

During this report period, there were two (2) grievances filed in the past 12 months; grievances filed that alleged sexual abuse. The final decision was reached within ninety (90) days. Both investigations were determined to be "NOT PREA" thus unfounded. The inmates each received a response within the time allotted for reply. There were zero third-party reports during this reporting period. Zero emergency grievance were submitted by inmates during this reporting period. NJDOC has a policy that outlines that the agency can discipline an inmate for filing a grievance related to alleged sexual abuse, does it ONLY where the agency demonstrates that the inmate filed the grievance in bad faith. Mid-State met the requirements of Standard 115.52.

#### **Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- IMM.002.001 Inmate Request, Interview, Administrative Remedy and Grievance Process
- IMM.002.IRS.01 Inmate Remedy System
- IMM.002.JPG.001 JPay Guidelines
- 10A:5-5.1 Assignment to Prehearing Protective Custody or Admission to a Protective Custody Unit
- Interviews with staff (random and specialized)
- Interviews with inmates (random and targeted)
- Interview with the Assistant Superintendent/IPCM
- Investigative files and grievances

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

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

### 115.53 (a)

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

### 115.53 (b)

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

### 115.53 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault, PCS.001.PREA.OMB Allegations of Sexual Abuse Assault, Harassment and Retaliation Reported to the Office of the Ombudsman, IMM.002.IRS.01 Inmate Remedy System, and a Memorandum of Understanding (MOU) between NJDOC and the “Center for Family Services, Services Empowering Rights of Victims” (SERV), collectively address the requirements of Standard 115.53.

The facility does not house detainees solely for civil immigration purposes. NJDOC policy establishes that inmates who are committed to the custody of the department will have access to external sexual abuse emotional support services. Access is provided even if they do not wish to make a report of sexual abuse. Services are based on the county where the inmate is housed and includes at a minimum, written access to emotional support services via correspondence. Where telephone hotline services are available, services can be accessed via the inmate telephone system by dialing \*PREA#. Inmates are advised that PREA external emotional support services are confidential. However, the service provider will notify the department if an inmate communicates a threat of imminent harm against self or others. Misuse of the external reporting emotional support line or the inmate telephone system may result in disciplinary action. Alleged victims are to be offered supportive services by trained victim advocacy staff. Services are available to alleged victims whether they name an alleged perpetrator or whether they cooperate with the investigation. Upon request, an alleged victim will be accompanied by supportive services throughout the forensic exam and investigative process.

**Inmates may report PREA sexual abuse/sexual harassment by using one of the following methods:**

- Verbally or in writing to any NJDOC staff member, contractor or volunteer (Note: under PREA, all NJDOC staff members, contractors and volunteers are required to report any occurrence of inmate sexual abuse/sexual harassment)
- Contacting the Correctional Facility’s Institutional PREA Compliance Manager
- Using the Inmate Remedy System/JPAY Kiosk
- Contacting the Special Investigations Division (SID) via the Confidential SID box or by dialing SID1# on the Inmate Telephone System (free call)
- Contacting the Correction Ombudsman:

**Office of the Correction Ombudsman  
PO Box 855  
Trenton, NJ, 08625  
Inmate Only Phone# 1-555-555-5555 (free call)**

Informational PREA pamphlets detailing victim advocacy services are issued upon the inmate’s arrival. PREA postings in housing units provide the address and hotline phone number of the outside advocacy organization.

The facility provides inmates with access to outside victim advocates for emotional support services related to sexual abuse. The contact information is posted throughout the facility. The facility maintains copies of the agreement with the Inmate Health Care Services for The New Jersey Department of Corrections by Rutgers, The State University of New Jersey. Mid-State Correctional Facility met the requirements of Standard 115.53.

**Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- Observations of the auditor made during the facility tour
- Agreement Inmate Health Care Services for The New Jersey Department of Corrections by Rutgers, The State University of New Jersey
- NJDOC PREA Emotional Support Services Hotline Training NJDOC Office of Policy & Planning
- IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault
- PCS.001.PREA.OMB Allegations of Sexual Abuse, Assault, Harassment and Retaliation Reported to the Office of the Ombudsman
- Interviews with inmates (random and targeted)
- Interviews with staff (random and specialized)
- Interview with the PREA Coordinator (on file)
- Interview with the Assistant Superintendent/IPCM

## 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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IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault and PCS.001.PREA.OMB Allegations of Sexual Abuse Assault, Harassment and Retaliation Reported to the Office of the Ombudsman address the requirements of this standard. Family members or other third-party individuals on behalf of an inmate may report sexual abuse/sexual harassment. A third party can file an inmate remedy form on behalf of an inmate when there is an allegation of sexual assault. Policy also establishes guidelines for handling contacts received in the Office of the Correction Ombudsman that pertain to allegations of sexual abuse, sexual assault, or harassment. It is the policy of the Office of the Correction Ombudsman to serve as an available resource to inmates in custody of the New Jersey Department of Corrections to report incidents of sexual abuse, assault, harassment or retaliation. The Office of the

Correction Ombudsman, upon receiving such information, shall immediately forward inmate reports of sexual abuse or sexual harassment to agency officials, allowing the inmate to remain anonymous upon request.

The Assistant Superintendent/IPCM indicated that Mid-State Correctional Facility accepts all third-party reports of inmate sexual abuse or sexual harassment. The PREA Coordinator confirmed that the agency has established a method to receive third-party reports of sexual abuse and sexual harassment that can be found on the agency's website. The agency distributed publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate on their website.

Family members, friends, attorneys, clergy or any other third party may make a PREA report on an inmate's behalf. Third parties may report sexual abuse/sexual harassment by:

- Contacting the Correctional Facility's Institutional PREA Compliance Manager
- Contacting the Correction Ombudsman:  
**Office of the Correction Ombudsman**  
**PO Box 855**  
**Trenton, NJ, 08625**
- Contacting the NJDOC Special Investigations Division:  
**Trenton, NJ, 08625**  
**(SID) (609) 826-5617 Phone# (609) 633-2596**

The department's public website [www.state.nj.us/corrections/pages/PREA](http://www.state.nj.us/corrections/pages/PREA) informs third party reporters on how to report allegations of sexual abuse/sexual harassment. The website provides contact information as well as whom the third-party reporter will speak to. Mid-State Correctional Facility met the requirements of Standard 115.54.

**Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault
- PCS.001.PREA.OMB Allegations of Sexual Abuse Assault, Harassment and Retaliation Reported to the Office of the Ombudsman
- Interviews with staff (random and specialized)
- Interviews with inmates (random and targeted)
- Interview with the PREA Coordinator (on file 2019)

## **OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT**

### **Standard 115.61: Staff and agency reporting duties**

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

#### **115.61 (a)**

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency?  Yes  No

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding retaliation against inmates or staff who reported an incident of sexual abuse or sexual harassment?  Yes  No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation?  Yes  No

#### 115.61 (b)

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

#### 115.61 (c)

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

#### 115.61 (d)

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

#### 115.61 (e)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault, level 3 PREA Information for NJ DOC Contractors, and PCS.001.VOL.001 Volunteer Services collectively address the requirements of Standards 115.61. NJDOC requires all staff to immediately report to his or her supervisor any knowledge, suspicion or information regarding inmate sexual abuse, sexual harassment, retaliation against an inmate or staff for reporting an incident of sexual abuse, or any staff neglect or violation of responsibilities that contributed to an incident of sexual abuse or harassment or retaliation. Likewise, the agency also requires 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. Further, the agency also requires all staff to report immediately 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. Staff interviewed confirmed their responsibility to 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. Medical and mental health practitioners interviewed during the audit confirmed they are required to inform inmates the limitations of confidentiality, at the initiation of services. Mid-State Correctional Facility does not house youthful inmates therefore 115.61 (d) does not apply to this facility.

An employee, contractor or volunteer who fails to report an allegation, or coerces or threatens another person to submit inaccurate, incomplete or untruthful information with the intent to alter a report, may face disciplinary charges, up to and including dismissal, even on a first offense. Staff (random and specialized) 100% reported receiving annual training on their responsibility to prevent, respond, and report all allegations of sexual abuse and sexual harassment in accordance with the Prison Rape Elimination Act (PREA). Interviews with staff (random and specialized) supported compliance with Standard 115.61.

**Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault
- PCS.002.REV.VOL (Religious Volunteers)
- PCS.001.VOL.001 (Volunteer Services)
- Information for NJDOC Contractors
- Interviews with staff (random and specialized)
- Interviews with inmates (random and targeted)
- Interview with the PREA Coordinator
- Interview with the Assistant Superintendent/IPCM

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

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

#### **115.62 (a)**

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

### **Auditor Overall Compliance Determination**

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

### Instructions for Overall Compliance Determination Narrative

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

IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault requires staff to take immediate action to protect an inmate when he is identified as being subject to substantial risk of imminent sexual abuse, ADM.019.022 Restrictive Housing, ADM.019.TCC.01 Temporary Close Custody, ADM.019.PCS.01 Protective Custody Status, and New Jersey Administrative Code (NJAC) 10A:5-5.1 Assignment to Prehearing Protective Custody or Admission to a Protective Custody Unit collectively address the requirements of Standard 115.62. It is the policy of the New Jersey Department of Corrections to maintain zero tolerance toward all forms of sexual abuse and sexual harassment, and actively enforce all internal policies and procedures related to the prevention, detection, and response to such conduct.

NJDOC policies direct staff who staff learn that an inmate is subject to a substantial risk of imminent sexual abuse to take immediate action to protect the inmate. These same policies require NJDOC staff to be committed to ensuring the protection of victims of sexual assault, and will employ multiple measures, including but not limited to, 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 harassment or for cooperating with investigations in order to fulfill this commitment. In the past 12 months, the PCM confirmed that the number times Mid-State Correctional Facility determined that an inmate was subject to a substantial risk of imminent sexual abuse was zero. Mid-State Correctional Facility met the requirements of Standard 115.62.

#### Evidence relied upon to make auditor determination:

- Pre-Audit Questionnaire
- Policy IMM.001.004 (Zero Tolerance Policy: Prison Sexual Assault)
- 10A:5-5.1 Assignment to Prehearing Protective Custody or Admission to a Protective Custody Unit
- 10A:5-7.1 Placement in Temporary Close Custody
- Interviews with staff (random and specialized)
- Interview with the PREA Coordinator
- Interview with the PREA Compliance Manager (on file 2019)

## Standard 115.63: Reporting to other confinement facilities

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

#### 115.63 (a)

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

#### 115.63 (b)

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

#### 115.63 (c)

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

#### 115.63 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

PCS.001.PREA.ICM (Institutional Prison Rape Elimination Act (PREA) Compliance Manager) supports compliance with this standard. Policy requires: "The institutional PREA Compliance Manager must also accept reports that an inmate was sexually abused while incarcerated at another facility. The PCM will advise the facility Administrator and serve as Administrator's designee. The designee will be notifying the head of the facility/agency where the alleged abuse occurred no later than 72 hours after receiving the allegation. The IPCM confirmed during his interview that during the past 12 months, there were zero allegations received that an inmate was abused while confined to another facility. Mid-State Correctional Facility met the requirements of Standard 115.63.

#### Evidence relied upon to make auditor determination:

- Pre-Audit Questionnaire
- PCS.001.PREA.ICM Institutional Prison Rape Elimination Act (PREA) Compliance Manager
- Interview with the PREA Compliance Manager
- Interview with the PREA Coordinator (on file 2019)

### Standard 115.64: Staff first responder duties

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

### 115.64 (a)

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

### 115.64 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

Internal Management Procedure #014 (Procedures for Sexual Offenses) requires staff to take specific steps to respond to a report of sexual abuse including; separating the alleged victim from the abuser; preserving any crime scene within a period of time that still allows for the collection of physical evidence; request the

alleged victim not take any action that could destroy physical evidence; and ensure that the alleged abuser does not take any action to destroy physical evidence, if the abuse took place within a time period that still allows for the collection of physical evidence. Staff interviews confirmed that each staff person possess an understanding of the actions to be taken upon learning that an inmate was sexually abused. Custody staff interviewed confirmed that upon learning of an allegation that an inmate was sexually abused, the first security staff member to respond would: Separate the alleged victim and abuser, preserve and protect any crime scene until appropriate steps can be taken to collect any evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, and if the abuse occurred within a time period that still allows for the collection of physical evidence. Non-custody staff (100%) interviewed during the onsite portion of the PREA audit indicated that during interviews that the responder is required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff. Mid-State Correctional Facility met the requirements of Standard 115.64.

**Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- CUS.001.CSM.01 Crime Scene Management
- IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault
- MED.MLI.007 Sexual Assault
- Sexual Assault Prevention Directive
- Internal Management Procedure #014 (Procedures for Sexual Offenses)
- Interviews with Staff

**Standard 115.65: Coordinated response**

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

**115.65 (a)**

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

**Auditor Overall Compliance Determination**

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

**Instructions for Overall Compliance Determination Narrative**

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

IMM.001.PSA.001, MED.ML1.007(Sexual Assault), and SID#14 (Procedures for Sexual Offenses) address the requirements of this standard. NJDOC mandates that the following medical and health care services be available in all Operational Units housing inmates and in compliance with any existing PREA standard. Each policy outlines specific instructions for security, healthcare, and investigative staff relative to post sexual abuse protocols such as:

1. Twenty-four (24) hours per day, 7 days per week emergency medical, dental and mental health care.
2. A physician will be available twenty-four hours a day, seven days a week for consultation. On-call physician's schedules with pager/telephone numbers and pertinent names and telephone numbers of local emergency medical services to be used will be accessible to the medical staff.
3. NJDOC also mandates that the healthcare staff shall follow the institution's written plan for responding to allegations of sexual assault of inmates. The assaulted inmate will be transported to an Emergency Department properly equipped to assess (i.e. SANE Nurse), treat, and provide required prophylaxis, contraceptives, pregnancy termination counseling and gathering of forensic evidence. Healthcare staff shall not be involved in the management or treatment of sexual assault cases unless it is necessary to stabilize the inmate before the transfer to the appropriate community facility. Such care may include the control of bleeding or stabilizing of other injuries incurred, but most frequently would involve emotional support and understanding.

The procedures in facility Internal Management Procedure #014 (Procedures for Sexual Offenses) outlines the written plan that coordinates actions should be taken in response to an incident of sexual assault among staff first responders, medical and mental health care practitioners, and facility leadership.

Interviews with the Assistant Superintendent/IPCM and other staff revealed that they are knowledgeable of their duties in response to an allegation of sexual abuse and in keeping with the facility's coordinated response plan in response to an incident of sexual abuse. The Rape Crisis Referral Centers for Mid-State Correctional Facility is:

**Mid-State Correctional Facility ANNEX – CRAF**  
**Virtua of Mount Holly**  
**175 Madison Avenue**  
**Mount Holly, NJ**  
**609-914-6000**

The Mid-State Correctional Facility Coordinated Response Plan defers to IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault was reviewed, and it meets the requirements of Standard 115.65.

**Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault
- MED.MLI.007 Sexual Assault
- CUS.001.CSM.01 Crime Scene Management
- Internal Management Procedure #014 Procedures for Sexual Offenses
- Interviews with staff (random and specialized)
- Interview with the PREA Compliance Manager
- Interview with the PREA Coordinator (on file)

## 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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IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault supports the removal of staff alleged to have committed sexual abuse pending the outcome of the investigative process. Corrective bargaining Agreements between the NJDOC and at least seven employee unions were reviewed. The agreements do not limit 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. New Jersey Department of Corrections is a collective bargaining agency. Both the agency and other governmental entities are responsible for collective bargaining on the agency's behalf are 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. Mid-State Correctional Facility meets the requirement of Standard 115.66.

### Evidence relied upon to make auditor determination:

- Pre-Audit Questionnaire

- Agreement State of New Jersey and Local Union 30 International Brotherhood of Electrical Workers (IBEW), AFL-CIO State Government Managers' Unit
- Operations, Maintenance and Services and Crafts Unit and Inspection and Security Unit
- IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault
- New Jersey Law Enforcement Commanding Officers Association and State of New Jersey Memorandum of Agreement
- State of New Jersey Governor's Office of Employee Relations (GOER) and New Jersey Law Enforcement Supervisors Association (NJLESA) Tentative Agreement
- New Jersey Superior Officers Law Enforcement Association and State of New Jersey Memorandum of Agreement
- New Jersey State Policeman's Benevolent Association Law Enforcement Unit Local No. 105, and State of New Jersey Memorandum of Agreement
- New Jersey Investigators Association Affiliated with the New Jersey State Fraternal Order of Police Lodge 174

## Standard 115.67: Agency protection against retaliation

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

#### 115.67 (a)

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

#### 115.67 (b)

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

#### 115.67 (c)

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

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any inmate disciplinary reports?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate housing changes?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff?  Yes  No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need?  Yes  No

#### 115.67 (d)

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

#### 115.67 (e)

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

#### 115.67 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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PCS.001.PREA.ICM, IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault and PCS.001.PREA.EMS collectively address the requirements of 115.67. The Assistant Superintendent/IPCM is the designated Retaliation Monitor for Mid-State Correctional Facility. NJDOC has a written policy to ensure the protection of inmates and staff who have reported sexual abuse or sexual harassment or who have cooperated in a sexual abuse or sexual harassment investigation. During an interview with the Assistant Superintendent/IPCM he confirmed that the agency employs multiple protection measures, such as facility 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. Further, the IPCM also indicated that except in instances where NJDOC/SID determines that a report of sexual abuse is unfounded, monitoring will continue for at least 90 days following a report of sexual abuse. NJDOC/the Assistant Superintendent/IPCM will act promptly to remedy retaliation. NJDOC/ the Assistant Superintendent/IPCM will monitor the conduct and treatment of inmates or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff. Likewise, the Assistant Superintendent/IPCM shall also monitor inmate disciplinary reports, performance reviews and reassignments of staff to determine if there is any suggestion of possible retaliation. If there is a suggestion of possible retaliation, any evidence of possible retaliation will be referred to the SID for investigation and the agency wide PREA Coordinator will be advised of same. The Assistant Superintendent/IPCM reported zero incidents of retaliation in the past 12 months. Mid-State Correctional Facility met the requirements of Standard 115.67.

### Evidence relied upon to make auditor determination:

- Pre-Audit Questionnaire
- PCS.001.PREA.ICM Institutional Prison Rape Elimination Act (PREA) Compliance Manager
- IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault
- NJDOC PREA Retaliation Monitoring Form
- PREA Retaliation Monitoring Form
- Interview with the PREA Compliance Manager
- Interview with the PREA Coordinator (on file)
- Interview with Executive Director / PREA Coordinator

## 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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ADM.019.TCC.01, New Jersey Administrative Code 10A.5-7.1, and CUS-104 (Authorization for Temporary Close Custody) address the requirements of Standard 115.43. The New Jersey Department of Corrections mandates that housing units designated as "Close Custody Units" be maintained in certain correctional facilities, where appropriate. Whenever it becomes necessary to administratively limit an inmate's activities and contacts with others on a short term basis, for increased observation or pending the completion of an investigation, the inmate shall be placed into Temporary Close Custody (TCC) status to provide for the safety and security of staff, inmates and the institutions, when circumstances suggest potential harm to the inmate, or the inmate is engaged in, or planning to be engaged in, a serious violation of correctional facility rules or regulations, for a period not to exceed 72 hours, unless emergent reasons exist and proper review and authorization is given. NJDOC policy allows for placement in temporary close custody status placement when a PREA allegation is received that requires victims be separated from perpetrators after all alternative means of separation have been assessed and no alternative means of separation are available (i.e. cell assignment/housing unit assignment change, intra-institutional transfer). Such assessment will occur within 24 hours of the allegation.

