

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

Interim       Final

**Date of Report**    May 15, 2018

### Auditor Information

<b>Name:</b> Robert Lanier	<b>Email:</b> rob@diversifiedcorrectionalservices.com
<b>Company Name:</b> Diversified Correctional Services, LLC	
<b>Mailing Address:</b> PO Box 452	<b>City, State, Zip:</b> Blackshear, GA 31516
<b>Telephone:</b> 912-281-1525	<b>Date of Facility Visit:</b> April 4-5, 2018

### Agency Information

<b>Name of Agency:</b> West Virginia Regional Jail Authority		<b>Governing Authority or Parent Agency (If Applicable):</b> N/A	
<b>Physical Address:</b> 1900 Kanawha Blvd		<b>City, State, Zip:</b> Charleston, WV 25305	
<b>Mailing Address:</b> PO Box 50285		<b>City, State, Zip:</b> Charleston, WV 25305	
<b>Telephone:</b> 304-558-2036		<b>Is Agency accredited by any organization?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<b>The Agency Is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal

### Agency Chief Executive Officer

<b>Name:</b> Davide Farmer	<b>Title:</b> Executive Director
<b>Email:</b> .David.A.Farmer@wv.gov	<b>Telephone:</b> 304-558-2036

### Agency-Wide PREA Coordinator

<b>Name:</b> Louis C. Armendariz	<b>Title:</b> RJA PREA Coordinator
<b>Email:</b> louis.c.amendariz@wv.gov	<b>Telephone:</b> 304-256-6727

<b>PREA Coordinator Reports to:</b> Mr. Jackie Binion	<b>Number of Compliance Managers who report to the PREA Coordinator</b>  10
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**Facility Information**

**Name of Facility:** Potomac Highlands Regional Jail

**Physical Address:** 355 Dolan Dr. Augusta, WV 26704

**Mailing Address if different than above**

**Telephone Number 304-496-7854**

<b>The Facility Is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Private not for profit
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<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
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<b>Facility Type:</b>	<input type="checkbox"/> Jail	<input type="checkbox"/> Prison
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**Facility Mission:** The mission of the West Virginia Regional Jail Authority is to ensure the safety of the public, staff, and inmates by maintaining a safe, secure, and humane system of regional jails

**Facility Website with PREA Information:** <https://rja.wv.gov/Pages/PREA.aspx>

**Warden/Superintendent**

<b>Name</b> Edgar Lawson	<b>Title</b> Administrator
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<b>Email:</b> edgar.L.Lawson@wv.gov	<b>Telephone:</b> 304-496-7854
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**Facility PREA Compliance Manager**

<b>Name:</b> Jeremy Hirsch	<b>Title:</b> PREA Facility Officer
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<b>Email:</b> Jeremy.I.Hirsch@wv.gov	<b>Telephone:</b> 304-496-7854
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**Facility Health Service Administrator**

<b>Name:</b> Tina Holland	<b>Title:</b> PHRJ Medical Administrator
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<b>Email:</b> Tina.Holland@wv.gov	<b>Telephone:</b> 304-496-7854
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**Facility Characteristics**

<b>Designated Facility Capacity:</b> 200	<b>Current Population of Facility:</b> 261
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<b>Number of inmates admitted to facility during the past 12 months</b>	2949
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<b>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:</b>	848
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<b>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:</b>	700
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<b>Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:</b>		0	
<b>Age Range of Population:</b>	<b>Youthful Inmates Under 18:</b> 0	<b>Adults:</b> 18 Up	
<b>Are youthful inmates housed separately from the adult population?</b>		<input type="checkbox"/> Yes	<input type="checkbox"/> No <input checked="" type="checkbox"/> NA
<b>Number of youthful inmates housed at this facility during the past 12 months:</b>		0	
<b>Average length of stay or time under supervision:</b>		N/A	
<b>Facility security level/inmate custody levels:</b>		N/A	
<b>Number of staff currently employed by the facility who may have contact with inmates:</b>		53	
<b>Number of staff hired by the facility during the past 12 months who may have contact with inmates:</b>		33	
<b>Number of contracts in the past 12 months for services with contractors who may have with inmates:</b>		0	
<b>Physical Plant</b>			
<b>Number of Buildings:</b> 1		<b>Number of Single Cell Housing Units</b> 0	
<b>Number of Multiple Occupancy Cell Housing Units:</b>		16	
<b>Number of Open Bay/Dorm Housing Units:</b>		0	
<b>Number of Segregation Cells (Administrative and Disciplinary):</b>		8	
<b>Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):</b> Video cameras in all housing units, Booking Department, officer posts, hallways, gymnasium, recreation yards, laundry, Medical, Perimeter gate and Intake Lot. All Video saved for 2 months and all intercoms and bookings department has recorded audible capability and is saved for approx. 1.5 to 2 years. There are two main monitor control rooms, one in the Administrator/Captain's office and the other in the Lieutenant's office.			
<b>Medical</b>			
<b>Type of Medical Facility:</b>		Immediate Care	
<b>Forensic sexual assault medical exams are conducted at:</b>		.Local Hospital	
<b>Other</b>			
<b>Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:</b>		16	
<b>Number of investigators the agency currently employs to investigate allegations of sexual abuse:</b>		1 facility based- 1 agency based	

# Audit Findings

## Audit Narrative

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

The on-site audit of the Potomac Highlands Regional Jail was conducted on April 4th and April 5th, 2018. The audit was conducted by two experienced and Certified PREA Auditors, both certified in conducting PREA Audits of Adult Prisons, Jails and Lockups. By prior agreement, the associate auditor would participate in the site review of the entire facility to assist in making observations and conducting informal interviews with staff and inmates (interactions). Additionally, the associate auditor was asked to interview all the detainees in compliance with the Auditor's Manual and finally to test some of the processes related to PREA, including the booking process, room assignments (by checking the victim/aggressor assessments to determine if a potential victim was housed with a potential abuser. The lead auditor was charged with interviewing both randomly selected staff and specialized staff in compliance with the Auditor's Manual and reviewing additional documentation requested on site.

On the first day of the audit there were 302 detainees.

### Pre-Audit Activities

**Notice of PREA Audit:** The Notice of PREA Audit for the Potomac Highlands Regional Jail, located in Augusta, West Virginia, was forwarded to the PREA Coordinator six weeks prior to the on-site audit, for posting in the Potomac Highlands Regional Jail. The PREA Coordinator instructed the facility, to post the notices in areas accessible to offenders, staff, contractors, and visitors. The facility provided documentation of posting and forwarded the email to the auditor. The purpose of the posting of the Notice is to allow anyone with a PREA issue or concern, or an allegation of sexual abuse or sexual harassment to correspond, confidentially, with the Certified PREA Auditor. The auditor did not receive any correspondence as a result of that posting.

**Pre-Audit Questionnaire/ Flash Drive Review:** The Potomac Regional Jail PREA Compliance Officer/Manager prepared the Pre-Audit Questionnaire and forwarded the Questionnaire along with documentation to inform the auditor of the facility's operations. The required information was received by the auditor 30 days prior to the on-site audit. The information included in the package included the Pre-Audit Questionnaire, policies, procedures, forms, checklists, Memoranda of Understanding, documentation to support PREA training, PREA education, and information given to detainees upon admission. The auditor communicated with the PREA Compliance Officer/Manager and informed him of the additional documentation the auditor would be requesting onsite. Communications continued via email and phone prior to the on-site audit. The Agency's PREA Coordinator and the Compliance Officer/Manager were always cooperative and responsive to any request from the auditor.

**Outreach to Outside Advocates:** The facility has a Memorandum of Understanding between the Potomac Highlands Regional Jail and the Sexual Assault Help Center. In this agreement, the WRC agrees to accept initial inmate calls on the WRC hotline from 9AM to 4PM, Monday through Friday to

provide crisis intervention and support services to inmates who have experienced sexual violence. WRC will respond to requests when advocates are available to provide advocacy when inmates are brought to the local hospital for sexual assault forensic exams. The Sexual Assault Help Center also offers follow-up services with advocates who are survivors of sexual assault, via telephone, and when available, in person services. The Help Center agrees to maintain confidentiality with clients who are detained at the Potomac Highlands Regional Jail. The auditor contacted the staff from the Help Center. They confirmed the services they are willing and able to provide, including a hotline for detainees to report any allegations of sexual abuse or sexual harassment and to secure counseling or advocacy emotional support services at the request of the detainee. The staff reported they have never received a call from the detainees at the center and have not had any additional interactions with the facility and have never received any negative reports about the facility. (Please refer to Standard 115.53 for additional information)

**Selection of Staff and Inmates:** This audit was conducted by two (2) Certified Auditors. The facility provided the two auditors lists of all staff who are employed at the facility and a roster of all the detainees who were assigned to the Regional Jail.

The primary/lead auditor selected staff from the staffing roster. These included (17) Randomly selected staff and (19) Specialized Staff. Randomly selected staff were chosen from a range of positions in the facility to assess the training program and staff's understanding of the PREA Standards and compliance with the Standards.

Twenty-six (26) inmates were interviewed.

### **On-Site Audit Activities**

The audit of the Potomac Highlands Regional Jail, operated by the West Virginia Regional Jail Authority, was conducted by two Certified Auditors, both of whom are currently certified to conduct audits of adult jails, prisons and lockups. The auditors arrived at the facility at 0800 on April 4th, 2018 and were met by the PREA Compliance Officer/Manager. To facilitate interviewing overnight staff, the facility asked randomly selected overnight officers to be interviewed. Following those interviews, the PREA Compliance Officer led the two auditors on a complete tour of the entire facility and compound.

### **Site Review (Please refer for facility characteristics for a complete description of the facility)**

During the site review the auditor made numerous observations, including the posting of Notices of PREA Audits, PREA Related Posters, locations of showers and privacy issues, if any, grievances and grievance boxes, requests forms and boxes for requests, configuration of living units, capacities of dorms, observations of blind spots, camera deployment, the use of mirrors to mitigate blind spots, staffing levels, supervision of inmates, accessibility to telephones and instructions for using the phones to report sexual abuse.

### **Staff and Contractor Interviews**

#### **Randomly Selected: (17)**

#### **Specialized Staff and Contractors: (19)**

Specialized Staff who were interviewed were selected based on the PREA Auditor's Manual and included the following:

- AGENCY HEAD DESIGNEE (PREVIOUS INTERVIEW)
- AGENCY PREA COORDINATOR (PREVIOUS INTERVIEW)
- AGENCY CONTRACT DIRECTOR DESIGNEE
- SUPERINTENDENT
- PREA COMPLIANCE MANAGER
- FACILITY-BASED INVESTIGATOR
- INTAKE
- STAFF ADMINISTERING THE VICTIM/AGGRESSOR ASSESSMENT (2)
- MEDICAL STAFF/HEALTH SERVICES ADMINISTRATOR-CONTRACTOR
- HUMAN RESOURCES MANAGER
- MENTAL HEALTH COUNSELOR
- REGISTERED NURSE
- UNANNOUNCED ROUNDS (3)
- STAFF SUPERVISING SEGREGATION
- VOLUNTEER
- DIRECTOR OF INMATE SERVICES
- OUTSIDE ADVOCACY ORGANIZATION/SEXUAL ASSAULT CENTER

All the seventeen (17) randomly selected staff were interviewed as first responders. Healthcare and mental health staff were interviewed as Non-Security First Responders.

**Randomly Selected Detainees: (27)** The associate Certified PREA Auditor selected and interviewed residents at the facility. Selections were made to provide a representative sample of detainees. The population on the first day of the audit was 302.

Six (6) of the twenty-seven (27) detainees were representatives of the targeted groups.

**Informal Interviews:** Additionally, 15 detainees, from all pods and various work assignments were interviewed. These interviews focused on such issues as staffing in the living units, searches, privacy while showering and using the restroom, and how to report allegations of sexual abuse and sexual harassment.

The auditor did not receive any correspondence from any detainee. Notices of PREA Audit were observed posted in the facility, accessible to detainees, staff, visitors, contractors, and volunteers.

## Documents and Files Reviewed

**Background Checks/PREA Related Questions/Professional References:** (10) Newly Hired Employees; (20) Regular Staff; (20) Contractors; (20) Volunteers; Rosters documenting background checks for employees and contractors.

**Facility Staffing Plan Annual Review:** The auditor reviewed the staffing plan for the facility for the year 2017.

**Facility Log Books and Duty Officer Log Books:** Twenty (20) pages reflecting PREA rounds by upper level management serving as duty officers.

**Certificates of Training/PREA Acknowledgment Statements Staff:** Twenty (20) PREA Acknowledgment Statements also indicated indicating staff were trained and that they understood the agency's zero tolerance policy and PREA.

**PREA Acknowledgment Statements Inmates:** Thirty (30) Prison Rape Elimination Act Orientation Video Acknowledgment Statements were reviewed.

**MOU with Sexual Assault Help Center:** The reviewed MOU and an interview with staff from the local Rape Crisis Center confirmed the Memorandum of Understanding with the Memorandum of Understanding between the Potomac Highlands Regional Jail and the Sexual Assault Help Center.

**Certificates of Specialized Training: National Institute of Corrections (NIC):** NIC Certificates for the facility-based investigator, and documentation of specialized training for medical and mental health staff.

**Victimization/Aggressor Assessments:** (30) reviewed by the Lead Auditor; (35) reviewed by the Associate Auditor

**Victimization/Aggressor Reassessments:** (30) reviewed by the Lead Auditor; (35) reviewed by the Associate Auditor

**Incident Reports:** The auditor sampled 10% of the incident reports for the past 12 months. The sampled reports did not reveal any incidents of sexual abuse or sexual harassment. The primary reason for incident reports was contraband; mostly tobacco, and injuries or illnesses.

**Grievances:** The auditor reviewed 10% grievances filed during the past twelve months. None of the grievances alleged sexual abuse, sexual misconduct or sexual harassment. (See Standard 115.52 for a breakdown of the grievance categories)

**Investigations:** The auditor reviewed ten (10 of (10) Investigation Packages representing 100% of the allegations made during the past 12 months.

**Notifications to Inmates:** Notices of the outcomes of investigations into allegations of sexual abuse were provided to the detainees making the allegations. The auditor reviewed all three (3) of the Notifications, representing 100% of the investigations.

**Coordinated Response Plan:** Reviewed plan.

**Post Audit Activities:** Prior to departing the facility, the two certified auditors met initially with the Agency PREA Coordinator and the PREA Compliance Officer/Manager. Deficiencies were discussed and potential solutions and recommendations for corrective action were suggested and discussed. Following the meeting with the PREA Coordinator and PREA Compliance Officer/Manager, the auditors met with the Superintendent and the PREA Compliance Manager to discuss the initial findings. The Superintendent was supportive and committed, along with the PREA Coordinator and PREA Compliance Manager to correcting the deficiencies. The auditor also explained that additional information would be reviewed, including documents collected onsite. Deficiencies are documented below.

Following the on-site audit the auditor requested additional documentation. That documentation was provided expeditiously.

## **SITE REVIEW**

The two Certified PREA Auditors conducted a site review of the entire facility, led by the Acting PREA Compliance Manager. Entering the facility, a reception window, where visitors to the facility sign in, is located on the left. A large waiting area is also located here. PREA related information is posted in this area. This administrative area also houses general office space housing the Superintendent, Captain, Human Resources, the Director of Inmate Services and others. Entrance into the area is controlled by a key pad requiring identification codes to access this area.

A main control room controls entrance and access to into the secure area of the facility containing housing offices, no-contact visitation, interview rooms, training room, medical and mental health, classrooms, booking, library, kitchen and storage areas and the housing units main control. All of these are located off of a long hallway.

The first stop on the site review was the medical and mental health services area. PREA related posters are in the area along with Notice of PREA Audit. Cameras are located in this area covering the waiting room and hallways. There are four (4) cells in medical. Privacy screens are provided to obscure the direct view of an inmate on a toilet. A camera is in the dental area.