Placement in TCC status as a result of a PREA allegation is not automatic. Such placement will be considered on a case by case basis taking into account factors that include but are not limited to: the nature and severity of the PREA prohibited act, medical, mental health, disciplinary and investigatory considerations, an inmate victim's access to property, services and privileges that are afforded to general population inmates, and any circumstances that would pose a threat to the safety, security and orderly running of the correctional facility. If it is determined that an inmate requires placement in TCC status as a result of a PREA allegation, the reasons for the placement shall be documented.

The Assistant Superintendent/IPCM and SID each confirmed that the facility will only restrict an inmate to a room as a last measure to keep an inmate who alleges sexual abuse safe and then only until an alternative means for keeping the inmate safe can be arranged. The policy requires an assessment within 24 hours if these measures are imposed. A review of inmate placement forms indicated that in the last 12 months the number of inmates at risk of sexual victimization who were held in involuntary segregated housing for one to 24 hours awaiting completion of assessment was two (2). Zero inmates remained in segregation for thirty days. One inmate was transferred to another facility but at the conclusion of the investigation he was transferred back to Mid-State Correctional Facility. The CUS-104 form contained a statement of the facility's concern for the inmate's safety and why TCC status was required. The authorization for TCC status was usually completed at the time of transfer to TCC status but always within 24 hours of status change. In both instances mentioned above, the facility documented the basis for involuntary segregated housing as the inmate's safety and the reasons why

alternative means of separation could not be arranged. Mid-State Correctional Facility met the requirements of Standard 115.68.

**Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- Review of Policy ADM.019.TCC.01 Temporary Close Custody Status (Temporary Close Custody) Inmate Placement Investigation Form
- 10A:5-5.1 Assignment to Prehearing Protective Custody or Admission to a Protective Custody Unit
- Prehearing Protective Custody Placement Form
- Authorization for Temporary Close Custody
- Policy ADM.019.PCS.01 Protective Custody Status
- Interview with SID Investigator
- Interview with the PREA Compliance Manager
- Review of investigation files

## 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

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IMM.001.004, ADM.006.011, SID.IMP#14, and SID.IMP#35 collectively address the requirements of Standard 115.71. SID is the division within the Office of the Commissioner whose duties include, but are not limited to, ensuring that possible violations of the laws of the State of New Jersey, as well as violations of the New Jersey Administrative Code (10A), the NJ Criminal Code Title 2C, the Prison Rape Elimination Act (PREA) of 2003 and NJDOC policies and procedures by inmates, employees and individuals who visit NJDOC correctional facilities are investigated. NJDOC conducts its own investigations into allegations of sexual abuse and sexual harassment, it does so promptly, thoroughly, and objectively. Additionally, SID serve as the NJDOC liaison to all other law enforcement agencies, conduct cooperative investigations in conjunction with federal, state, county and municipal law enforcement agencies. During an interview with a SID investigator, he confirmed that the agency conducts investigations for all allegations, including third party and anonymous reports. Investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data and 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. NJDOC does not require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding. During the last 12 months, Mid-State Correctional Facility had zero criminal investigations referred for prosecution. The SID investigator confirmed 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.

The Auditor reviewed a case in which the inmate filed a grievance about a pat frisk conducted by a MSCF custody staff member that he characterized as "borderline PREA" and asked for the matter to be addressed. A Custody Supervisor initially met with inmate to determine the nature of the complaint and to assess the inmate's immediate safety concerns. The inmate indicated that he was not presently "in danger" at MSCF and that the remedy was a "misunderstanding." The matter was then referred the Special Investigations Division. The inmate was interviewed by the Special Investigations Division Investigator. The inmate reported during the investigation that he was pat frisked by an officer and he felt that the pat frisk was a bit excessive and the officer was new. The inmate stated that the interaction was not PREA related. Relying on the inmate's statement and the pat frisk as conducted as part of

routine duties, the investigator found that the allegation was “not PREA” in that it did not meet the definition of sexual abuse as defined in standard 115.6. The Auditor could not rule out fear of retaliation or fear of TCC as a motivating factor for recanting the grievance. The auditor recommends a corrective action that the facility deem such cases unfounded and rely upon other forms of evidence such as video footage of the incident or other witnesses to the incident to determine if an allegation is unfounded. Mid-State Correctional Facility met the requirements of Standard 115.71.

#### **Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- Policy 00-01-103 (Investigations and Intelligence)
- ADM.006.011 Investigations by the Special Investigations Division
- CUS.001.011 Searches of Inmates and Correctional Facilities
- CUS.001.CSM.01 Crime Scene Management
- CUS.001.SEA.001 Searches of Inmates and Correctional Facilities
- IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault
- MED.MHS.002.001 Emergency Mental Health Services
- MED.MHS.002.010 Counseling Services for Victims of Sexual Assault
- MED.MLI.005 Forensic Specimen Collection
- MED.MLI.007 Sexual Assault/Internal Management Procedure #014 Procedures for Sexual Offenses
- Internal Management Procedure #035 Investigation Procedures/
- Interview with the SID Investigator
- Interview with the PREA Compliance Manager

#### **Corrective Action**

A meeting took place with Mid-State Correctional Facility Assistant Superintendent and Institutional PREA Compliance Manager and NJDOC PREA staff. The auditor provided instruction that allegations that do not meet the definition of prohibited conduct as defined by standard 115.5 should be unfounded, meaning no evidence existed to confirm the incident was a PREA incident. This finding must be supported by a thorough and objective investigation to interviews of the alleged victims, suspected perpetrators and witnesses and any physical, testimonial and documentary evidence. The auditor reinforced that in a thorough investigation, the credibility of the alleged victims, perpetrators and witnesses must be assessed. NJDOC can rely on investigations conducted in accordance with the requirements of standard 115.71 to make the determination of substantiated, unsubstantiated or unfounded. This corrective action confirms compliance with the requirements of standard 115.71 that investigations are done promptly, thoroughly and objectively and allegations are not screened or ruled out by any preliminary investigation.

To implement the corrective action prescribed by the auditor NJDOC deemed this case unfounded and all investigations will be conducted in accordance with 115.71. NJDOC will implement the auditor’s recommendation that such cases be deemed unfounded rather than use of the term “not PREA.” Corrected.

## **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.*

ADM.006.011 and SID PREA Training address the requirements of Standard 115.72. According to SID training materials guiding SID administrative investigations, the agency imposes no standard higher than the preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. The SID investigator interviewed during the onsite portion of the audit was very aware of the required evidentiary standard in determining whether allegations of sexual abuse/sexual harassment are substantiated. Mid-State Correctional Facility met the requirements of Standard 115.72.

#### Evidence relied upon to make auditor determination:

- Pre-Audit Questionnaire
- Policy ADM.006.011 Investigations by the Special Investigations Division
- NJ Department of Corrections Special Investigations Division PREA Training
- Interview with the PREA Compliance Manager
- Interview with SID Investigator

## Standard 115.73: Reporting to inmates

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

#### 115.73 (a)

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

#### 115.73 (b)

- If the agency did not conduct the investigation into an inmate's allegation of sexual abuse in an agency facility, does the agency request the relevant information from the investigative agency

in order to inform the inmate? (N/A if the agency/facility is responsible for conducting administrative and criminal investigations.)  Yes  No  NA

#### 115.73 (c)

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

#### 115.73 (d)

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

#### 115.73 (e)

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

#### 115.73 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

**Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

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

### Instructions for Overall Compliance Determination Narrative

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The standard requires that after an allegation of sexual abuse the inmate shall be informed verbally or in writing as to whether the allegation was substantiated, unsubstantiated or unfounded. All such notifications and attempts of notifications shall be documented.

IMM.001.004, and PCS.001.PREA.ICM collectively address the requirements of Standard 115.73. These policies require that inmates in the custody of NJ DOC who make a PREA allegation to be notified of the investigative outcome of the investigation. The IPCM will deliver a copy of form (NJDOC PREA Sexual Abuse Investigation Disposition Report) to the inmate who will sign the form acknowledging receipt of the outcome. A copy of the signed form will be maintained by the Compliance Manager and placed in Folder 115.73 on the I drive. If the allegation involves staff, the form provides a space for the inmate to be informed if the staff member is no longer posted within their housing unit, is no longer employed at the facility. If the staff member was indicted on a charge related to sexual abuse within the facility or the agency learned that the staff member was convicted on a charge related to sexual abuse within the facility the inmate is informed verbally or in writing as to whether the allegation was substantiated, unsubstantiated or unfounded. All such notifications and attempts of notifications shall be documented by the facility. There were four (4) administrative investigations of alleged inmate sexual abuse that were completed by Mid-State Correctional Facility in the past 12 months. Two were determined "NOT PREA" thus unfounded and two (2) others were unfounded. NJDOC does not utilize outside investigators. Mid-State Correctional Facility met the requirements of Standard 115.73.

#### Evidence relied upon to make auditor determination:

- Pre-Audit Questionnaire
- NJDOC PREA Sexual Abuse Investigation Disposition Report
- IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault
- PCS.001.PREA.AC Prison Rape Elimination Act (PREA) Agency Coordinator
- PCS.001.PREA.ICM Institutional Prison Rape Elimination Act (PREA) Compliance Manager
- Interview with the PREA Compliance Manager
- PREA Inmate Notifications

## 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.*

IMM.001.004, IMM.001.PSA.001, and E3-HRB 84-17 are broad guiding principles regarding PREA related staff disciplinary actions. The Human Resource Bulletin 84-17 Disciplinary Action Policy pre-dates PREA and does not directly address definitive disciplinary sanctions for PREA violations. The "bulletin" does, however, outline broad ranges of sanctions depending on the severity of charges relating to all aspects of employment. Specifically, the "bulletin" addresses supervisory sexual harassment collectively address Standard 115.76.

The agency indicates by policy that staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse, sexual misconduct, and sexual harassment policies and for failing to report. The NJDOC will fully investigate and aggressively prosecute those who are involved in such conduct if, in fact, a crime has been committed. Any staff who is terminated for a violation of the zero-tolerance prison sexual assault policy shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies. An employee, contractor or volunteer who fails to report an allegation, or coerces or threatens another person to submit inaccurate, incomplete or untruthful information with the intent to alter a report, may face disciplinary charges, up to and including dismissal, even on a first offense. The failure to participate in an investigation would be grounds for terminating employment.

All employees are subject to administrative disciplinary sanctions for violating agency sexual abuse/sexual harassment policies. The Collective Bargaining Agreements with the NJDOC allows for disciplinary sanctions against staff, including termination, for the sexual abuse/sexual harassment of an inmate. All terminations for violations of agency sexual abuse/sexual harassment policies, or resignations by staff in lieu of termination, may be reported to criminal investigators and to any relevant professional, certifying, or licensing agencies, unless the activity was clearly not criminal. The Auditor interviewed the Assistant Administrator, she confirmed that a presumptive disciplinary sanction for staff who engages in sexual abuse will be termination. Mid-State Correctional Facility met the requirements of Standard 115.76.

**Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- NJDOC Human Resources Bulletin 84-17 as Amended Disciplinary Action Policy
- Policy IMM.001.004 Zero Tolerance Policy: Prison Sexual Assault
- Interview with the PREA Compliance Manager
- Interview with the Assistant Administrator

## **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.*

IMM.001.004, and IMM.001.PSA.001 collectively address the requirements of Standard 115.77. Any contractor or volunteer who engages in sexual abuse/sexual harassment would be prohibited from contact with inmates and would be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. A contractor or volunteer who fails to report an allegation, or coerces or threatens another person to submit inaccurate, incomplete or untruthful information with the intent to alter a report, may face disciplinary charges, up to and including dismissal, even on a first offense. In the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, the facility would take appropriate remedial measures and consider whether to prohibit further contact with inmates.

Policy states that any contractor or volunteer engaging in sexual abuse of inmates will be subject to referral to local law enforcement. The policy further requires that the contractor or volunteer is prohibited from having contact with inmates. The PCM and Assistant Administrator both confirmed during individual interviews that during the past 12 months, zero (0) contractors has been reported to law enforcement. Mid-State Correctional Facility met the requirements of Standard 115.77.