Arriving detainees are admitted into the booking area. This area contains six (6) cells for holding detainees, as needed, upon admission. Toilets are exposed however privacy screens are kept in intake to afford detainees privacy while using the toilet. There are no cameras in those cells. Detainees are screened by medical upon admission for vital signs and to assure the inmate is physically and mentally able to be admitted into the jail. Staff, behind a long counter, interview and screen detainees. There is an interview room in the area that could be used for conducting the risk screening assessments. One of the booking staff indicated that she takes the detainees into the interview office to conduct screenings. A panel with sides has been constructed to allow staff to ask the assessment questions at one side of the counter away from other detainees. The auditors tested the panel construction to see if questions could be heard by other detainees in the area. While one auditor asked the questions, the associate auditor stood away from the panel and off to a side. The associate auditor related she was could hear those questions being asked as well as the responses (**See Corrective Action Plan**).

An office behind the counter contains a board with dorm and cell assignments. A typed list of identified potential victims and aggressors was posted in the office. Staff stated the victim/aggressor assessment is used to ensure victims and predators are not being housed together. Laster sampling of victim/aggressor assessments confirmed the posted list was not accurate. (**See Corrective Action Plan**).

A phone is located in booking enabling detainees to place calls, including calls on the PREA Hotline.

Visitation at the facility is "no contact". Multiple visitation rooms are provided.

The kitchen is staffed by contracted staff. Cameras are located in this area. Cameras were observed covering the shoe rack and dishwash area and two cameras were on each end of the food prep area. The food service office was constructed with large windows on two sides to enable the staff to observe

and view detainees while the staff are in the office. Coolers were found to be locked and secured and each one had a window enabling viewing inside.

A commissary is located off a main hall. This area is staffed with contracted commissary staff and detainees do not work in the area. Staff use this area to pull commissary orders, that are delivered by the contracted staff to the living units, for detainees.

A laundry area has two cameras. This area is small and easily supervised.

A large gym is equipped with three (3) cameras capable of zooming in, according to the PREA Compliance Manager. Small rec yards are on either side of the hall going to the pods.

Living units are essentially constructed and configured the same. The following was observed in every unit:

- A KIOSK enabling inmates to send inquiries to and regarding the following: 1) Medical, 2) Shift Supervisor, 3) Counselor, 4) Maintenance, 5) Director of Inmate Services, 6) Booking, 7) Visitation, and 8) Education. The handbook is on the KIOSK. Detainees may file a grievance on it and email anyone who has set up an account enabling them to email them.
- Phones with dialing instructions for reporting allegations of sexual abuse or sexual harassment as well as dialing instructions for contacting the outside advocacy organization, the Sexual Violence Center. **NOTE:** The auditors tested the phones and dialing instructions. A call to the outside advocacy center was received however staff at the center do not arrive until about 8:30AM. The agency has a contract with them that affords inmates access to an outside advocate through the center Monday through Friday during normal duty hours. A call placed by the auditor to report a PREA violation was not responded to during the period of the audit. (See Corrective Action).
- PREA Posters with information for contacting outside offices and agencies to report PREA related issues.
- Showers located on the lower tier and on the upper tier, In the male units, minimal privacy is afforded through the use of metal PREA style doors however on going up the stairs to the upper tier, staff could potentially see into the shower however they would have to make an effort to bend down to see in them. The female units have longer shower curtains that give them privacy while they are showering.
- Toilets are in the single and double occupancy cells.
- Staff reported that each cell has an intercom enabling detainees to contact the “tower” operator. One tower is centrally located between the A -Pods. From the tower staff can view 360 degrees around into each of the A-Unit’s pods. Reportedly any transmissions from the intercoms to the towers are recorded.

A Pods are male living units. Pods A-1, A-4, A-5 and A-8 contain 16 double occupancy cells. There are two phones, a KIOSK, and one single occupancy shower on the upper and lower tiers of the pod. The

auditor tested the KIOSK system by asking a detainee to demonstrate what was on the KIOSK and what he was able to do on the KIOSK. He confirmed he could access the PREA Video and Resident Handbook, and could email staff, anyone who had set up an account to communicate with him, and file a grievance from the KIOSK.

Pods A-2, A-3, A-6, and A-7 contain 8 cells. Each pod contains a shower, a KIOSK and a phone. A-6 is a segregated housing unit.

B Pods contain male pods and female pods. All the units are equipped with a KIOSK and phones and PREA related posters are posted in the dorms.

B-1 is a female pod with a capacity of 16 detainees in double occupancy cells. The same equipment and posters are in the 16 capacity female units as are in the 16 capacity male units. There are two single occupancy showers, one on the upper and lower tiers. These showers have full long curtains affording privacy while showering.

B-2 is a female pod housing 8 detainees in double occupancy cells. There is one shower on the upper and lower tiers.

B-3 through B-8 are all male units. B-3, B-6 and B-8 have a capacity of 8 detainees. There is one shower on the upper and lower tiers.

B-4 and B-5 are male units housing a capacity of 16 detainees in double occupancy cells.

A “tower” serves as the control room for all the “A” pod living units. Another “tower” controls entry and exit into the “B” Pod living units. Staff in the “tower” can view each of the pods and serves to supplement the “floor” staff supervision. Additionally, cameras are in the units One officer rotates between two pods.

The chapel has one camera and a window to facilitate viewing.

The classroom contained a camera and windows enabling viewing. Classes, including Adult Basic Education, General Education Diploma, and Special Education are offered.

The library has one camera that appears to be insufficient to view all areas of the library. At the ends of each long bookshelf detainees and other detainees or staff could meet and be out of view of the camera and window. It is recommended that either mirrors or a camera be installed to eliminate these blind spots.

The maintenance room entrance is covered by a camera. There are no cameras in the maintenance room.

## Facility Characteristics

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

The West Virginia Regional Jail and Correction Facility Authority was created by the West Virginia Legislature in 1985. The purpose of the Authority is to provide safe, secure and humane care for persons ordered to be incarcerated by the courts. Generally, regional jails serve both pre-trial defendants and persons sentenced to terms of one year or less. However, offenders sentenced to serve terms of confinement in the custody of the Division of Corrections may also be held in regional jails while awaiting transfer to the state correctional system. The inmate population consists of county, state and federal inmates, both male and female.

The factors that influenced the closing of county operated jails and the realization of a regional jail system date back as far as 1946 when the Bureau of Prisons, in a study authorized by the West Virginia Legislature, found West Virginia's county jails to be "anachronisms and totally unfit for human habitation." The study went on to recommend that the county jails be consolidated into regional jails with adequate numbers of appropriately trained staff.

The ongoing deterioration of physical plants and apparent living conditions in the 1960's and 1970's resulted in an increased exposure to the liabilities attendant to inmate-initiated litigation, resulting in the use of Law Enforcement Assistance Act funding to make improvements in many county jails. However, the continuing deterioration of physical plants, many of which were built around the turn of the century, made it evident that mere repairs would be insufficient to deal with the severity of the situation.

In 1982, the Governor's Committee on Crime, Delinquency and Corrections commissioned a study of county jails resulting in the recommendation of the consolidation of county jails and the creation of a state operated facility for sentenced misdemeanor offenders.

An additional study included involvement of county sheriffs and state level administrators and resulted in the Legislature establishing the West Virginia Regional Jail and Prison Authority in 1985. The original Authority consisted of 21 members. This Authority was empowered to issue revenue bonds to be repaid by special fees attached to criminal convictions and civil cases, establish regions, construct regional jails with bond funds and operate regional jails with operating funds provided by the payment of per diem rate by the counties to be served by regional jails. The Authority developed a master plan for the construction of 12 regional jails. The Authority was to address the needs of the county jails before beginning to consider the needs of the state's correctional system.

In May of 1989, the Eastern Regional Jail (ERJ) opened in Martinsburg initially serving the Eastern Panhandle counties of Jefferson, Berkeley, and Morgan, along with Mineral, Hardy and Hampshire. The latter counties would eventually remove their inmates from ERJ  
West Virginia Regional Jail Authority – Potomac Highlands Regional Jail PREA Audit Report 3  
with the opening of the Potomac Highlands Regional Jail (PHRJ) in Augusta, WV.

During the 1989 Legislative session, the Authority's responsibilities were increased by requiring the Authority to focus both upon regional jails and state correctional facilities. This "change in focus" was brought about in response to the West Virginia Supreme Court of Appeals decision in the case of Crain vs. Bordenkircher requiring the replacement of the West Virginia Penitentiary at Moundsville.

The reconstituted Authority, with seven voting and two non-voting members, now known as the West Virginia Regional Jail and Correctional Facility Authority, revisited the "master plan" and concluded that ten regional jails of two, three and four hundred bed capacity, built of a prototypical design, could serve the counties and allow for improved efficiency of construction, familiarity of operation, and standardization of training.

The Authority shall be governed by a board of nine members, seven of whom are entitled to vote on matters coming before the Authority. The complete governing board shall consist of the Commissioner of the Division of Corrections, the Director of the Division of Juvenile Services, the Secretary of the Department of Military Affairs and Public Safety, the Secretary of the Department of Administration, or his/her designated representative, three county officials appointed by the Governor, no more than two of which may be of the same political party, and two citizens appointed by the Governor to represent the areas of law and medicine. The Commissioner of the Division of Corrections and the Director of the Division of Juvenile Services shall serve in an advisory capacity and are not entitled to vote on matters coming before the Authority. Members of the Legislature are not eligible to serve on the Board.

All regional jails are of a prototypical design. Within the system there are:

- Two 400 bed facilities: North Central Regional Jail (NCRJ) and Western Regional Jail (WRJ) – This number includes available beds in the medical unit and inmate processing area.
- Three 200 bed facilities: Central Regional Jail (CRJ), Potomac Highlands Regional Jail (PHRJ) and Potomac Highlands Regional Jail (NRJ)
- The remaining five facilities are classified as 300 bed facilities.
- The capacity of the facilities are laid out as follows.                    - 200 = 192+medical and holding
- 300 = 288+medical and holding                    - 400 = 384+medical and holding

NOTE: NRJ is contained in the same physical plant as the Northern Correctional Facility in Moundsville, WV. As both RJA and DOC inhabit the same building, this often presents operational requirements that are unique to that facility.

The West Virginia Regional Jail and Correctional Facility Authority is a special revenue agency. It is designated to act as both a corporate and a government instrumentality. Current outstanding bond debts are retired through fees attached to criminal cases. Operating costs are obtained through per diem charges to the entities who utilize the system.

The Potomac Regional Jail (NRJ) is a two- pod facility which houses adult male and adult female inmates. The rated capacity according to the facility's staffing plan is 306. The average daily population between July

1, 2016 and June 30, 2017 was 306. On the day of this audit, there were 262 male inmates and 39 female inmates housed in NRJ. NRJ has a booking area where offenders are brought initially when they are arrested or after they have been sentenced before entering the main portion of the facility. The facility permanently houses both presentence and sentenced individuals from five counties surrounding the facility including Brooke, Hancock, Marshall, Ohio and Wetzel.

This facility is designed with the same footprint as all regional jails in West Virginia. What makes this facility unique is that it is shared with the West Virginia Department of Corrections. Half the facility is utilized by the WVRJA and half the facility is occupied by the WVDOC.

According to the reviewed staffing plan the facility has ten (10) supervisory staff, forty-eight (48) correctional officers; nine (9) clerical non-uniform staff; one(1) director of inmate services; two (2) counselors; and four (4) maintenance staff.



**Corrective Action:** The Agency PREA Coordinator will retrain all staff and provide documentation of the training.

**Corrective Action Completed:** May 5, 2018. The PREA Coordinator provided training rosters and photos of the class.

3. Facility staff conducting victim/aggressor assessment need to be retrained. The auditor reviewed 26 files and found one inmate with no determination marked at the bottom of the sheet, one had accurate assessment but not on the booking list, one had not signed the reassessment and the assessment was inaccurate. One potential predator was acknowledged on the assessment but was marked n/a even though the appropriate number of items were marked.

**Corrective Action:** Retrain staff conducting victim/aggressor assessments and implement a quality assurance program to monitor staff assessments to ensure accuracy.

**Corrective Action Completed:** The facility/PREA Coordinator submitted the Booking Plan that requires the booking officer to complete the assessment and ensure a victim is not housed with a predator. Officers conducting the victim/aggressor assessment will be required to sign the assessment and place in a box labeled "Audit File". The Booking Supervisor will check every file before it is placed in the file drawer. Once a week the Counselor will sample a minimum of 20 files and report the finding to the Chief of Security. The PREA Compliance Officer will check 20 files per week and make sure that all paperwork is completed and documented properly and check the board to ensure a victim is not being housed with a predator. Discrepancies will be reported to the Booking Supervisor and Chief of Security. The facility provided five (5) Audit Forms, entitled PERA Compliance Officer/Counselor Booking Files Checked. These documented the checks and the review by the Chief of Security.

4. Blind spots were identified during the site review. These included in front of the coolers/freezers in the kitchen. Additionally, a blind spot was identified at the loading dock just inside the door. A discussion was had on placing a mirror at a location that would cover this spot.

**Corrective Action:** Consider installation of mirrors.

**Corrective Action Completed:** The facility provided a purchase order for three (3) mirrors.

## 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.*

#### Policy and Documents Reviewed:

**Interviews:** Statewide PREA Coordinator; Assistant Statewide PREA Coordinator, Superintendent, Assistant Superintendent/PREA Compliance Manager; Interviews with (17) Randomly selected staff; (19) specialized staff; and twenty-six (26) randomly selected and special category inmates; Twenty (20) Staff PREA Acknowledgment Statements

**Observations:** Zero Tolerance Posters located throughout the facility; PREA Pamphlets posted throughout the facility. “See Something Say Something” Posters are also posted throughout the facility.

**Discussion of Policy and Documents Reviewed:**

The Agency’s PREA Coordinator is a knowledgeable Coordinator who has, in addition to implementing PREA throughout the agency, engaged the assistance and expertise of Just Detention International (see below) to enhance the procedures and to facilitate the agency’s efforts in implementing a culture of prevention, detection, response and reporting. The agency coordinator is also a Certified PREA Auditor.

West Virginia Regional Jail and Correctional Facility Authority, Policy 3052, Prevention and Intervention of Inmate Sexually Abusive Behavior and Staff Sexual Misconduct, asserts that they West Virginia Regional Jail and Correctional Facility Authority prohibits and will not tolerate fraternization, sexual abuse or sexual misconduct between staff, contractors, volunteers, and inmates or between inmates as defined in the policy. Policy requires a zero tolerance for inmate-on-inmate sexual assault or abuse and staff sexual misconduct or harassment towards inmates. The agency, according to policy, is to provide a safe environment where inmates are free from such assault and sexual misconduct and makes every effort to detect, prevent, reduce and punish sexual abuse assault, harassment and misconduct. Procedure A, Zero Tolerance, Page 5, states that the WVRJCFA prohibits and will not tolerate fraternization, sexual abuse or sexual misconduct between staff, contractors, volunteers and inmates or between inmates. Paragraph 2, prohibits any behavior of a sexual nature between employees, contractors, volunteers and inmates. For employees, termination is the presumptive disciplinary sanction for staff who have engaged in sexual abuse.

Policy asserts in Paragraph 4, of the policy, affirms that any behavior of a sexual nature, including consensual sexual activity, between inmates is prohibited and subject to disciplinary action in accordance with the Inmate Handbook Rules of Conduct.

Policy 3052 outlines, with considerable detail, the agency’s approach to preventing, detecting and responding to sexual abuse and sexual harassment.

The agency’s PREA policy devotes three (3) pages to definitions, including the following:

- Sexual Abuse, Inmate on Inmate
- Sexual Abuse, Staff Member on Inmate
- Sexual Harassment by Inmates
- Sexual Harassment by Staff
- Staff Sexual Misconduct

Definitions were consistent with the definitions in the PREA Standards.