### Evidence relied upon to make auditor determination:

- Pre-Audit Questionnaire
- Interview with the PREA Compliance Manager
- ADM.006.007 Pre-Employment and ID Card Renewal Background Checks: Issuance of Employee/Volunteer ID Cards /
- Application for Clearance and Issuance of ID Cards/ Volunteer Rules and Responsibilities /
- PCS.001.003 Volunteer Service Program /
- PCS.001.007 Volunteer Information Tracking System (VITS) / PCS.001.VOL.001 Volunteer Services /
- PCS.002.005 Religious Volunteer Services /
- New Jersey Department of Corrections Division of Programs & Community Services Office of Volunteer Services
- Interview with the Institution PREA Compliance Manager
- Interview with the Assistant Administrator

## Standard 115.78: Disciplinary sanctions for inmates

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

#### 115.78 (a)

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

#### 115.78 (b)

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

#### 115.78 (c)

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

#### 115.78 (d)

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

#### 115.78 (e)

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

#### 115.78 (f)

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

#### 115.78 (g)

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

#### Auditor Overall Compliance Determination

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

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

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

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

ADM.008.000 Inmate Disciplinary Hearing Program: Mission, Goals and Objectives states that inmates may receive disciplinary sanctions following an administrative finding or a criminal investigation that an inmate engaged in inmate-on-inmate sexual abuse and sanctions shall be commensurate with the nature and circumstances of the sexual abuse, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.

NJAC 10A, Chapter 4 relates to inmate discipline in the NJ DOC. Subchapter 12 and policy IMM.001.004, discuss zero tolerance offenses for which an inmate in the NJDOC may be charged. The zero tolerance offenses listed in the NJAC 10A, Chapter 4 include behaviors enumerated in the PREA. Inmate prohibited acts listed include unauthorized physical contact with a person that was not initiated by staff, sexual assault, engaging in sexual acts, making sexual proposals, and indecent exposure. Consensual sex or sexual harassment of any nature is prohibited and will result in discipline. There is no mention of sanctions being 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.

Inmates are subject to disciplinary sanctions pursuant to the formal disciplinary process defined in the NJAC.

NJDOC the inmate handbook indicates that: the disciplining of inmates who make an allegation in good faith, even if an investigation does not establish evidence sufficient to substantiate the allegation; whether the disciplinary process considers whether an inmate's mental disabilities, mental illness or behavioral issues contributed to the inmate's behavior when determining what type of sanction, if any, should be imposed. If mental disabilities or mental illness is a factor, the facility considers the offer of therapy, counseling or other interventions designed to address and correct underlying reasons or motivations for the abuse.

The SID investigator confirmed that there were no administrative or criminal findings of guilt for inmate-on-inmate sexual abuse in the past 12 months. The facility prohibits all sexual activity between inmates and may discipline inmates for such activity. Mid-State Correctional Facility met the requirements of Standard 115.78.

### **Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- Policy ADM.008.000 Inmate Disciplinary Hearing Program: Mission, Goals and Objectives
- Inmate handbook
- Investigation files
- SID investigator
- Interview with the PREA Compliance Manager

## MEDICAL AND MENTAL CARE

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

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

#### 115.81 (a)

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

#### 115.81 (b)

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

#### 115.81 (c)

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

#### 115.81 (d)

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

#### 115.81 (e)

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

#### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

MED.MHS.001.002 Mental Health Services Mental Health Reception and Evaluation supports compliance with this standard. The facility obtains informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting. To ensure the guidelines are met the facility follows a PREA Monitoring Multidimensional Sexual Victimization and Abusiveness Risk Assessment Checklist. Sensitive information is maintained in the EMR PREA Monitoring Module. The data is accessible to select staff and tracked using the process described in the policy on the PREA E-Management System.

Specialized staff (100%) interviews confirmed compliance with Standard 115.81. In the past 12 months inmate files sampled confirmed that inmates who disclosed a previously history perpetrating sexual abuse, were offered a follow-up meeting with a mental health practitioner. Likewise, inmates 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 Mental health staff maintains secondary materials documenting compliance with this provision of the standard. Inmates who disclose prior sexual victimization or who disclose previously perpetrating sexual abuse during an intake screening will be offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening. Specialized staff interviewed indicated that signed and dated informed consent forms are obtained from inmates before reporting prior sexual victimization that did not occur in an institutional setting. MSCF does not house inmates under the age of 18 or youthful inmates. Mid-State Correctional Facility met the requirements of Standard 115.81.

### Evidence relied upon to make auditor determination:

- Pre-Audit Questionnaire
- PREA Monitoring Test
- PREA Monitoring Multidimensional Sexual Victimization and Abusiveness Risk Assessment Checklist
- MED.MHS.001.002 Mental Health Services Mental Health Reception and Evaluation
- Offender Information System
- Auditor review of Behavioral Health and Intake documentation
- Sexual Violence Assessment Tool
- Consent for Treatment Form
- Interviews with medical and mental health staff
- Interview with the PREA Compliance Manager

## 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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MED.MLI.007 (Sexual Assault) requires timely and unimpeded access to emergency medical treatment, crisis intervention services and victim advocacy services. Medical and mental health providers confirmed that the nature and scope of rendered services are determined according to their professional judgment. The PCM confirmed that inmate victim will be afforded a forensic examination

at no cost to the victim. Investigation into an allegation during the reporting period demonstrated this practice although the investigation and medical documentation resulted in an unfounded outcome.

MRD.MLI.007 and MED.IMHC.010 Co-Pay collectively address the requirements of Standard 115.82. The NJDOC mandates that medical and health care services be available in all Operational Units housing inmates and in compliance with any existing PREA standard. Policy excludes co-pays for emergency services. It is recommended however, that the governing policy specifically excludes emergency treatment due to sexual abuse, to victims at no financial cost. NJDOC policy requires 24 hours per day, 7 days per week emergency medical, and mental health care. A physician will be available twenty-four hours a day, seven days a week for consultation. On-call physician's schedules with pager/telephone numbers and pertinent names and telephone numbers of local emergency medical services to be used will be accessible to the medical staff. NJDOC also requires accurate, timely reporting, investigation and notification of appropriate staff and family of all critical illnesses, injuries or deaths. Emergency cardiopulmonary resuscitation (CPR) will be available from trained custody and healthcare staff. Properly trained custody and healthcare staff will carry out emergency medical transfer procedures. Interviews with specialized staff during the onsite portion of the audit confirmed inmate victims of sexual abuse are 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.

The New Jersey Department of Corrections also mandates that the healthcare staff shall follow the institution's written plan for responding to allegations of sexual assault of inmates. The assaulted inmate will be transported to an Emergency Department properly equipped to assess (i.e. SANE Nurse), treat, and provide required prophylaxis, contraceptives, pregnancy termination counseling and gathering of forensic evidence. Healthcare staff shall not be involved in the management or treatment of sexual assault cases unless it is necessary to stabilize the inmate before the transfer to the appropriate community facility. Such care may include the control of bleeding or stabilizing of other injuries incurred, but most frequently would involve emotional support and understanding. First Responders interviewed confirmed their responsibility to immediately notify the appropriate medical and mental health practitioners in the event of an allegation of sexual abuse. Mid-State Correctional Facility met the requirements of Standard 115.82.

#### **Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- MED.EME.005 Emergency Response
- MED.IMHC.010 Co-Pay for Eligible Health and Dental Care
- MED.MHS.002.001 Emergency Mental Health Services
- MED.MHS.002.010 Counseling Services for Victims of Sexual Assault
- 10A:16-2.10 Emergency medical treatment
- Agreement Inmate Health Care Services for The New Jersey Department of Corrections by Rutgers, The State University of New Jersey
- Policy MED.MLI.007 (Sexual Assault)
- Review of an investigation file
- Interviews with medical staff
- Interview with mental health staff
- Interview with the PREA Compliance Manager

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

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

**115.83 (a)**

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

**115.83 (b)**

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

**115.83 (c)**

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

**115.83 (d)**

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

**115.83 (e)**

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

**115.83 (f)**

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

**115.83 (g)**

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

**115.83 (h)**

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

when deemed appropriate by mental health practitioners? (NA if the facility is a jail.)

Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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MED.MHS.002.010 (Counseling Services for Victims of Sexual Assault) addresses ongoing medical and mental health care for sexual abuse victims and abusers collectively address Standard 115.83. The policies mandate appropriate tests to be provided to inmate victims of sexual abuse. In accordance with PREA standards, mental health staff will conduct an evaluation of all known inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate. NJDOC mandates that the healthcare staff shall follow the institution's coordinated written plan for responding to allegations of sexual abuse. The victim of the sexual abuse would be transported to an Emergency Department properly equipped to assess (i.e. SANE Nurse), treated, and provide required prophylaxis, contraceptives, pregnancy termination counseling and gathering of forensic evidence in accordance with this standard.

As confirmed by an examination of applicable, the facility may offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse. The evaluation and treatment of such victims includes follow-up services. The facility would arrange for referrals for continued care following their transfer to or placement in other facilities or after their release from custody. The facility has staffed its medical and mental health departments and offers sexual abuse victims with medical and mental health services consistent with the standard of care available in the community. Mid-State Correctional Facility met the requirements of Standard 115.83.

### Evidence relied upon to make auditor determination:

- Pre-Audit Questionnaire
- Meeting of Sexual Assault/Prison Rape Elimination Act (PREA) Sexual Assault Advisory Committee
- Sexual Assault Advisory Council Incident Review
- PCS. 001.PREA.001 Sexual Assault
- PCS.001.PREA.ICM (Institutional Prison Rape Elimination Act (PREA) Compliance Manager)
- Agreement Inmate Health Care Services for The New Jersey Department of Corrections by Rutgers, The State University of New Jersey
- Review of policy MED.MHS.002.010 Counseling Services for Victims of Sexual Assault
- Interviews with Medical and Mental Health Staff
- Interview with the PREA Compliance Manager

## 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.*

IMM.001.004, PCS. 001.PREA.001, and PCS.001.PREA.ICM collectively address the requirements of Standard 115.86. A Sexual Assault Advisory Council (SAAC) is a council which convenes at the facility and headquarters levels to review all allegations and instances of sexual abuse/sexual harassment with the purpose of assessing and improving PREA prevention, detection, and response; and to review on a case by case basis, housing requests for transgender/intersex inmates based on gender identity. The facility IPCM convenes an institutional level sexual assault review of the substantiated and unsubstantiated sexual assault allegations within 30 days of the completion of the investigation by the SID. The review is held in accordance with PREA Standard 115.86 and COHQ's Sexual Assault Advisory Council's procedures and review form. A copy of the signed review committee form will be maintained by the Interviews with staff revealed that they understand the purpose of the incident review team and the process. The facility is in compliance with this standard and provides information regarding the incident review team and its role. The incident review form details the make-up of the sexual abuse incident review team and the elements to be considered in their assessments of incidents. The sexual assault incident review team includes upper-level management officials and allows for input from supervisors, investigators and medical or mental health practitioners. During the past 12 months, Mid-State Correctional Facility indicated four (4) allegations of sexual abuse. Two (2) allegations were given a designation of "NOT PREA" thus unfounded and two (2) were determined simply unfounded. A review ordinarily to occur within 30 days of the conclusion of the investigation was not required based on this standard.

The IPCM as a member of the incident review team, confirmed that the team would consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; 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; examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; assess the adequacy of staffing levels in that area during different shifts; assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility Administrator. Mid-State Correctional Facility met the requirements of Standard 115.86.

## Evidence relied upon to make auditor determination:

- Pre-Audit Questionnaire
- Sexual Assault Advisory Council Incident Review
- Interviews with members of the Sexual Abuse Incident Review Team
- PCS.001.PREA.001 Sexual Assault/Prison Rape Elimination Act (PREA) Advisory Council
- PCS.001.PREA.ICM Institutional Prison Rape Elimination Act (PREA) Compliance Manager
- Interview with the PREA Compliance Manager
- PREA Meetings Minutes

## 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.*

PCS.001. PREA.001 addresses the requirements of Standard 115.87. As confirmed by a review of support documentation, the facility collects accurate, uniform data for every allegation of sexual abuse/sexual harassment by using a standardized instrument. NJDOC tracks information concerning sexual abuse using data from the facility's PREA E-Management system. The NJDOC headquarters level staff oversees the data collected and maintains the information necessary to answer all questions from the most recent version of the Survey of Sexual Violence, conducted by the Department of Justice. The agency aggregates and reviews all data annually. Upon request, the NJDOC would provide all such data from the previous calendar year to the Department of Justice no later than June 30. NJDOC compliance with this standard was also determined by a review of policy and tracking documentation and staff interviews.

New Jersey Department of Corrections uses a standardized instrument with definitions to collect accurate, uniform data for every allegation of sexual assault. The instrument includes the data necessary to answer all questions from the most recent version of the Survey of Sexual violence conducted by the Department of Justice. A review of the annual report revealed it was completed according to this standard. Mid-State Correctional Facility met the requirements of Standard 115.87.