Strategies to reduce sexual abuse and sexual harassment, as indicated in the Policy addressed the following:

- Zero Tolerance
- Hiring
- Background Checks
- Facilities Modifications
- Supervision and Monitoring
- Inmate Training

- Access to Information for Inmates with Disabilities
- Employee and Volunteer Training
- Investigator Training
- Medical and Mental Health Training and Response
- PREA Screening and Reassessment
- Protective Custody
- LGBTI Population
- Limits to Cross=Gender Viewing and Searches
- Inmate Reporting and Grievances
- Staff Reporting
- Staff Response
- Reporting to Other Facilities
- Retaliation
- Protecting Inmates
- Protecting Staff
- Responding to Reported or Observed Sexual Abuse
- PREA Investigations
- Sexual Abuse Incident Reporting
- Incident Reviews
- Staff Discipline
- Inmate Discipline
- PREA Audits

The agency has designated a PREA Coordinator to oversee and facilitate the implementation of PREA in all of the Regional Jails. The agency organizational chart shows the position of PREA Coordinator and depicts the PREA Coordinator's position within the organization. The WVRJCFA PREA Coordinator is an upper level employee designated by the Central Office with sufficient time and authority to develop, implement and oversee agency efforts to comply with PREA Standards in all its facilities. Interviews with the Agency's PREA Coordinator confirmed he is a highly motivated and very knowledgeable individual who has utilized internal and external resources to implement PREA throughout West Virginia's Regional Jails.

The Coordinator has implemented PREA throughout the agency's facilities and maintains it by visiting the jails periodically, by providing training on-site and at the academy to newly hired employees, by staying informed through an extensive monthly report he requires, and by sending out monthly PREA refreshers to be used during shift briefings and meetings.

The Potomac Highlands Regional Jail has recently lost through resignation of her employment with the jail, the experienced PREA Compliance Manager. Because the resignation was recent, the impact of the resignation has been minimal. The PREA Coordinator and the PREA Compliance Manager from another jail, have served in this capacity while a recently appointed PREA Compliance Manager is trained and becomes more experienced.

Detainees receive the PREA related brochure at intake, "What You Should Know". The brochure asserts that the West Virginia Regional Jail Authority has a zero tolerance for sexual abuse and Staff sexual misconduct. Detainees sign an acknowledgement, "Booking PREA Information" acknowledging they have received the PREA pamphlet "What You Should Know About Sexual Abuse and Sexual

Assault". They also are acknowledging understanding the Zero Tolerance policy for sexual abuse between staff and inmate and inmate on inmate.

Posters throughout the facility informed inmates and staff, on a continuous basis, about the Agency's zero tolerance policy. That information is also in PREA brochures and the inmate handbook as well as on PREA Acknowledgment Statements which both staff, contractors, volunteers and inmates sign acknowledging understanding the zero-tolerance policy.

PREA related information is on the KIOSK and on the KIOSK, detainees have multiple ways to report. This includes emailing the PREA Compliance Manager, sending requests to medical, shift supervisor, and others. The detainee may also file a grievance via the KIOSK.

The reviewed agency's Website is informative and advises viewers that the agency has a Zero Tolerance for all forms of sexual abuse.

**Interviews:** Facility Administrator; Agency PREA Coordinator; PREA Compliance Manager; Randomly Selected Staff; Specialized Staff; Randomly Selected Detainees; Targeted Detainees

**Discussion of Interviews:** An interview with the Facility Administrator indicated he designated a PREA Compliance Manager and in the interim the Agency's PREA Coordinator and PREA Compliance Manager from another Regional Jail and stepped in to maintain the continued maintenance of PREA while a newly appointed PREA Compliance Manager, gains some experience and is trained in his new role.

The PREA Compliance Manager reports to the Agency's PREA Coordinator with anything related to PREA. In implementing PREA the PREA Compliance Manager was assisted by the Agency PREA Coordinator and in the initial implementation period, assisted by Just Detention. Just Detention was contracted to assist with policy development and training.

Interviewed staff were aware of and knowledgeable of the agency's Zero Tolerance for all forms of sexual abuse, sexual misconduct, sexual harassment and for retaliation for reporting or for cooperating with an investigation. Interviewed detainees were generally aware of the zero tolerance for all forms of sexual abuse and understood that any form of sexual abuse or sexual harassment, including sexual misconduct was prohibited. Detainees indicated they received a pamphlet at intake. They also indicated that PREA information, including zero tolerance is located on the KIOSK and they have seen it on posters throughout the facility. About half the interviewed detainees indicated they were given a PREA Pamphlet at Intake but were not given any verbal information or explanations about it. They also indicated, they are required to view the PREA Video on the KIOSK however a number of them indicated they started the video and came back when it was over.

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

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

### **115.12 (a)**

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

### 115.12 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

**Policy and Document Review:** Potomac Highlands Regional Jail Pre-Audit Questionnaire; WVARJCFA Policy 3025.

**Discussion of Policy and Documents Reviewed:** The Pre-Audit Questionnaire indicated that the Potomac Regional Jail does not contract for the confinement of detainees/inmates. WVARJCFA policy 3025, with an effective date of January 23, 2017, provides that any new contract or contract renewal with the contractor shall include an obligation to comply with the PREA Standard and provide WVRJCFA the ability to monitor the contractor's efforts to adopt and comply with PREA Standards and WVRJCFA policy however the agency does not contract with outside entities for the confinement of inmates.

**Interviews:** Interviews with both the Agency PREA Coordinator, Superintendent of the Potomac Highlands Regional Jail and the PREA Compliance Manager confirmed the facility does not contract for the confinement of detainees.

## Standard 115.13: Supervision and monitoring

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

#### 115.13 (a)

- Does the agency ensure that each facility has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse?  Yes  No
- Does the agency ensure that each facility has documented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the generally accepted detention and correctional practices in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any judicial findings of inadequacy in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from Federal investigative agencies in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from internal or external oversight bodies in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration all components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated) in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the composition of the inmate population in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the number and placement of supervisory staff in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the institution programs occurring on a particular shift in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No  NA
- Does the agency ensure that each facility's staffing plan takes into consideration any applicable

State or local laws, regulations, or standards in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No

- Does the agency ensure that each facility's staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No

#### 115.13 (b)

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

#### 115.13 (c)

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

#### 115.13 (d)

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

#### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

**Policy and Documents Reviewed:** WVARJCFA Policy 3052, Procedure B, Prevention, B. Supervision and Monitoring; Potomac Highlands Regional Jail Staffing Plan; Facility Annual Staffing Report; Documentation of Unannounced PREA Rounds

**Discussion of Policy and Documents Reviewed:** WVARJCFA Policy 3052, Procedure B. Prevention, B., Supervision and Monitoring, affirms that each of its facilities develops, documents and makes its best efforts to comply with a staffing plan that provides for adequate levels of staffing, and where applicable, video monitoring, to protect inmates against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, facilities are required to take into account all of the items required by the PREA Standards. Policy also requires in paragraph 3., that whenever necessary, but no less frequently than once a year, each facility will assess, determine and document whether adjustments are needed to the following: 1) The staffing plan; 2) The facility's deployment of video monitoring systems and other monitoring technologies; and 3) The resources the facility has available to commit to ensure adherence to the staffing plan. Annual reviews will be conducted in consultation with the Facility PREA Compliance Officer with final approval from the Agency's PREA Coordinator.

The reviewed Potomac Highlands Regional Jail Staffing Plan, dated December 6, 2017 predicated upon a maximum capacity of 320 detainees, addresses the facility's mission, core values, jail dynamics, inmate composition, organizational chart, staffing levels, video monitoring, results of inspections, higher level rounds, duty post orders, post coverage, general instructions, institutional programs, shift supervisor rounds, specific and non-specific duties. Staffing levels are essentially determined by the Central Office.

Authorized Staffing consist of the following:

- One (1) Jail Administrator
- One (1) Captain
- Two (2) Lieutenants
- One (1) Administrative Sergeant
- Six (6) Sergeants
- Ten (10) Corporals
- One (1) Training Officer
- Forty-Eight (48) Correctional Officers
- One (1) Fiscal Clerk
- Six (6) Administrative Clerks

- Two (2) Human Resources Staff
- One (1) Director of Inmate Services
- Two (2) Counselors
- One (1) Maintenance Supervisor
- One (1) Maintenance Tech

There are three shifts, A-Overnight Shift; B-Day Shift and C-Swing Shift.

Minimum staffing, according to the Staffing Plan and interviews with the Facility Administrator include the following:

- One (1) Shift Supervisor
- One (1) Booking Officer and One (1) Booking Supervisor
- One (1) Rover for A and B Pods
- One (1) Tower Officer for A and B Pods
- One (1) Core Rover
- Two (2) Central Control.
- .

Priority posts are always staffed and if a staff “calls out” staff are “held over” and/or staff are called in to work.

Video Monitoring enhances the supervision of detainees. There are 142 cameras located strategically throughout this unique facility The Facility Administrator can monitor cameras in his office.

The facility conducts a review of the staffing plan on an annual basis. The review is documented and sent to the PREA Coordinator by the 10<sup>th</sup> of December. Any deviations from the staffing plan are required to be documented in writing, justified and forwarded to the Chief of Operations and the PREA Coordinator. The actual review of each item is documented. This plan review, documented on January 23, 2018, considered and documented considering the following:

- No judicial findings of inadequacy
- No findings of inadequacy by federal investigative agencies or internal or external oversight bodies
- No findings of inadequacy from federal investigative agencies
- The facility documented covering all components of the facility’s physical plant
- Staffing was found to be adequate to cover the composition of the inmate population
- The review documented the staffing plan covers the number and placement of supervisory staff
- The review documented the required staffing to cover programs occurring on a shift
- The review affirmed meeting all applicable State or local laws, regulations and standards
- The review considered the substantiated and unsubstantiated incidents of sexual abuse

The plan considered the need for annual staffing adjustments and recommended no additional staff. The plan affirmed that although there were some vacancies the shift minimums are met daily. The review is signed by the Facility Administrator, PREA Compliance Officer and PREA Coordinator.

Paragraph C., Supervision, requires Shift Supervisors, in coordination with the Facility Administrator, to conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment and checks are required on all shifts. Staff are prohibited from informing anyone that the rounds are occurring. Checks should occur in any and all areas of the facility where there could be a potential for inmates to be sexually abused. Particular attention is paid to staff and video monitoring of the facility to detect areas that may need enhancement to ensure sexual safety in the facility.

The Staffing Plan, in paragraph 23 Post Assignment requires the shift supervisors on the day and night shifts to conduct and document unannounced post inspections of Central Control, A and B Pods, Medical, Kitchen, Laundry, blind spots and the parking lot. The purpose of these rounds is to identify and deter staff from sexual harassment and ensure that officers are focused on job compliance. It is prohibited for staff to alert officers that rounds are occurring.

The auditor requested and pulled six random pages of unannounced rounds. These documented rounds in all areas of the facility.

**Interviews:** Superintendent, PREA Coordinator, Assistant PREA Coordinator; PREA Compliance Manager, (17) Randomly selected staff; 26 Randomly selected inmates.

**Discussion of Interviews:** Interviews confirmed the process for developing the staffing plan and for annually reviewing it. Staff confirmed the staffing levels. The Superintendent articulated the staffing plan in great detail and explained the minimum staffing levels at the facility.

## 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.*

**Policy and Documents Reviewed:** Pre-Audit Questionnaire,

**Policy and Documents Review:** The Potomac Highlands does not house youthful inmates. This was confirmed through review of the detainee rosters, the reviewed Pre-Audit Questionnaire and interviews with the administrative staff, including the PREA Coordinator and PREA Compliance Manager, randomly selected staff, interviews with detainees and observation.

**Discussion of Interviews:** Interviews confirmed the facility does not house youthful offenders. Youthful offenders are held in juvenile facilities.

**Observations:** During the entire period of the audit, including during interviews and the site review and afterwards neither of the two certified auditors observed any youthful offenders.

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

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

### 115.15 (a)

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

#### 115.15 (b)

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

#### 115.15 (c)

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

#### 115.15 (d)

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

#### 115.15 (e)

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

#### 115.15 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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**Policies and Documents Reviewed:** WVARJCFA Policy 3052, N., Limits to Cross Gender Viewing and Searches; WVARJCFA Policy 17001, A. Arrival of Inmate and Initial Processing, 4.; WVRJCFA Policy 9002, Control of Contraband; PREA Booking Training; Potomac Regional Jail Pre-Audit Questionnaire

**Reviewed Policies and Documents Reviewed:** WVARJCFA Policy 3052, N., Limits to Cross-Gender Viewing and Searches, prohibits staff from conducting cross gender strip searches and cross gender body cavity searches absent exigent circumstances. If exigent circumstances occur, the shift supervisor will call the administrator or designee before conducting the searches. These searches will be documented and in compliance with Policy, 17004, Strip Search of Inmates. The agency also prohibits cross gender pat down searches of females absent exigent circumstances. The facility also will not restrict female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision.

WVARJCFA Policy 17001, A. Arrival of Inmate and Initial Processing, 4., prohibits cross-gender searches, pat down searches or cross-gender visual cavity searches of inmates, except in exigent circumstances and the circumstances are documented. Females are not to be restricted from access to regularly available programming or other out-of-cell opportunities in order to comply with this provision. Procedure C. Preliminary Search, 1., requires a correctional officer or staff member of the same sex will conduct a complete pat search of inmates being received to ensure that inmates do not have contraband in their possession when entering the jail facility.

WVARJCFA Policy 9002, A. Search Procedures, General, Paragraph 8, requires officers shall conduct clothed and unclothed body searches of inmates of their same sex. Procedure C., Inmate Unclothed Body Searches, Paragraph 1., requires unclothed body searches will only be conducted by an officer of the same sex and in privacy.

Female staff in this facility, although trained, do not conduct cross-gender strip or pat searches, absent exigent circumstances.

Policy, 3052, N.4, requires inmates can 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. This policy also applies to all forms of remote viewing as well. Facilities are required to analyze their staffing plans to make appropriate adjustment to ensure PREA compliance. WVARJCFA Policy 17001, J. Shower, 5., affirms inmates can shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks or security reasons. This limitation not only applies to in-person viewing but also to all forms of remote viewing as well.

Detainees in the facility have privacy while showering. Metal PREA Doors and curtains provide privacy for the detainees. The auditor looked down from the “tower” into the pods to see if viewing could occur from that vantage point. The “tower” staff are cannot see into the showers, either upstairs or downstairs.

Lastly, policy requires staff to announce their presence every time they enter an inmate housing unit of the opposite gender.

WVARJCFA Policy 9002, Procedure C. Inmate Unclothed Body Searches, 1.a. Requires that staff shall not search of physically examine a transgender or intersex inmate for the purpose of determining the inmate’s genital status. WVARJCFA Policy, 3052, M. Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Populations, 2. and WVRJCFA Policy 17001, Procedure O., Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Populations, 2. Prohibits searching or physically examining a transgender or intersex inmates for the sole purpose of determining the inmate’s genital status. Policy 17001, requires Booking Staff to be trained in how to conduct searches of transgender and intersex inmates in a professional and respectful manner and in the least intrusive manner possible consent with security needs.

The PREA Booking Training Book addresses the transgender population. In addition to communication with transgender inmates, the book also addresses Pat-Downs and Strip Searches. This section prohibits strip searching transgender randomly or as a form of harassment. It requires all pat down searches and strip searches be conducted in accordance with the agency’s policy 17004, Strip Search Procedures and 13015, Pat Down Searches. If a transgender inmate objects or makes a request related to the gender identity of the staff conducting the search, the inmate is to be walked through a standing metal detector or be searched with a wand metal detector.

Policy does provide for opposite gender searches in exigent circumstances, which are documented and include the reason for the search.

The facility’s PAQ reported the facility has not conducted any cross-gender strip or cross gender visual body cavity searches of inmates. The PAQ also reported there were no cross-gender pat searches of any female inmate.

The facility provided a sample of documents entitled: Staff PREA Training and Understanding Verification, affirming that staff have received training and understand how to conduct searches of transgender and intersex inmates, in a professional and respectful manner and in the least intrusive manner, consistent with Regional Jail Authority (RJA) security needs.

**Interviews:** Seventeen (17) Randomly Selected Staff; Nineteen (19) Specialized Staff; Twenty-Six (26) Detainees

**Discussion of Interviews:** 100 % of the interviewed staff stated detainees are never naked in full view of staff, including while showering, changing clothing or using the restroom. Twenty-Six of Twenty-Six interviewed detainees stated that they are never naked in full view of staff while showering, changing clothing or using the restroom. 100% of the detainees stated the cross-gender staff always announce their presence when entering the housing units that house opposite gender detainees. Staff indicated that female staff do not conduct strip or pat searches of male detainees and vice versa.

**Observations:** The auditor did not observe any cross-gender searches during the on-site portion of the audit. A site-review of the living units, medical and intake confirmed that detainees have privacy while showering and using the restroom.

## 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.*

**Policies and Documents Reviewed:** WVARJCFA, 3052, E. Access to Information for Inmates with Disabilities; Roster of Staff Interpreters; Contract with Propio for Telephone Interpretive Services

**Policy and Document Review:** WVARJCFA, 3052, E. Access to Information for Inmates with Disabilities, requires the facility to ensure that inmates with disabilities, including inmates who are deaf or hard of hearing, those who are blind or have intellectual psychiatric, or speech 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.

This enables the inmate to receive interpretation services from an interpreter who can interpret effectively, accurately, and impartially, using receptively and expressively, specialized vocabulary. Written materials are either delivered in alternative formats that accommodate the inmate's disability or the information will be delivered through alternative methods, that ensure effective communication with inmates with disabilities, including those with intellectual disabilities, limited reading skills or no or low vision. Reading the information to the inmate or communicating through an interpreter will ensure that they understand the PREA related material.

The facility FPCO will ensure that only staff or qualified contractors provide translation for inmates. If a multi-lingual staff member is not available, then the Translation Language Phone Line or equivalent service must be utilized. The FPCO will keep an updated list of all multi-lingual staff at the facility who are able to provide translations for any PREA related issues.

The auditor observed a list of staff interpreters posted in intake in the intake/ID Office.

The facility also provided a contract with PROPRIO for language and document translation and interpretive services. Over the phone interpreting for over 200 languages is provided by Propio Language Services. The agency provided a copy of the contract with Propio. The memo from Propio affirms their interpreters are certified.

**Interviews:** Facility Administrator; Agency PREA Coordinator; PREA Compliance Manager; ( Specialized Staff; Randomly Selected Staff; Detainees

**Discussion of Interviews:** There were no limited English proficient detainees at the facility during the on-site audit period. Interviews with staff indicated they would not relay on a detainee to interpret for an inmate in making a report or allegation of sexual abuse or sexual harassment. Staff stated they would utilize a staff interpreter.

An interview with a “booking officer” indicated if an inmate cannot read; staff read the PREA related information to them. They also indicated they have staff interpreters they could access for certain languages. Additionally, the booking officer stated the facility has access to an interpreter line.

## Standard 115.17: Hiring and promotion decisions

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

#### 115.17 (a)

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

#### 115.17 (b)

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

#### 115.17 (c)

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

#### 115.17 (d)

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

#### 115.17 (e)

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

#### 115.17 (f)

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

#### 115.17 (g)

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

#### 115.17 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*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.*

**Policy and Documents Review:** WVARJCFA Policy, 3052, Page 6, C. Background Checks; West Virginia Regional Jail Authority Facility PREA Reference; Two (2) Newly Hired Staff Files; Ten (10) Regular Staff Files Documenting 5-year checks; Employee Rosters documenting background checks; Background Check Rosters documenting background checks for the Contracted Commissary Employees, Education Employees and Religious Volunteers.

**Discussion of Policy and Documents Review:** WVARJCFA Policy 3052, Page 6.C, Background Checks, requires a criminal history investigation be conducted on prospective employees, volunteers and contractors. Too, policy requires the agency to ask all prospective applicants and employees who may have contact with inmates directly about previous sexual abusiveness when hiring, promoting and in any interviews or written self-evaluations conducted as part of reviews of current employees. Employees also have an affirmative duty to disclose such conduct to ensure against the hiring and employment of any person who may have a perpetrating sexual assault, abuse, misconduct or harassment. Efforts are made to contact all prior institutional prospective employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse. Employee's criminal history record investigation will be updated every five years. WVARJCFA Policy 3005, Personnel, Pre-Employment and Fitness for Duty Evaluations, requires the following: 1) Administration of Psychological Assessment Instrument (Correctional Officer positions); 2) Structured interview; 3) Background Check, including NCIC Criminal Background Check Results; and 4) Consistent with federal, state, and local law every effort should be made 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. Policy 3005, Procedure C., Initial Interview Process requires the "Authority" to interview a prospective correctional employee in order to determine whether to hire or promote anyone and is required to ask all applicants about previous sexual misconduct. The Authority, in compliance with policy, will not hire or promote anyone who may have contact with inmates who 1) Has engaged in sexual abuse in prison, jail, lockup, community confinement facility, juvenile facility, or any institution; 2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or 3) Has been civilly or administratively adjudicated to have engaged in the activity described above. These questions should be asked in written applications or interviews for hiring or promotions and in any interviews or

written self-evaluations conducted as part of the interview process for hiring. Following the psychological assessment and interview, applicants will undergo background check. Policy 3005, D., Background Check, Paragraphs 1 and 2, require a prospective correctional employee to undergo a criminal background Check. Additionally, the Authority will consult the applicable child abuse registry maintained by the state or locality in which the employee would work. Professional reference checks are also required. If the information received indicates that the conditional employee omitted information regarding sexual abuse, misconduct and provisions of materially false information or was less than truthful and/or the issue cannot be resolved satisfactorily, at the Director of Human Resources discretion, the Conditional Employee shall be dismissed from employment.

The following items were observed in every reviewed file:

- Correctional Assessment Test
- Interview/PREA Related Questions (PREA Prohibitions)
- Sex Offender Registry Check
- NCIC Check (completed by the Central Office)
- Driver's License Check
- Professional Reference Checks
- Three Previous Employers
- Three Personal References

**Interviews:** Superintendent; PREA Compliance Manager; Seventeen (17) Randomly Selected Staff and Nineteen (19) Specialized Staff.

**Discussion of Interviews:** The Human Resource Staff confirmed the above process. Background checks are initially completed prior to hire, upon promotion and every five years.

## Standard 115.18: Upgrades to facilities and technologies

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

#### 115.18 (a)

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

#### 115.18 (b)

- If the agency installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology, did the agency consider how such technology may enhance the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring

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

Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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**Policy and Documents Reviewed:** WVARJCFA 3052, Procedure B, Prevention, A. Facilities Modifications; Potomac Highlands Regional Jail Pre-Audit Questionnaire;

**Discussion of Policies and Documents Reviewed:** WVARJCFA Policy 3502, Procedure B., Prevention, A. Facilities Modifications requires that when designing or acquiring any new facility, and planning any substantial expansion or modification of existing facilities, the WVRJA will consider the effect that the design, acquisition, expansion, or modification will have upon the WVRJCFS's ability to protect inmates from sexual abuse. It also requires when installing or updating video monitoring systems, electronic surveillance system, or other monitoring technology, the WVRJFA will consider how that technology may enhance the agency's ability to protect inmates from sexual abuse.

**Interviews:** Facility Administrator, PREA Compliance Manager

**Observations:** Multiple video cameras were observed throughout the facility.

**Discussion of Interviews:** An interview with the Superintendent and the PREA Compliance Manager confirmed that there were no expansions or modifications to the facility since the last PREA Audit nor have there been any upgrades to monitoring technology or additions to the video camera system. The Superintendent indicated that he and his staff would definitely be actively involved in where cameras would be located and also in any modifications to the existing facility.

## RESPONSIVE PLANNING

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

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

### 115.21 (a)

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

### 115.21 (b)

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

### 115.21 (c)

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

### 115.21 (d)

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

### 115.21 (e)

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

### 115.21 (f)

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

### 115.21 (g)

- Auditor is not required to audit this provision.

### 115.21 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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**Policy and Documents Reviewed:** WVARJCFA Policy 3052; WVARJCFA Policy 3036-A, PREA Investigations; Memorandum of Understanding, Potomac Highlands Regional Jail and the Sexual

Assault Help Center; Contract between The West Virginia Regional Jail and Correction Facility Authority and the West Virginia Foundation for Rape Information and Services (FRIS), Women's Aid in Crisis Inc., Shenandoah Women's Center, Hope Inc., Family Counseling Connection, Women's Resource Center and Contact of Huntington; Memorandum of Understanding with the Shenandoah Women's Center; MOU between West Virginia State Police and the Regional Jail Authority.

### **Discussion of Policy and Documents Review:**

WVARJCFA Policy 3052 and WVARJCFA Policy 3036-A, PREA Investigations, govern the processes for ensuring an investigation is conducted for all allegations of sexual abuse, sexual harassment or sexual misconduct. Facility Administrators are required to ensure that all administrative or criminal investigations are completed for all allegations of sexual abuse and sexual harassment. Designated WVARJCFA investigators will investigate all allegations involving Staff, Court Complaints, Attorney Complaints, and Lawsuits to include all Legal Allegations filed against the West Virginia Regional Jail Correctional Facility Authority. The Facility PREA Compliance Officer will investigate all grievances, allegations and investigations of inmate on inmate sexual abuse, assault, misconduct or harassment. Investigations are required, by policy, to be conducted promptly, thoroughly and objectively for all allegations including third party and anonymous reports. Policy requires administrative and criminal investigations to be conducted in accordance with best practice for the investigation or sexual assault and will follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative procedures and criminal prosecutions. Investigators will gather and/or preserve direct and circumstantial evidence including any available physical and DNA evidence and any available electronic monitoring data, interview alleged victims, suspected perpetrators and witnesses and review prior complaints and reports of sexual abuse involving the suspected perpetrator. Credibility of an alleged victim, suspect or witness is assessed on an individual basis and is not determine by the person's status as an inmate or staff. Alleged victims are not required to submit to a polygraph exam or other truth telling device as a condition of proceeding with the investigation of such an allegation. At the end of the investigation, the investigator will complete an investigative report that will indicate whether the evidence supports a finding that sexual abuse occurred (substantiated), the allegation is false (unfounded) or the evidence is inconclusive (unsubstantiated). Substantiated cases of sexual abuse that appears to be criminal will be referred for prosecution in the county where the sexual assault occurred.

Allegations that appear criminal in nature are reported to the West Virginia State Police. The facility investigator will request the WV State Police or any other agency with the authority to conduct criminal investigations follow Procedure E of this policy that provides a uniform protocol for collecting and protecting evidence.

The facility has an agreement with the WVA State Police. The agreement's purpose is to respond, investigate and if needed, legally charge sexual assault/rape perpetrators for incidents that occur while incarcerated at any of the West Virginia Regional Jails.

WVARJCFA Policy 3052, Procedure E., Responding to Reported/Observed Sexual Abuse, A., Allegations of Abuse Occurring Within the Past 96 hours, in addition to specifying first responder responsibilities, Paragraph 3. requires the administrator to immediately notify the Chief of Operations and the Agency investigator will be responsible for ensuring that protocol is followed when investigators conduct the investigation of the sexual assault, sexual abuse or misconduct. The West Virginia State Police will be notified immediately and requested to begin a criminal investigation.

Victims will receive timely, unimpeded access to emergency medical treatment and crisis intervention services. Medical staff offer victims of sexual abuse access to forensic medical exams at an outside facility and treatment is provided to the victim without financial cost and regardless of whether the victim names the abuse or cooperates with any investigation arising out of the incident. Victims will be taken to the local Emergency Department for treatment, exam, collection of forensic evidence and testing for sexually transmitted diseases. Exams will be conducted by a Sexual Assault Forensic Examiner or Sexual Assault Nurse Examiner where possible and, if not available, by other qualified medical practitioners. Efforts to provide a SAFE or SANE is documented. The Authority has developed a list of outside medical facilities/local hospitals that employ a SANE. Forensic evidence collected by the Emergency Room will be released to law enforcement. Inmate victims are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis in accordance with professionally accepted standards and policies of care, where medically appropriate.

Potomac Highlands Regional Jail has entered into an agreement (Memorandum of Understanding) with the Sexual Assault Help Center. The Help Center agreed to accept initial inmates calls on the organization's hotline from 9AM-4PM, Monday through Friday, to provide crisis intervention and support services to inmates who have experienced sexual violence. They also agree to respond to requests, when advocates are available, to provide advocacy when inmates are brought to the "relevant" for sexual assault forensic exams. Interviews with the staff from the Center confirmed the agreement and the agency's response to a report of sexual abuse, including providing an advocate to accompany the inmate during the forensic exam, if requested by the inmate.

**Discussion of Interviews:** An interview with the Health Services Administrator at the facility indicated if the facility had a victim needing a forensic exam, the detainee would be transported to the Reynolds Memorial Hospital where the exam would be conducted by a SANE. This is confirmed, as well, in an interview with the Health Services Administrator. One hundred percent (100%) of the interviewed security staff were knowledgeable of the staff responsible for internal and external investigations. All the staff were able to describe the process and steps required to protect physical evidence; which included securing the area, protecting the physical evidence, not allowing the victim to shower or brush teeth, and immediately seeking medical attention.

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

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

### 115.22 (a)

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

### 115.22 (b)

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

#### 115.22 (c)

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

#### 115.22 (d)

- Auditor is not required to audit this provision.

#### 115.22 (e)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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**Policy and Documents Review:** WVARJCFA Policy 3052; WVARJCFA Policy 3036-A, PREA Investigations; MOU between West Virginia State Police and the Regional Authority.

### Discussion of Policy and Document Review:

WVARJCFA Policy 3052 and WVARJCFA Policy 3036-A, PREA Investigations, govern the processes for ensuring an investigation is conducted for all allegations of sexual abuse, sexual harassment or sexual misconduct. Facility Administrators are required to ensure that all administrative or criminal investigations are completed for all allegations of sexual abuse and sexual harassment. Designated WVARJCFA investigators will investigate all allegations involving Staff, Court Complaints, Attorney Complaints, and Lawsuits to include all Legal Allegations filed against the West Virginia Regional Jail Correctional Facility Authority. The Facility PREA Compliance Officer will investigate all grievances, allegations and investigations of inmate on inmate sexual abuse, assault, misconduct or harassment. Investigations are required, by policy, to be conducted promptly, thoroughly and objectively for all allegations including third party and anonymous reports. Policy requires administrative and criminal investigations to be conducted in accordance with best practice for the investigation or sexual assault and will follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative procedures and criminal prosecutions. Investigators will gather and/or preserve direct and circumstantial evidence including any available physical and DNA evidence and any available electronic monitoring data, interview alleged victims, suspected perpetrators and witnesses and review prior complaints and reports of sexual abuse involving the suspected perpetrator. Credibility of an alleged victim, suspect or witness is assessed on an individual basis and is not determined by the person's status as an inmate or staff. Alleged victims are not required to submit to a polygraph exam or other truth telling device as a condition of proceeding with the investigation of such an allegation. At the end of the investigation, the investigator will complete an investigative report that will indicate whether the evidence supports a finding that sexual abuse occurred (substantiated), the allegation is false (unfounded) or the evidence is inconclusive (unsubstantiated). Substantiated cases of sexual abuse that appears to be criminal will be referred for prosecution in the county where the sexual assault occurred.

Allegations that appear criminal in nature are reported to the West Virginia State Police. The facility investigator will request the WV State Police or any other agency with the authority to conduct criminal investigations that they follow Procedure E of this policy that provides a uniform protocol for collecting and protecting evidence.

The agency has a MOU with the West Virginia State Police. The State Police agrees to respond, investigate, and if needed, legally charge sexual assault/rape perpetrators for incidents that occur while incarcerated in any of the West Virginia Regional Jails. It indicated that the partnership will be managed and maintained in compliance with the PREA Standards.

WVARJCFA Policy 3052, Procedure E., Responding to Reported/Observed Sexual Abuse, A., Allegations of Abuse occurring Within the Past 96 hours, in addition to specifying first responder responsibilities, Paragraph 3. requires the administrator to immediately notify the Chief of Operations and the Agency investigator will be responsible for ensuring that protocol is followed when investigators conduct the investigation of the sexual assault, sexual abuse or misconduct. The West Virginia State Police will be notified immediately and requested to begin a criminal investigation.