#### Evidence relied upon to make auditor determination:

- Pre-Audit Questionnaire
- NJDOC Rate of Sexual Abuse 2012/2013
- NJDOC Rate of Sexual Abuse 2014
- NJDOC Rate of Sexual Abuse 2015
- NJDOC Rate of Sexual Abuse 2016
- NJDOC Rate of Sexual Abuse 2017
- PCS.001. PREA.001 Sexual Assault/Prison Rape Elimination Act (PREA) Advisory Council
- Survey of Sexual Victimization Summary Form
- Sexual Assault Advisory Council Incident Review
- Interview with the Assistant Administrator
- Interview with the PREA Compliance Manager

### 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.*

PCS. 001.PREA.001 addresses the requirements of Standard 115.88. The NJ DOC's SAAC and the institution reviews and assesses all sexual abuse/sexual harassment data at least annually to improve the effectiveness of its sexual abuse prevention, detection and response policies, to identify any trends,

issues or problematic areas and to take corrective action, if needed. NJDOC utilizes a standardized instrument with definitions to collect accurate, uniform data for every allegation of sexual assault. During a previous interview with the PREA Coordinator she indicated that NJDOC data is 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. The instrument includes the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice. A review of several annual reports revealed that annual reports 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. NJDOC's annual reports are approved by the agency head and made readily available to the public through its website. Mid-State Correctional Facility met the requirements of Standard 115.88.

**Evidence relied upon to make auditor determination:**

- Pre-Audit Questionnaire
- NJDOC Rate of Sexual Abuse 2012/2013
- NJDOC Rate of Sexual Abuse 2014
- NJDOC Rate of Sexual Abuse 2015
- NJDOC Rate of Sexual Abuse 2016
- NJDOC Rate of Sexual Abuse 2017
- Sexual Assault Advisory Council Corrective Action Report
- PCS.001.PREA.001 Sexual Assault/Prison Rape Elimination Act (PREA) Advisory Council
- Noted corrective actions
- Sexual Assault Advisory Council Incident Review
- Interview with the PREA Compliance Manager
- Interview with the Assistant Administrator

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

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

**115.89 (a)**

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

**115.89 (b)**

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

**115.89 (c)**

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

**115.89 (d)**

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

The Institution PREA Compliance Manager will review the collected and aggregated data to assess and improve the effectiveness of the PREA related efforts and initiatives. The review of the agency Sexual Assault Prevention Program Annual Reports confirms this practice. Mid-State Correctional Facility met the requirements of Standard 115.89.

### Evidence relied upon to make auditor determination:

- Pre-Audit Questionnaire
- Records Retention and Disposition Schedule
- Sexual Victimization Annual Report New Jersey Department of Corrections
- <https://www.state.nj.us/corrections/pages/PREA/PREA.html>
- Interview with Assistant Administrator
- Interview with the PREA Coordinator
- Interview with the PREA Compliance Manager

# AUDITING AND CORRECTIVE ACTION

## Standard 115.401: Frequency and scope of audits

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

#### 115.401 (a)

- During the prior three-year audit period, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (*Note: The response here is purely informational. A "no" response does not impact overall compliance with this standard.*)  Yes  No

#### 115.401 (b)

- Is this the first year of the current audit cycle? (Note: a “no” response does not impact overall compliance with this standard.)  Yes  No
- If this is the second year of the current audit cycle, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited during the first year of the current audit cycle? (N/A if this is **not** the *second* year of the current audit cycle.)  Yes  No  NA
- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? (N/A if this is **not** the *third* year of the current audit cycle.)  Yes  No  NA

#### 115.401 (h)

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

#### 115.401 (i)

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

#### 115.401 (m)

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

#### 115.401 (n)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

This is the first PREA audit for Mid-State Correctional Facility since being opened in 2017. During the tour of the facility, the upcoming audit notices was posted throughout the facility. The facility provided electronic verification of the PREA notices being posted within the required timelines. The Auditor was allowed access to all areas of the facility and had access to all required supporting documentation. Mid-State Correctional Facility also allowed the Auditor to conduct private interviews with both inmates and staff. NJDOC facilities were audited during the same time frame to meet the required deadline of one (1) audit within three (3) years. A review was conducted on information provided to inmates regarding the confidential nature of any correspondence and communication with the auditor. The facility provided inmates with information about the PREA audit at least six weeks prior to the site visit and demonstrated based on their base and clinical files that PREA has been a continued practice. Mid-State Correctional facility met the requirements of Standard 115.401.

#### **Evidence relied upon to make auditor determination:**

- Interview with staff and inmates
- Interview with the PREA Compliance Manager
- Interview with the Assistant Administrator

### **Standard 115.403: Audit contents and findings**

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

#### **115.403 (f)**

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

#### **Auditor Overall Compliance Determination**

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

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

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

All New Jersey Department of Corrections facilities were audited prior to the end of the first audit cycle which ended August 19, 2016. All final audit reports for the agency are properly, publicly posted on the agency website.

**PREA Audit Reports Cycle 1 Year 1**

**August 20, 2013 – August 19, 2014**

- Albert C. Wagner Youth Correctional Facility
- Central Reception & Assignment Facility
- Edna Mahan Correctional Facility for Women
- Garden State Correctional Facility
- Mountainview Youth Correctional Facility

**PREA Audit Reports Cycle 1 Year 2**

**August 20, 2014 – August 19, 2015**

- Adult Diagnostic & Treatment Center
- East Jersey State Prison
- Southern State Correctional Facility
- South Woods State Prison

**PREA Audit Reports Cycle 1 Year 3**

**August 20, 2015 – August 19, 2016**

- Bayside State Prison
- Northern State Prison
- New Jersey State Prison

**PREA Audit Reports Cycle 2 Year 1**

**August 20, 2016 – August 19, 2017**

- Albert C. Wagner Youth Correctional Facility
- Central Reception & Assignment Facility
- Edna Mahan Correctional Facility for Women
- Garden State Correctional Facility
- Mountainview Youth Correctional Facility

**PREA Audit Reports Cycle 2 Year 2**

**August 20, 2017 – August 19, 2018**

- Adult Diagnostic & Treatment Center
- East Jersey State Prison
- Southern State Correctional Facility
- South Woods State Prison

**Evidence relied upon to make auditor determination:**

- Agency Website
- Interview with the Assistant Administrator
- Interview with the PREA Coordinator
- PREA Audit Reports Cycle 2014-2018

# 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.

Sonya Love

10/01/2019

**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.