The facility reported on the Pre-Audit Questionnaire that there were ten (10) allegations of sexual abuse or sexual harassment received during the past twelve months. Six (6) of those alleged sexual abuse, including alleged touching. One alleged penetration (a mentally ill inmate alleged he thought he had been sexual assaulted) and was referred to the West Virginia State Police and the inmate was taken to the hospital for a forensic examination. Another alleged touching and was turned over to the West Virginia State Police and the inmate was taken to the hospital for a forensic examination. Four (4) of the

allegations were officer misconduct, one of which was actually a strip search complaint by an inmate. Two allegations were substantiated. These included an inappropriate comment by an officer to an inmate was related to an allegation another inmate touched another inmate.

The allegations were made the following ways:

- (6) Made to Staff (two of which were by third parties-inmates)
- (2) Made through Grievances
- (1) Made over the intercom to the staff in the “tower”
- (1) Made in a letter to the Facility Administrator

Agency policy regarding the referral of allegations of sexual abuse or sexual harassment for criminal investigations is published on the agency website. An email address and a phone number to the PREA Coordinator are provided for reporting allegations of sexual abuse or sexual harassment. The PREA Policy is available on the website as well. Instructions for reporting provide information to include in the report that will assist the facility in investigating the allegation.

**Interviews:** 17 Randomly selected and 19 special category staff; informally interviewed staff during the audit; 26 randomly selected and special category inmates.

**Interviews:** The Facility-Based Investigator described a thorough process for conducting investigations. He completed the on-line specialized training for conducting sexual abuse investigations in confinement settings, offered on-line by the National Institute of Corrections. The investigator confirmed that once an allegation appears to be criminal in nature, it is referred to the West Virginia State Police for criminal investigation. All the interviewed staff articulated their responsibility to report everything for investigation, including reports from detainees, third parties, reports received anonymously or through any other means and that these would be investigated by the facility-based investigator or the state police.

## 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.*

**Policy and Document Review:** WVARJCFA Policy 3052. F., Employee and Volunteer Training, 1.; PREA Acknowledgment Statements; Training Rosters for Potomac Highlands Regional Jail Employees;

### Discussion of Policies and Documents:

WVARJCFA Policy 3052, F., Employee and Volunteer Training, 1., requires the PREA Compliance Officer at each facility to ensure that all employees who have contact with inmates are informed that sexual contact with an inmate is prohibited and that an inmate has a right to report if sexual contact occurs. Training will be conducted no later than thirty (30) days after an employee's date of hire. Staff are required to complete module one and two of the basic PREA Training. This training includes, minimally, the following: 1) Zero Tolerance; 2) How staff are to fulfil their responsibilities under the Department's sexual abuse and sexual harassment prevention, detection, reporting and response policies and procedures; 3) Inmate's right to be free from sexual abuse and sexual harassment; 4) The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment; 5) The dynamics of sexual abuse and sexual harassment; 6) Common reactions of sexual abuse and sexual harassment victims; 7) How to detect and respond to signs of threatened and actual sexual abuse; 8) How to avoid inappropriate relationships with inmates; 9) How to communicate effectively with inmates, including LGBTI or gender non-conforming inmates and; 10) How to comply with relevant laws of West Virginia related to mandatory reporting of sexual abuse to outside authorities.

Policy 3052, F. Employee and Volunteer Training, 2., requires that staff are trained on how to conduct pat searches of transgender and intersex inmates in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs. Staff training is tailored to the gender of the inmates at the facility. Facilities document employee training through employee signature documenting they have received the training and that they understand the training they have received.

Refresher training is provided every two years or sooner to ensure all employees know the agency's current sexual abuse and sexual harassment policies and procedures. In years that an employee does

not receive refresher training the facility provides refresher information on current sexual abuse and sexual harassment policies.

The facility reviewed twenty (20) Acknowledgment Statements. The statements affirm the employee has received PREA Training and that they understand their responsibility to follow the guidelines set for in the training and that failure to follow the guidelines can result in disciplinary action, termination and/or prosecution with the local law authority. The staff providing the training/instruction is documented. Another acknowledgment statement affirms staff have received training on conducting searches of transgender and intersex inmates, in a professional and respectful manner and in the least intrusive manner, consistent with RJA needs. Multiple acknowledgment statements affirming search training were provided for review.

A training roster documenting staff training, including the following, was provided when requested by the auditor:

- PREA and Transgender Training
- NIC Online Supervisor Training

The training rosters documented that 100% of the staff have received the training as required.

**Interviews:** Superintendent, PREA Compliance Manager, Seventeen (17) Randomly Selected Staff; Nineteen (19) Specialized Staff

**Discussion of Interviews:** Interviews with uniformed and non-uniformed staff indicated they understand PREA but were not articulate in responding to the questions in the PREA Questions. They are familiar with their roles as first responders.

**Corrective Action:** Staff will be retrained in the PREA topics required by the PREA Standards and the training will be documented and training rosters containing the signatures of staff will be provided to the auditor. The corrective action has been completed.

## 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.*

**Policy and Documents Reviewed:** WVRJCFA Policy 3052; PREA Acknowledgment Statement

#### Discussion of Policies and Documents Reviewed:

Volunteer and Contractor training is addressed in WVRJCFA Policy 3052, F., Employee and Volunteer Training. Volunteers and Contractors are required to complete the basic PREA Training Module one. Facilities are required to ensure that volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection and response policies and procedures. The level and type training provided to volunteers and contractors is based on the services they provide and level of contact they have with inmates. However, all volunteers and contractors who have contact with inmates are notified on the agency's zero tolerance policy regarding sexual abuse and sexual harassment and how to report such incidents.

The facility provided multiple training rosters for volunteers and contractors as well and 10 signed acknowledgement statements documenting training.

**Interviews:** PREA Compliance Manager; Volunteer

An interview with a volunteer indicated that he received information related to PREA prior to providing services. He indicated he understood the Zero Tolerance Policy and described the actions he would take on learning that a detainee had been the victim of sexual abuse. He related he would report it to the first staff available.

## Standard 115.33: Inmate education

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

#### 115.33 (a)

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

#### 115.33 (b)

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

#### 115.33 (c)

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

#### 115.33 (d)

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

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

### 115.33 (e)

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

### 115.33 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Policy and Documents Reviewed:

WVARJVFA Policy 17001, requires the Booking Officer to check the inmate's record for documentation that the new commit has previously completed PREA Training. If documentation is found the inmate will be provided the WVRJCFA pamphlet and will be given training to the extent that the policies and procedures of the inmate's new facility differ from those of the previous facility. If documentation is not found, or if they leave the WVARJA custody and return, the inmate will be provided the entire PREA training requires in policy. Before housing new commits the Booking Officer is required to ensure that each admitted inmate receive information explaining the Regional Jail Authority's zero-tolerance policy regarding sexual abuse, sexual harassment and how to report incidents or suspicions of sexual abuse

or sexual harassment and that the inmate has a copy of the Regional Jail Authority's rules and regulations. The Inmate Handbook, Page 2, Admissions, g., requires that an inmate is provided a Handbook of Inmate Rules and Procedures. The Booking Officer, according to the handbook, ensures that each admitted inmate receive information explaining the RJA's zero-tolerance policy regarding sexual abuse and sexual harassment and will give each inmate information on how to report incidents or suspicions of sexual abuse or sexual harassment. The Handbook, page 41, Paragraph 31. Sexual Abuse/Assault, advises inmates of the zero tolerance; the residents right to be free from intimidation or pressure from inmates, staff or any other person to perform or engage in sexual behavior regardless of current situation or sexual orientation. This section discusses Prevention, Reporting, Investigation, Treatment and Counseling and Tips to Avoid Becoming a Victim. The information will be communicated verbally and in writing, in language clearly understood by the inmate. The curriculum may be provided to inmates either individually or in groups. Minimally the inmates are given the following:

- WVRJCFA pamphlet, "What You Should Know About Sexual Abuse and Assault. The pamphlet also contains the Sexual Assault Hotline number.
- The mailing addresses, telephone numbers and instructions on how to contact the advocates and how to request staff assistance, if needed, to place the calls.
- The address of the West Virginia Fusion Center. The Booking Officer is required to brief that this agency is not a part of the Regional Jail Authority and that they can report anonymously if needed.
- The extent to which communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.
- IF detained solely for civil immigration purposes, the person will be provided contact information for immigrant service agencies.

The inmate signs an acknowledgement of receiving the information.

The Booking Officer will also ensure that each inmate understands the facility's rules and regulations. If the officer suspects or is informed that the inmate cannot read the, the rules and regulations and the WVRJCFA Pamphlet will be read by an officer to the inmate. If an inmate is deaf, visually impaired, has limited reading skills or does not understand or speak English, jail personnel will arrange for an interpreter to read the rules to the inmate in the inmate's own language. Arrangements will be made for continued communication with the inmate while the inmate is confined by notifying the Director of Inmates Services (DIS). The Booking Officer is charged with the responsibility for ensuring that only staff members or qualified contractors provide translation services for inmates. If a multilingual staff is not available, the Translation Language Telephone Line or equivalent services must be utilized. The Booking Officer maintains an updated list of all multi-lingual staff at the facility that would be able to provide translation for inmates who do not speak English.

Policy 17001, Procedure Q., Inmate PREA Training, requires that no later than thirty (30) days of incarceration, in addition to receiving the PREA Brochure at intake; the facility PREA compliance Officer or designee will provide comprehensive education to inmates either in person or through video regarding the agency's zero tolerance policy regarding sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents and regarding the Regional Jail Authority's policies and procedures for responding to such incidents. Inmates sign an acknowledgment of receiving the information. The facility provides inmate education to ensure meaningful access to all aspects of the RJA efforts to prevent, detect and respond to sexual abuse and sexual harassment to inmates who are limited English proficient, deaf, visually impaired or otherwise disabled, as well as to inmates who have

limited reading skills. This includes providing interpreters who can interpret accurately and impartially, both receptively and expressively, using the necessary specialized vocabulary. The inmate's PREA training will be conducted using the Inmate Sexual Abuse Education Program developed by the WVRJCFA PREA Coordinator. The curriculum may be provided individually or in groups, with the aid of video (Speaking Up) and/or power point presentation or with other teaching aids.

Upon receiving the PREA sheet, detainees sign a Booking PREA Information Acknowledgment stating they have received the PREA pamphlet, "What You Should Know About Sexual Abuse and Sexual Assault". They also acknowledge by signing the form that they have been advised that they will receive additional PREA training once assigned to their section and viewing the PREA training is required prior to accessing the KIOSK. Detainees acknowledge having been informed they can report to any staff member or counselor and if they cannot report to any of these, they have received the address to the agency that is not a part of the West Virginia Regional Jail and this report can be anonymous upon request. Additionally, detainees affirm they understand there is a zero tolerance for sexual abuse and that failure to follow guidelines may result in further disciplinary action.

In addition to PREA Acknowledgement Statements the facility provided an inmate roster documenting PREA training documenting training for over 100 detainees.

The PREA hotline posters are located throughout the facility. The intake officer, in an interview, stated that all inmates are provided an admission and orientation handbook immediately upon arrival at the site. All inmates are provided information about the zero-tolerance policy and how to report incidents or suspicions of sexual abuse or harassment. There are PREA related posters in the intake area along with the resident handbook which covers the site's zero tolerance policies, how to report, and to be free from retaliation for reporting incidents. The handbook is also provided in Spanish.

**Interviews:** PREA Compliance Manager; Booking Staff; Twenty-seven (26) detainees

#### **Discussion of Interviews:**

Twenty-six (26) interviewed inmates indicated they did not get information about PREA upon admission both verbally and in writing. Interviewed booking staff indicated they give them information both orally and in writing, although some of them indicated they just gave the inmates the PREA pamphlets.

**Corrective Action:** The PREA Compliance Manager and Agency PREA Coordinator agreed that the Booking Staff would be retained in the expectations regarding not only providing written materials related to PREA that include Zero Tolerance and how to report but also providing verbal information as well. It was also agreed that the facility would monitor the booking staff's performance related to providing the required PREA information to incoming detainees.

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

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

### **115.34 (a)**

- In addition to the general training provided to all employees pursuant to §115.31, does the agency ensure that, to the extent the agency itself conducts sexual abuse investigations, its

investigators have received training in conducting such investigations in confinement settings? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).)  Yes  No  NA

#### 115.34 (b)

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

#### 115.34 (c)

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

#### 115.34 (d)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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**Policy and Documents Reviewed:** WVRFCFA Policy 3025 G., Investigator Training; WVRJCFA Policy 3036-A, PREA investigations; Two (2) NIC Certificates, Conducting Sexual Abuse Investigations in Confinement Settings.

**Discussion of Policies and Documents:**

This standard is rated exceeds because of the multiple trainings and extensive training the investigator received related to investigating sexual abuse in confinement settings. WVRJCFA Policy 3025, G. Investigator Training and WVRJCFA Policy, 3036-A, PREA Investigations, requires that in addition to Basic PREA Training provided to all staff, investigators, including WVRJCFA Investigators and facility PREA Investigators, who perform sexual abuse allegations, are required to receive additional training on conducting sexual abuse investigations in confinement settings. This includes (Paragraph 2) but is not limited to interviewing sexual abuse victims, proper use of Miranda Warning and the Garrity rule, sexual abuse evidence collection in confinement setting and the criteria and evidence required to substantiate a case for administrative action or prosecutorial referral. Training was facilitated by the WVRJCFA PREA Coordinator or designee and offered by outside mutual agreements. A refresher training will be provided on an annual basis unless it is deemed necessary more frequently by the PREA Coordinator or the FPCO. The Institution Training Officer and FPCO at each facility will ensure that all facility PREA Investigators receive this training within three months of the effective date of appointment.

An email from the PREA Coordinator indicated that the Specialized Training for Investigators is based on a curriculum that is 16 hours long and includes content on PRA standards related to investigation; case law demonstrating legal liability for agencies, facilities and investigators to consider when working to eliminate sexual abuse and sexual harassment in confinement settings; proper use of Miranda and Garrity warnings; trauma and victim response; processes of a forensic medical exam; first response best practices; evidence collection best practices in a confinement setting; techniques for interviews alleged victims of sexual abuse and sexual harassment (male and female); report writing techniques and information on what prosecutors consider when determining whether to prosecute sexual abuse cases.

The facility-based investigator has completed the specialized training required for investigators. That training is provided by the National Institute of Corrections and covers the topics required for conducting sexual abuse investigations in confinement settings. The investigator provided NIC training certificates for the past two years. This training is in addition to the required PREA training that is provided annually.

**Interviews:** Facility-Based Investigator

**Discussion of interviews:** The facility-based investigator is a motivated and knowledgeable staff who understands the investigation process. He confirmed the training he received through the National

Institute of Corrections and articulated the topics presented in that training. Those topics covered the requirements of the standard.

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

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

### **115.35 (a)**

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

### **115.35 (b)**

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

### **115.35 (c)**

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

### **115.35 (d)**

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

### **Policy and Documents Reviewed:** WVARJCFA Policy 3052, H. Medical; Pre-Audit Questionnaire

WVARJCFA Policy 3052, H. Medical, requires that in addition to Basic PREA Training provided to all staff, any staff member, contractor, volunteer or intern providing medical or mental health services will receive additional training on working with victims of sexual abuse and sexual harassment. This specialized training includes but is not limited to:

- How to detect and assess signs of sexual abuse and sexual harassment;
- How to preserve physical evidence of sexual abuse;
- How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and
- How to and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

Training will be coordinated by the Agency PREA Coordinator or designee. The FPCO, in coordination with the Institution Training Officer at each facility will ensure that all medical staff receive the specialized training within six (6) months of hire.

Paragraph I. Mental Health requires that in addition to the Basic PREA Training provided to all staff, contractor and volunteers, mental health providers will receive additional training on working with sexual abuse victims. Specialized training includes but is not limited to:

- How to detect and assigns of sexual abuse and sexual harassment;
- How to preserve physical evidence or sexual abuse;
- How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and
- How to and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

This training is also coordinated by the Agency PREA Coordinator. Mental health professionals will have the specialized training within the first six (6) months of employment with the RFA. These practitioners include but aren't limited to: Psychiatrist, Psychologist, Drug and Alcohol Treatment Staff, Chaplaincy Services and Counselors.

The facility provided samples of Certificates of Completion from the National Institute of Corrections; confirming specialized training for medical staff. The certificates acknowledge that staff completed the NIC on-line training: PREA: Medical Health Care for Sexual Assault Victims in a Confinement Setting. The Pre-Audit Questionnaire documented that 100% of the medical and mental health staff have completed their specialized training as required.

**Interviews:** PREA Compliance Manager; Health Services Administrator; Mental Health Professional

**Discussion of Interviews:** An interview with the Health Service Administrator confirmed she has completed the National Institute of Corrections Specialized Training for health care providers dealing with sexual abuse victims in confinement settings. Additionally, she described the PREA training she completed that is the same training required of all staff. She also confirmed that all staff have completed the National Institute of Corrections Specialized Training

## SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

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

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

#### 115.41 (a)

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

#### 115.41 (b)

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

#### 115.41 (c)

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

#### 115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability?  Yes  No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes?  Yes  No

#### 115.41 (e)

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

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

#### 115.41 (f)

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

#### 115.41 (g)

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

#### 115.41 (h)

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

#### 115.41 (i)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

### **Policy and Documents Reviewed:**

WVARJCFA Policy 3052, J. PREA Screening Instrument, requires inmates to be screened during intake for risk of being sexually abused by other inmates or sexually abusive toward other inmates. PREA Screening ordinarily takes place within 24 hours after arrival using the PREA Screening Instrument. The screening instrument is an objective screening tool and it gathers the following information:

- Whether the inmate has a mental, physical, or developmental disability;
- Inmate's age and physical build;
- Whether the inmate has been previously incarcerated;
- Whether the inmate's criminal history is exclusively non-violent;
- Whether the inmate has prior convictions for sex offense against an adult or child or a history of acts of sexual abuse;
- Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex or gender nonconforming;
- Whether the inmate has previously experienced sexual victimization;
- The inmate's own perceptions of his or her vulnerability;
- Whether the inmate is detained solely for civil immigration purposes; and
- History of prior acts of sexual abuse; prior convictions for violent offenses and history of prior institutional violence or sexual abuse as known to the facility, in assessing inmates for risk of being sexually abusive.

Inmates may not be disciplined for refusing to answer particular questions or for not disclosing complete information. If an inmate refuses to disclose the information requested, housing placement is based on the most recent PREA Screening Instrument Assessment completed.

Facility staff and contractors involved in the assessment process are prohibited from disseminating responses to the screening questions or other sensitive information which may be exploited to the inmate's detriment by staff or other inmates.

Inmates will be reassessed whenever an inmate is involved in an incident of sexual abuse and upon transfer to another facility. Paragraph K. PREA Screening Reassessment, 1-4, require that every inmate will be reassessed by the Facility PREA Officer or designee no later than 30 days of the inmate's arrival to the facility or receipt into another facility; based upon any additional, relevant information received by the facility since the initial intake screening (conducted by the Facility PREA Officer); and when warranted due to referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness. If there is an allegation of sexual abuse and/or sexual harassment, the PREA Facility Officer/designee will administer the PREA Screening Instrument Assessment for placement in PC. Policy 17001, Procedure P. PREA Risk Reassessment requires anytime the PREA Screening Instrument Assessment Tool is

administered to any inmate the Booking Supervisor will be informed and given a copy of the assessment so the inmate's file board and computer OIS system can be updated.

The facility provided samples of both assessments and reassessments.

Staff indicated in their interviews that the initial screening of an inmate occurs during the booking process and not later than 24 hours. The screening is conducted, at times in a private office, and from behind the counter with a little privacy block.

Some of the booking staff charged with the responsibility of conducting the victim/aggressor assessments struggled in explaining the things they considered in conducting the victim/aggressor assessments. Other staff related that in the screening process they consider age, build, previous incarcerations, age (under 25 or older than 60), mental health issues, medical issues, LGBTI, prior victimization, prior institutional rape, physical violence, gang affiliation, and previous sexual assaultive behavior. Information is reviewed in the inmate data base to confirm the responses. The booking staff have access to the housing assignments for potential victims and potential abusers. Following the screening, using the instrument developed by the Regional Jail Authority, the inmate is assigned to housing either in the reception unit, medical or housed in the general population but away from potential abusers, based upon the results of the screening and the classification of the inmate. Classifications include Pre-Trial Felons, Sentenced Felons, Pre-Trial Misdemeanors, Sentenced Misdemeanors and Federal. Housing assignments then are predicated upon the classification of the inmate and based on the screening instrument results, the inmate is housed within the classification away from potential or known abusers if the inmate score high for victimization. Interviewed staff related they reassess inmates within 30 days and anytime there is a change, when inmates go out to court or elsewhere. At the reassessment, staff reported they are considering past history again, any outside charges, and other factors. Staff related if there is a "hit" on prior sexual victimization a task is generated requiring that an inmate is offered a follow up with mental health.

Twenty (20) out of twenty-six (26) inmates remembered being asked some or all of the PREA related questions associated with the victim/aggressor assessment. Several said they could not remember and a few said they were not asked the questions. Almost 100% of the interviewed inmates related they were not asked those types of questions again.

The associate auditor reviewed 26 inmate files and found a variety of deficiencies related to the assessment forms including some not signed by staff, some with no dates and some with incorrect information. One potential victim had an accurate assessment but was not on the booking list or in the computer. One potential victim was acknowledged on the assessment, but the reassessment was inaccurate and not signed. Several other deficiencies were noted as well.

**CORRECTIVE ACTION:** Develop a written plan to monitor the Booking Assessments and housing placements to ensure they are not putting predators with victims. I would also need a couple of the reports or forms you devise for monitoring to ensure they are being monitored. The PCM needs to sample the victim aggressor assessments for cellmates in each of the dorms periodically and document who was checked and the results and dates and comments etc.

**Completed Corrective Action:** See Corrective Action Section of this report.

## Standard 115.42: Use of screening information

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

#### 115.42 (a)

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

#### 115.42 (b)

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

#### 115.42 (c)

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

#### 115.42 (d)

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

#### 115.42 (e)

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

#### 115.42 (f)

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

#### 115.42 (g)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

**Policy and Documents Reviewed:** WVRJFA Policy 3052, J. PREA Screening Instrument; Policy 17001, O., Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Populations, Intake Training Booklet; thirty (30) victim/aggressor assessments; thirty (30) reassessments.

**Discussion of Policy and Documents Reviewed:**

Policy 3052, J. PREA Screening Instrument, 10., requires that PREA Screening Instrument Assessment information is to be used to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk for being sexually victimized from those at high risk for being sexually abusive. Policy (Paragraph 9) also states that information received from the PREA Screening Instrument tool and inmate's classification upon incarceration will be used to determine housing assignment. Individualized determinations about how to ensure the safety of each inmate are made. If the screening indicates an inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff are required to ensure that the inmate is offered a follow-up meeting with the facility mental health practitioner within 14 days of intake screening.

Inmates are classified into the following classifications for housing purposes: Misdemeanors, Pre-Trial Misdemeanors, Pre-Trial Felons and Sentenced Felons. Within each classification, the results of the screening are used to determine housing. The inmate booking board in the Booking Supervisor's Office has the names of all the inmates booked into the facility and the housing unit they are assigned to. Color codes are used identify potential victims and potential abusers and is used to ensure a victim is not placed in a cell with a potential abuser.

Policy 17001, O., Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Populations, requires in deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates and in making other housing and programming assignments, the Booking Department, considers on a case by case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems. The inmate's own views with respect to his/her own safety is given serious consideration.

The Intake Training Booklet asserts that the information from the PREA screening instrument tool and the inmate classification upon incarceration will be used to determine the housing assignments for inmates. The booking officer is required to track on the board the potential victim or predator in the facility. The booklet further asserts that no inmate that has been classified as a predator will be housed with another inmate that has been classified as a victim in the same cell but may be housed in the same housing section. No inmate classified as a victim will be housed with an inmate classified as a predator in the same cell. Victims can only be housed with another inmate in the same cell as another inmate that has been classified as a victim or possible victim.

Interviews with staff confirmed a process where inmates assessed as potential victims would not be housed with potential predators however the associate auditor discovered one potential victim housed with a potential predator.

The associate auditor reviewed 26 inmate files and found a variety of deficiencies related to the assessment forms including some not signed by staff, some with no dates and some with incorrect

information. One potential victim had an accurate assessment but was not on the booking list or in the computer. One potential victim was acknowledged on the assessment, but the reassessment was inaccurate and not signed. Several other deficiencies were noted as well.

A corrective action plan was discussed. (Please see the CAP in Standard 115.41). Documentation that the corrective action was completed was provided on May 5,2018.

## Standard 115.43: Protective Custody

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

#### 115.43 (a)

- If a facility cannot conduct such an assessment immediately, does the facility hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment?  
 Yes  No

#### 115.43 (b)

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

#### 115.43 (c)

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

### 115.43 (d)

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

### 115.43 (e)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*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.*

**Policy and Document Review:** Policy 3052, L. Protective Custody;

**Discussion of Policy and Document Review:** Policy 3052, L. Protective Custody, requires that any use of segregated housing to protect an inmate who alleged to have suffered sexual abuse is subject to the following:

1. Staff must take into consideration the opinion and views of the inmate who is particularly vulnerable to abuse or who is an alleged victim regarding his or her own safety and will place him or her in Protective Custody when the victim requests it.
2. Alleged victims or inmates who are generally at high risk for sexual victimization are not to be placed in involuntary segregated housing unless they request it OR an assessment of all available alternatives has been made and there are no available alternative means of separation from likely abusers. If the facility cannot conduct the assessment immediately, the

facility may hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment.

3. If an involuntary PC housing assignment is made the Shift Supervisor will clearly document the following: a) The basis for the staff member's concern for the inmate's safety; b) The other alternative means of separation; and c) the reason why no alternative means of separation can be arranged.
4. If no immediate alternatives are identified an inmate may be assigned to involuntary protective custody only must be approved by the Facility Administrator until an alternative means of separation from likely abusers can be arranged. Assignment must be reported to the FPCO within 24 hours and an assignment to protective custody does not ordinarily exceed 30 days. If an extension beyond 30 days is required the facility documents the basis for concern for the inmate's safety and why no other alternative means of separation can be arranged. Any extension beyond 30 days must be approved by the Facility Administrator within 72 hours of being implemented. Reviews are conducted at least every 15 days to determine whether there is continuing need for separation from the general population. The review is documented on a report forwarded to the FPCO and the Agency PREA Coordinator.

Paragraph 4 of Policy 3052 identifies potential temporary options in lieu of Protective Custody. These include 1) Moving to a different housing unit; 2) Placement in a small section; 3) Placement in the Medical Pod (if available); and 4) Transfer to another facility.

Policy requires that if a Shift Supervisor assigns an inmate to involuntary PC for protection from sexual victimization, access to programs, privileges, education or work opportunities are afforded to the extent possible. If the facility restricts these, staff are required to document the following on the report: 1) Opportunities that were limited; 2) Duration of the limitation; and 3) The reasons for the limitations.

The Pre-Audit Questionnaire documented there were no inmates at risk of sexual victimization who were held in involuntary segregated housing in the past 12 months for one to 24 hours awaiting completion of assessment and no inmates at risk of sexual victimization assigned to involuntary segregated housing in the past 12 months for longer than 30 days while awaiting alternate placement. Interviews with staff, including the Jail Administrator indicated there have been no occasions of involuntary protective custody during the past twelve months.

## REPORTING

### Standard 115.51: Inmate reporting

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

#### 115.51 (a)

- Does the agency provide multiple internal ways for inmates to privately report: Sexual abuse and sexual harassment?  Yes  No

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

#### 115.51 (b)

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

#### 115.51 (c)

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

#### 115.51 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

**Policy and Documents Reviewed:** WVARJCFA Policy 3052, Procedure C., Detection and Reporting, A., Inmate Reports and Grievances; Reviewed Pre-Audit Questionnaire

**Discussion of Policy and Documents Reviewed:**

This standard is rated exceeds because of the myriad of ways inmates have to report sexual abuse, sexual harassment or retaliation for reporting or for cooperating with an investigation. WVARJCFA Policy 3052, Procedure C. Detection and Reporting, A. Inmate Reports and Grievances, requires each facility to provide multiple internal and external ways for inmates to privately report 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. Inmates can report to security officers, chaplains, medical, mental health, counselors or administrators. Reports may be made in writing or verbally. They can use the confidential Sexual Abuse Hotline by dialing #9078 from the inmate phone or they may report anonymously by mailing it to the West Virginia Intelligence Fusion Center or other designated agency used for reporting. Inmates may contact the designated agency used for reporting. They may contact their local Resource Center. Inmates may submit an emergency grievance to report. The agency has provided ways inmates may report to a public or private entity or office that is not part of the agency and that is able to receive and immediately forward inmate reports of sexual abuse or sexual harassment to WVRJCFA officials, allowing the inmate to remain anonymous upon request. To do this, the facility gives the inmates the mailing address to the West Virginia Fusion Center or other designated agency used for reporting. The inmate is given the PREA Pamphlet, "What You Should Know About Sexual Abuse and Assault" that provides multiple ways to report. Staff are required to accept reports in writing or orally and inmates detained solely for civil immigration purposes are allowed to contact their relevant consular officials or officials at the Department of Homeland Security. Third parties, including fellow inmates, staff members, family members, attorneys and outside advocates are permitted to assist inmates in filing reports or grievances. If a third-party files a grievance on behalf of an inmate the FPCO will discuss the allegation with the alleged victim and get the victim's permission to proceed with an investigation. The FPCO will inform the alleged victim that he/she will be required to personally pursue any subsequent steps in the administrative process. If the inmate declines to have the request processed on his/her behalf, the agency documents the inmate's decision. Inmates also have contact information for the West Virginia Coalition Against Domestic Violence, Women's Resource Center, an advocacy group providing support services to victims of sexual abuse. Inmates have access to a kiosk as well for emailing anyone on their approved contact list.

A PREA brochure has a section entitled, "You Have the Right to Report Abuse" provides for the following ways for inmates to report allegations of sexual abuse or sexual harassment,, even anonymously:

- Dial One (1) for English; then \* 9076
- Report to any staff
- Report to any volunteer
- Report to any contractor

- Submit a grievance through the KIOSK or in writing
- Submit a medical request and tell medical or mental health staff
- Anyone, even family or a friend can report on your behalf by calling 304-256-6727 and asking for the PREA Coordinator
- Write to the Fusion Center (address provided)
- Local Rape Crisis Center (may contact them without reporting an allegation of sexual abuse)

**Interviews:** Twenty-Six (26) Detainees; Seventeen (17) Randomly Selected Staff; PREA Compliance Manager

Interviewed inmates reported they would most likely use the phone to make a report of sexual abuse. They also indicated they could use the KIOSK to email a report or notify family.

All interviewed staff reported that they have multiple means to privately report sexual abuse or harassment. Such reporting opportunities included the hotline, comment box, internal investigations, Jail Administrator, or medical staff. The interviewed line staff reported that the inmates can privately reporting by using a resident kiosk system, the hotline number, grievance, Jail Administrator, officers, other staff, family, or friends. Such reports can be made verbally or in writing. All of the interviewed line staff reported that if an inmate verbally or in writing reports sexual abuse or harassment the allegation is taken seriously and responded to immediately.

A review of 10 of 10 investigation packages documented the following ways inmates reported:

- (6) To Staff
- (2) By Grievances
- (1) By the intercom with a report made to the “tower” officer
- (1) Letter to the Facility Administrator

Note: Two of the reports to staff were made by third parties (other inmates)

Interviewed inmates indicated they could make reports in the following ways:

- (19) Phone
- (12) Staff
- (12) Family
- (12) KIOSK
- (4) Intercom
- (4) In writing, letter or note
- (2) Attorney
- (1) Using the Posted Address

19 of 26 inmates knew they could make an anonymous report.

100% knew they could report in person or in writing.

## Standard 115.52: Exhaustion of administrative remedies

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

#### 115.52 (a)

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

#### 115.52 (b)

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

#### 115.52 (c)

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

#### 115.52 (d)

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

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

#### 115.52 (e)

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

#### 115.52 (f)

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

- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA

### 115.52 (g)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

**Policy and Documents Reviewed:** WVRJCFA 3052, B. PREA, Grievance Process; Pre-Audit Questionnaire; Reviewed grievances filed during the past year.

WVRJCFA Policy 3052, B., PREA Grievance Process, requires that after receiving a PREA emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, the FPCO and the Facility Administrator will take immediate corrective action. If the administrator is unable to take the corrective action the grievance will be forwarded to the WVRJCFA will provide an initial response within 48 hours and a final decision within 5 calendar days. The initial response and final agency decision will document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse and action taken in response to the emergency grievance. Procedure C, Detection and Reporting, A. Inmate Reports and Grievances, provides a means for inmates to report allegations of sexual abuse, sexual harassment and retaliation through the grievance process. Policy places no time limits on when a grievance alleging sexual abuse, sexual harassment or retaliation may be filed. Too, the inmate may submit the grievance to any employee, contractor or volunteer and if a staff member is

the subject of the complaint, staff must ensure not to refer it to a staff member who is the subject of the complaint. Third parties, including fellow inmates, staff members, family members, attorneys and outside advocates, are permitted to assist inmates in filing grievances and requests for administrative remedies relating to allegations of sexual abuse. If the third-party files a grievance on behalf of an inmate, the FPCO is required to discuss the allegation with the alleged victim and get permission to proceed with an investigation. If the inmate declines to have the request processed on his/her behalf, the agency will document the inmate's decision. A decision on the merits of any grievance or portion of a grievance alleging sexual abuse is made within 90 days of filing the grievance.

Two (2) of the ten (10) inmates reporting allegations of sexual abuse reported via grievances through the KIOSK. These were responded to expeditiously and investigated as required.

**Interviews:** PREA Compliance Manager; Randomly selected staff; Randomly selected detainees (reporting allegations of sexual abuse)

**Discussion of Interviews:** Interviewed staff indicated they would accept reports of sexual abuse from any source, including a grievance. They indicated a grievance alleging sexual abuse would be turned over immediately to the facility-based investigator and would cease being a grievance and would be investigated. The facility-based investigator confirmed that process. Interviewed detainees did not name grievances as one of the predominant ways they would report sexual abuse.

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

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

#### 115.53 (a)

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

#### 115.53 (b)

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

### 115.53 (c)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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**Policy and Documents Reviewed:** WVARJCFA Policy 3052, D. Inmate Training, 1.b; Memorandum of Understanding between the Potomac Highlands Regional Jail and the Sexual Assault Help Center; Contract with the WV Foundation for Rape Information and Services (FRIS), Women's Aid in Crisis, Inc., Shenandoah Women's Center; PREA Brochure, Sexual Assault in West Virginia Jails.

#### Discussion of Documents Reviewed:

WVARJCFA Policy 3052, D. Inmate Training, 1.b., requires that the Booking Officer provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses, telephone numbers and instruction on how to get in contact with the advocates and how to request staff assistance to place these calls. Correspondence with the West Virginia Fusion Center, Victim Advocates or other designated agency will be treated as legal mail and will be unopened. Too, the agency does not require the inmate to put his name on the letter. If the inmate needs a stamp, the facility will place one on the envelope. Policy also requires the facility to inform inmates, prior to giving them access, of the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

The facility has a Memorandum of Understanding between the Potomac Regional Jail and the Shenandoah Women's Center. In this agreement, the Center agrees to accept initial inmate calls on the WRC hotline from 9AM to 4PM, Monday through Friday to provide crisis intervention and support services to inmates who have experienced sexual violence. The Women's Center will respond to

requests when advocates are available to provide advocacy when inmates are brought to the local hospital for sexual assault forensic exams. The Sexual Assault Help Center also offers follow-up services with advocates who are survivors of sexual assault, via telephone, and when available, in person services. The Help Center agrees to maintain confidentiality with clients who are detained at the Potomac Highlands Regional Jail.

The Inmate Handbook, Page 19, #5. Requires the Booking Officer provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates the mailing addresses, phone numbers and instructions on how to contact them advocates.

The reviewed PREA brochure, entitled, "Sexual Abuse in West Virginia Jails" provides detailed instructions for contacting the rape crisis center. An entire section, "Getting Rape Crisis Center Services", discusses phone support, support during a medical forensic examination, confidentiality of communications, crisis intervention support, information and referrals. Detainees are told how to dial the center, that they can do so without giving their names, and that they do not have to report a rape to secure the services of the center. Detainees are told that the advocate cannot assist with any other issues other than victim support. Staff, they are told, will provide private space to make an unmonitored call and that the call can last about 30 minutes. The request can also be made to the PREA Compliance Officer without having to report a PREA incident. A follow-up call to talk with the advocate may be made as well. Support services during a forensic exam are discussed. The local rape crisis center in general keeps conversations confidential and does not share information with the facility. There may, however be instances when mandatory report is required by state law or a code of professional ethics, such as when a detainee expresses self-harm. Otherwise, the only time information is shared with another party, you consent and sign a release of information form. Crisis intervention services are mentioned as well. Advocates also can provide information to detainees. This information may include reporting options, what happens after a report is made, how to preserve evidence, health risks and available health services, options to address safety concerns, investigation procedures and victim's rights. This informative information also advises the detainee that mental health services are available on-site and community services available upon release.

**Interviews:** PREA Compliance Manager; Facility Administrator Randomly Selected and Targeted Detainees

**Discussion of Interviews:** An interview with the staff of the confirmed the MOU and the services they can and will provide to the detainees of the Potomac HighlandS Regional Jail. Services in included providing contact information for inmates. She related the Resource Center would provide crisis intervention and advocacy for the inmate during the forensic exam and through the investigation process. When asked about the training the advocates received, she stated they receive multiple trainings conducted by the West Virginia Coalition Against Sexual Violence. She also related her organization is licensed by the Family Protection Board of West Virginia. Interviewed staff were aware of the availability of outside support services provided by the Center. Interviewed inmates had access to that information in multiple ways but indicated they were not knowledgeable of the resource or exactly the circumstances under which services would be provided.

## 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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**Policy and Documents Reviewed:** WVRJA Policy 3052, A.B; PREA Brochure, "What You Should Know About Sexual Abuse and Sexual Assault"; MOU between the Potomac Highlands Regional Jail and the Shenandoah Women's Center

**Discussion of Policy and Documents Reviewed:** WVRJA Policy 3052, A.8, provides for third party reports. Policy requires third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates are permitted to assist inmates in filing reports or grievances and requests for administrative remedies relating to allegations of sexual abuse. Third Parties are also permitted to file such requests on behalf of inmates.

The Agency's PREA Brochure, "What You Should Know About Sexual Abuse and Assault" advises inmates that families may make reports of sexual abuse for them.

Too, the agency's website provides a wide variety of information related to PREA. The site also provided the email address and phone number for anyone wishing to make a report of sexual abuse.

Staff, have been informed multiple times in policy to accept all reports of sexual abuse from any source, including Third Party Reports. Multiple sources are provided for inmate reporting allegations of sexual abuse and sexual harassment.

Inmates making reports of sexual abuse during the past 12 months included two occasions during which third parties made the reports/allegations to staff who in turn notified their shift supervisors. Both of these allegations were promptly investigated by the facility-based investigator.

**Interviews:** Facility Administrator; PREA Compliance Manager; Randomly Selected and Specialized Staff; Randomly Selected and Targeted Detainees

**Discussion of Interviews:** Staff consistently named third parties as one of the ways detainees could report allegations of sexual assault or sexual harassment. They also indicated they would accept a report from any source, take it seriously and report it like any other report. Most of the interviewed detainees named family as the third party they would use to report. Interviewed inmates named family and girlfriends and attorney's could make reports for them.

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

### Standard 115.61: Staff and agency reporting duties

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

#### 115.61 (a)

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

#### 115.61 (b)

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

#### 115.61 (c)

- Unless otherwise precluded by Federal, State, or local law, are medical and mental health practitioners required to report sexual abuse pursuant to paragraph (a) of this section?  Yes  No

- Are medical and mental health practitioners required to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services?  Yes  No

#### 115.61 (d)

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

#### 115.61 (e)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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**Policy and Document Review:** WVARJCFA Policy 3052, Procedure D, Staff Responsibilities, A. Reporting; West Virginia Regional Jail Authority Website; PREA Brochure

The Potomac Highlands Regional Jail has a Zero Tolerance for all forms of sexual abuse, sexual harassment and for retaliation for reporting or cooperating with an investigation.

WVARJCFA Policy, 3052, Procedure D, Staff Responsibilities, A. Reporting, requires all staff to report immediately any knowledge, suspicions or information regarding an incident of sexual abuse or sexual harassment and of retaliation against any inmate or staff who reported such incidents and staff neglect or violation of responsibilities that may have contributed to an incident of retaliation. Staff are instructed to accept reports made verbally, in writing, anonymously and from third parties and to promptly document any verbal report and submit the report to the Shift Supervisor. Staff are also required to report to the shift supervisor, Department Head, Chief Correctional Officer or Administrator (D.4), any suspicion or knowledge of sexual abuse, including undue fraternization that could indicate or lead up to abuse. Staff can report information about sexual assault and sexual harassment anonymously by placing the report in the facility mail box or by sending the information to the WV Fusion Center, other designated agency or the WVRJCFA PREA Coordinator.

The Facility Administrator is required to report all allegations of sexual abuse, including anonymous allegations to the WVRJCFA Chief of Operations and the Agency PREA Coordinator. Policy 3052, C. Response, prohibit staff from revealing any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation or other security and management decision.

**Interviews:** Facility Administrator; PREA Compliance Manger; Randomly Selected Staff; Specialized Staff; Targeted Detainees.

**Discussion of Interviews:** Staff, in their interviews named multiple ways inmates could report allegations of sexual abuse and sexual harassment. One-hundred percent (100%) stated they would take every allegation and every suspicion seriously and report it immediately to their immediate supervisor followed by a written report. 100% of the seventeen Randomly Selected Staff and nineteen specialized staff interviewed reporting being aware of the agencies procedure for reporting any information related to an inmate sexual abuse. Interviewed staff could clearly articulate the necessity to report any incident or alleged incident of sexual abuse or harassment immediately. They are aware of various methods of reporting in writing or verbally to include but not limited to: report to shift supervisor, ethics hotline, intelligence sheet, medical staff, and internal investigations.

## Standard 115.62: Agency protection duties

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

#### 115.62 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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**Policy and Documents Reviewed:** WVRJCFA Policy, 3052, C. Response;

### Discussion of Policy and Documents Reviewed:

WVRJCFA Policy 3052, C. Response, requires that when staff learn that an inmate is subject to a substantial risk of sexual abuse, the facility will assess and implement appropriate protection measures and also take immediate action to protect the inmate without unreasonable delay. WVRJCFA Policy 3052, L. Protective Custody, requires any use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse shall be subject to the requirements listed in this policy. Staff will take into consideration the opinion of an inmate who is particularly vulnerable to abuse or who is an alleged victim regarding her or his own safety and will place her or him in PC when the victim requests it. Alleged victims or inmates who are generally at high risk for sexual victimization are not to be placed into involuntary segregated housing unless they request it or an assessment of all available alternative means of separation has been made. If the facility cannot make an immediate assessment, they may hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment. Alternative placements, according to policy, include but are not limited to, any one or combination of the following temporary options: 1) Moving to a different housing unit; 2) Placement in a small section; 3) Placement in the Medical Pod (if available); and 4) Transfer to another facility. If involuntary PC housing is made, the shift supervisor is required to clearly document 1) The basis for the staff member's concern for the inmate's safety; 2) The other alternative means of separation that were explored; and 3) The reason why no alternative means of separation can be arranged. Access to programs, privileges, education or work opportunities are afforded to that inmate to the extent possible and if the facility restricts the opportunities the facility documents the opportunities that had to be restricted, the duration of the limitation and the reasons for such limitation. Assignment to PC shall not ordinarily exceed 30 days and any assignment to involuntary PC must be reported to the FPCO within 24 hours. If extensions beyond 30 days are necessary, the facility must clearly document the basis for concern and why no other alternatives can be arranged. Extensions beyond 30 days must be approved by the facility administrator within 72 hours of being implemented. Every 15 days, the Shift Supervisor is required to ensure an inmate in involuntary separation from the general population is reviewed, documented and forwarded to the Agency PREA Coordinator.

The Pre-Audit Questionnaire documented that there were no incidents in which the facility determined that an inmate was subject to a substantial risk of imminent sexual abuse.

**Interviews:** Facility Administrator; PREA Compliance Manager; Randomly Selected Staff; Specialized Staff; Randomly Selected Detainees; Targeted Detainees

**Discussion of Interviews:** Interviews with the PREA Coordinator and PREA Compliance Manager confirmed that detainees who were at risk of imminent sexual assault would be separated from the alleged aggressor if known and placed in another housing unit if it can be done safely and if not in segregation until the threat can be determined. 100% of the interviewed staff stated, when asked what actions they would take on becoming aware a detainee was at risk of imminent sexual abuse, said they would take the report seriously and would remove the detainee from the threat, and that they would keep the detainee with them, in the security office or in direct view until the supervisor arrived and made a decision about where best to safely house the detainee. None of the interviewed detainees reported they had been at risk of imminent sexual abuse.

## Standard 115.63: Reporting to other confinement facilities

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

### 115.63 (a)

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

### 115.63 (b)

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

### 115.63 (c)

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

### 115.63 (d)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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**Policy and Documents Reviewed:** WVRJFCA Policy 3052, D. Reporting to Other Facilities; Pre-Audit Questionnaire

## Discussion of Policy and Documents Reviewed:

WVRJCFA Policy 3052, D. Reporting to Other Facilities, requires that within 72 hours of receiving an allegation that an inmate was sexually abused while confined in another correctional facility, the Administrator of the facility that received the allegation is required to notify in writing, the Administrator, Warden or other appropriate office of the agency where the alleged abuse occurred. In case of an emergency, the Administrator can contact the other facility via phone before forwarding the written

report. The Administrator will also notify the RJA Chief of Operations and the RJA PREA Coordinator. The facility will document that it has provided the notification. If the WVRJFCA facility Administrator or Central Officer receives staff notification, they will ensure the allegation is investigated in accordance with applicable policies.

The Reviewed Pre-Audit Questionnaire documented the facility has not had a detainee reporting or alleging sexual abuse while at another facility nor has the facility become aware of an inmate alleging sexual abuse or sexual harassment while at another facility.

**Interviews:** Facility Administrator; PREA Compliance Manager; Facility-Based Investigator

**Discussion of Interviews:** An interview with the Facility Administrator and PREA Compliance Manager confirmed they are aware of the process required for reporting. They indicated that upon receiving a report from another facility that an inmate alleged sexual abuse in this facility, they would immediately initiate an investigation and provide any support to investigators during the process. They indicated that any allegations received from another facility it would be investigated like any other investigation.

## 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*)

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**Policy and Documents Review:** WVRJFCA 3052, Procedure E., Responding to Reported/Observed Sexual Abuse. A. Allegations of Abuse Occurring Within the Past 96 Hours; Pre-Audit Questionnaire; Ten (10) Reviewed Investigations; Reviewed PREA Response Checklists.

**Discussion of Policy and Documents Reviewed:** WVRJFA 3052, Procedure E. Responding to Reported/Observed Sexual Abuse, A. Allegations of Abuse Occurring within the past 96 Hours, requires that upon learning an inmate was sexually abused with a time period that still allows for the collection of physical evidence, the first security staff to respond to the report will take the following actions as a first responder:

- 1) Ensure the victim's safety by physically separating the alleged victim and aggressor:
- 2) Immediately escort the victim the medical unit if medical staff are available; if not, the Shift Supervisor notifies the appropriate medical and mental health staff.
- 3) Attempt to preserve evidence by discouraging the victim from showering, washing, eating, brushing teeth, changing clothes, urinating, defecating or drinking until after evidence collection;
- 4) Ensure the abuser does not take any action that could destroy evidence by prohibiting him/her from showering, washing, eating, brushing teeth, changing clothes, urinating, defecating or drinking until after evidence collection;
- 5) Seal and preserve the potential crime scene (if any)
- 6) If the crime scene cannot be sealed, photograph the scene or videotape the scene and any evidence;
- 7) Restrict entry into the crime scene to the WV State Police, Agency Investigator or medical staff, if needed;
- 8) Log anyone entering the crime scene, including time in and out;
- 9) Maintain the crime scene until released by the WV State Police

The Pre-Audit Questionnaire reported there were ten (10) allegations of sexual abuse however review of the investigation packages indicated there were six allegations of sexual abuse with only one alleging penetration. The others alleged some form of touching or observed touching and one involved a "strip search" in which the inmate refused to submit to. The Pre- Audit Questionnaire documented three occasions in which the first responder (security) 1) preserved and protected the potential crime scene,

requested the victim not take any actions that could destroy physical evidence and ensured the alleged aggressor did not take any actions to destroy physical evidence.

There was only one case in which an inmate alleged what he thought to be penetration. He was a mentally ill inmate on medication who reported he thought he might have been sexually assaulted in his cell. Although there was not evidence indicating that, the facility took the inmate to medical who assessed him and still sent him to the hospital for a forensic exam. The case was turned over to the West Virginia State Police for investigation. One other inmate alleged inappropriate touching by another inmate. He was immediately separated from the alleged aggressor, taken to medical where he denied penetration but was taken on to the hospital for a forensic exam. In all of the reviewed investigation reports, the alleged victims were immediately removed from the alleged aggressor and if the allegation was touching or other sexual abuse, the inmate was taken to medical.

**Interviews:** Facility Administrator; PREA Compliance Manager; Randomly Selected Staff; Specialized Staff; Randomly Selected Detainees; Targeted Detainees.

**Discussion of Interviews:** Interviewed staff easily articulated their roles and responsibilities as first responders. They all indicated they would separate the alleged victim from the alleged aggressor, notify their supervisor, secure the potential crime scene, advise the alleged victim not to shower, change clothes, use the restroom, eat or drink or do anything that might destroy the evidence. They also stated they would make the report in a confidential manner. Interviewed medical staff also related their responsibilities in protecting the evidence.

## Standard 115.65: Coordinated response

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

#### 115.65 (a)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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*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.*

**Policy and Documents Reviewed:** WVRJFCA, Procedure E., Responding to Reported/Observed Sexual Abuse; POST Orders, Special Instructions, First Responder Guidelines for Sexual Assaults, PREA Policy and Procedure 3052 and 3036.

**Discussion of Policies and Documents Reviewed:** The facility has a coordinated response plan. Agency policy details the essentials of a coordinated response plan in WVRJFCA 3052, Procedure E., Responding to Reported/Observed Sexual Abuse. This policy requires all facilities to develop a PREA Post Order to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators and facility leadership. Policy details the responsibilities of the first responder, either a security first responder or a non-security first responder. The duties of the Shift Supervisor, Administrator, medical and SAFES/SANES are detailed.

The facility specific Coordinated Response Plan is detailed in POST ORDERS, First Responder Guidelines for Sexual Assaults. This document goes into great detail about specific actions staff are to take in responding to an allegation of sexual assault. Included are the following:

Upon receiving an allegation of sexual abuse staff are to immediately take action and complete the following actions:

- Notify Shift Supervisor
- Request/radio for assistance
- Notify Medical
- Ask the victim – “Are you injured? Do you believe someone else is in immediate danger?”
- No actions to destroy evidence
- Escort to medical
- Secure and Protect the scene
- Document the victim’s exact words

Initial Response Required:

- Immediate response consists of the supervisor, one nurse, and one correctional counselor
- Photograph and video tape scene in 360-degree circle; Draw sketches of scene, make notes on locations of evidence; bring chain of evidence form
- Strictly limit access to crime scene
- Pod rover keeps an accurate written log of anyone entering the scene

Medical Response

- Medical staff follow the Health Services Checklist
- Arrange for victim to be transported to emergency room for treatment, exam, documentation, collection of forensic evidence, and testing for sexually transmitted diseases
- Ensure victim knows they will not be charged for the forensic exam
- Inform victim that a qualified victim advocate counselor can be made available to help at any time, if requested, at the hospital or at any time during the investigation

- If the incident occurred within 96 hours undress over a sheet to preserve possible evidence and if the detainee refuses, place the victim in a dry cell until cleared by the Chief Correctional Officer
- Notify emergency psychiatric services to evaluate the detainees need for any emergency measures
- Document the victim's medical history
- Wear gloves
- Forensic evidence collected by the ER Staff will only be released to law enforcement

#### Perpetrator

- If incident occurs within 96 hours undress on a sheet and if he/she refuses place in a dry cell until cleared by the Chief Correctional Officer

#### Mental Health Response

- Place on 15-minute watch until cleared by the psychologist
- House victim in Booking Department of Special Management
- Offer a full array of services available
- Provide victim services contact information
- Ensure victim is scheduled to see the psychiatrist next visit or by video if possible

#### Counselors

- Provide assessment monitoring and treatment
- Document clinical interviews
- Make available a victim advocate from the Rape Crisis Center

#### Victim Advocate

- Assist in assuring proper agencies have been contracted
- Provide emotional support and information to the offender/victim
- Offer victim information about available resources
- Inform detainee about the investigative process

In addition to verbally describing responsibilities the document contains two checklists; one for medical and one for the shift supervisor. Both of these checklists are comprehensive and detailed. The facility has a sexual assault response team consisting of supervisors, a nurse and a correctional counselor.

**Interviews:** Facility Administrator; PREA Compliance Manager; Randomly Selected and Specialized Staff

**Discussion of Interviews:** Interviews with random and specialized staff confirmed they are all aware of their responsibilities in the event of a sexual assault in the jail.

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

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

**115.66 (a)**

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

**115.66 (b)**

- Auditor is not required to audit this provision.

**Auditor Overall Compliance Determination**

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

**Instructions for Overall Compliance Determination Narrative**

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

The facility has not entered into any collective bargaining agreements. Staff, at the Regional Jails are not unionized therefore there is no collective bargaining and staff maybe removed in accordance with Regional Jail Personnel Policies. This was confirmed by interviews with the Facility Administrator, PREA Coordinator and PREA Compliance Manager. The administration is able to remove any staff who is alleged to have committed an act of sexual abuse or sexual harassment pending any investigation.

**Standard 115.67: Agency protection against retaliation**

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

**115.67 (a)**

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

#### 115.67 (b)

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

#### 115.67 (c)

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

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

#### 115.67 (d)

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

#### 115.67 (e)

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

#### 115.67 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

**Policy and Documents Reviewed:** WVRJCFA Policy 3052, Retaliation; Pre-Audit Questionnaire; Retaliation Monitoring Forms/Regional Jail Authority 90 Day Action Follow-Up Form; Investigation Packages for the past 12 months

**Discussion of Policies and Documents Reviewed:** The agency has 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 of staff. That policy is WVRJCFA Policy 3052, E. Retaliation.

WVRJCFA Policy 3052, E. Retaliation, requires each Facility Administrator to ensure all inmates and staff who have been sexually abused or harassed and who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations, are protected from retaliation by other inmates or staff. Administrators are required to work with the FPCO or other appropriate staff to monitor for retaliation. The agency has designated a staff member with monitoring for possible retaliation.

The PREA Compliance Officer is responsible for monitoring retaliation. Policy requires for at least 90 days following a report of sexual abuse, the FPCO will monitor the conduct and treatment of inmates who reported the sexual abuse or who have suffered sexual abuse or who cooperated with investigators. The FPCO is responsible for taking appropriate measures to protect the individual against possible retaliation. Inmates are provided with the opportunity to meet with the FPCO at least monthly. Protection measures may include: 1) Housing or program changes, facility transfers for the inmate suffering the retaliation; 2) Moving the alleged staff from contact with victims; 3) Providing emotional support services for inmates or staff that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. The Facility Chief of Security is responsible for monitoring staff who reported the sexual abuse. When a staff is being protected from retaliation the Chief of Security will determine if the initial monitoring needs to be extended beyond 90 days. The facility's obligation to monitor retaliation terminates if the facility determines the underlying allegation is unfounded. Policy 3036-A, Procedure M., Inmate Protection, states that protection of witnesses and the victim is paramount throughout the investigation process. If an individual expresses fear of retaliation, the Authority will take appropriate measures to protect the individual against retaliation. If there is retaliation, staff act promptly to remedy the retaliation. Areas the retaliation monitor will monitor include inmate disciplinary reports, housing or program changes for inmates and negative performance reviews or reassignments of staff.

The facility provided a form entitled: "Regional Jail Authority 90 Day Action Follow-Up Form". The form basically documents actions taken and completion dates as well as any trends or patterns. The form documents the original date of the incident, actions by the PREA Officer and completion dates, trends noted, and the need for policy changes, training revisions, or new procedures.

The facility retaliation monitor is the PREA Compliance Manager/Officer. At this facility the PREA Compliance Manager/Officer is a Lieutenant from another facility until the newly appointed PREA Compliance Officer is comfortable in his new role.

The reviewed investigation packages contained retaliation forms documenting the required monitoring with multiple contacts with the inmates following an allegation of sexual abuse.

**Interviews:** Facility Administrator; PREA Compliance Manager/Officer

**Discussion of Interviews:** An interview with the facility's retaliation monitor indicated that in response to an allegation of a report of sexual assault or sexual harassment he would meet with the inmate as soon as he could following an allegation. He also related he would assure them they do not have to worry about retaliation. In response to an allegation, he related he would place the inmate victim and perpetrator on "Keep Away Status", move the abuser or victim, not place the inmate in protective custody unless the inmate wanted to go, and move to another jail. IF staff is involved they are not going to be allowed to work on the same unit, may be placed in central control, away from all inmates. He related he checks and monitors to ensure they are getting someone else to retaliate He would monitor disciplinary reports, loss of privileges in addition to other indicators of retaliation. If a staff is involved, he

would move the staff or assign them to another shift, not be putting the staff on a “bad post”, being written up, etc. Monitoring would be covering intervals of 30, 60, 90 days and beyond if indicated.

## Standard 115.68: Post-allegation protective custody

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

### 115.68 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

**Policy and Documents Reviewed:** WVARJCFA Policy, L., Protective Custody; Pre-Audit Questionnaire; Reviewed Grievances

### Discussion of Policy and Documents Reviewed:

WVARJCFA Policy, L., Protective Custody, requires that use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse is subject to the following requirements:

- Staff consider the opinion of an inmate who is particularly vulnerable to abuse of who is an alleged victim regarding his/her own safety and place him/her in protective Custody when the victim requests it.
- Alleged victims or inmates who are generally at high risk of sexual victimization will not be placed in involuntary segregated housing unless they request it or unless an assessment of all available alternative means of separation from the likely abusers. If no immediate alternatives

are identified the facility may assign inmates to involuntary PC only until an alternative means of separation can be arranged and that assignment will not ordinarily exceed 30 days and at least every 15 days the Shift Supervisor will ensure each inmate in involuntary PC under this policy is reviewed to determine the continuing need for separating from the general population. This review is documented and forwarded to the PREA Compliance Officer and the Agency PREA Coordinator.

- 3) Any assignment to PC must be reported to the PREA Compliance Officer within 24 hours.
- 4) Potential alternative placements can include, but are not limited to moving to a different housing unit; placement in a small section; placement in the medical pod (if available); and transfer to another facility. the basis for the staff member's concern for the inmate's safety; the other alternative means of separation that were explored; and the reason why no alternative means of separation can be arranged.
- 5) If an involuntary PC housing assignment is made the Shift Supervisor will clearly document
- 6) If the facility cannot conduct the assessment immediately, the facility may hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment.
- 7) Assignments to involuntary protective custody ordinarily will not exceed 30 days however extensions beyond 30 days must be approved by the Facility Administrator within 72 hours of being implemented.

Access to programs, privileges, education or work opportunities will be afforded the inmate to the extent possible and when any are restricted, the facility will document the opportunities that have been limited; reasons for limiting them and the duration of the limitation on the report.

The Pre-Audit Questionnaire documented there were no inmates held in involuntary segregated housing in the past twelve (12) months for one to 24 hours waiting completion of assessment.

**Interviews:** Facility Administrator; PREA Compliance Manager; Randomly Selected Staff and Specialized Staff; Randomly Selected and Special Category Inmates

**Interviews Discussed:** An interview with the Jail Administrator and the PREA Compliance Manager indicated there have been no cases involving involuntary protective custody during the past twelve months. The Administrator also confirmed that detainees going into Protective Custody have to request it. He indicated less restrictive means would be used to separate detainees from the potential threat, including putting them into smaller pods. If a detainee went into protective custody the Facility Administrator indicated protective custody inmates (involuntarily placed) would get all the services available to those in the general population.

## 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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**Policy and Documents Reviewed:** WVJCFA Policy, 3036-A, PREA Investigations; Ten (10) reviewed investigations; PREA Audit Questionnaire.

### **Discussion of Policy and Documents Review:**

WVRJCFA Policy 3036-A, PREA Investigations, defines a PREA investigation as a formal in-depth inquiry conducted by the Facility PREA Compliance Officer, the Agency PREA Coordinator, A WVRJCFA investigator or other trained staff member as designated by the Agency Chief of Operations.

The inquiry will investigate acts, inferences and circumstances surrounding an allegation made by any person, information received in the form of a grievance, third party and anonymous reports or information acquired in the normal routine course of business, by any staff, who by virtue of their position came into possession of the allegation/information, which tends to indicate the possibility or PREA and policy violations or criminal activity on the part of an offender, visitor, employee, volunteer, contractor, or other member of the public. A need for an investigation may result from the occurrence of unusual incidents or allegations of inappropriate or illegal sexual conduct of inmates, staff, contractors or volunteers.

Procedures A., General, A., Information, requires the Facility Administrator or Facility Chief of Security to review all PREA allegations and follow current notification processes.

Also, policy requires the Facility Administrator to ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. The Chief of Operations will assign a WVRJCFA Investigator to investigate allegations involving staff. Investigators will investigate all allegations involving staff, court complaints, attorney complaints and lawsuits to include all legal allegations filed against the WV Regional Jail Correctional Facility Authority. The PREA Compliance officers will investigate all grievances and allegations of inmate-on-inmate sexual abuse, assault, misconduct or harassment. Investigations are required to be conducted promptly, thoroughly, and objectively for all allegations including third party and anonymous reports. Policy requires administrative and criminal investigations shall be conducted in accordance with best practice for the investigation of sexual assault and shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative procedures and criminal prosecutions.

The agency's standard of evidence in determining whether an allegation so sexual abuse or sexual harassment is substantiated is a preponderance of the evidence.

Procedure G., Administrative PREA Investigations, requires that when an allegation of sexual abuse is received, a preliminary investigation is conducted by the Facility PREA Compliance Officer or designee immediately after the PREA allegation is reported. If initial review, interview or evidence supports a criminal investigation the FPCO or designee immediately contacts the Chief of Operations. The West Virginia Sate Police are also notified and a criminal investigation is initiated.

In an administrative investigation, the investigator will make every effort to determine whether staff actions or failures to act contributed to the abuse and if staff actions or failures to act contributed to the

abuse. A final report of investigation will be completed. Procedure J., Criminal PREA Investigation, states that when probable cause exists that criminal wrong doing or sexual abuse/assault was committed by an inmate or staff, the West Virginia Police are notified to initiate a criminal investigation. The FPCO Investigator and the WV State Police work together with local county prosecutors to ensure appropriate criminal prosecution of substantiated sexual abuse and staff sexual misconduct. When the quality of the evidence appears to support criminal prosecution, the investigator will conduct completed interviews only after consultation with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

The credibility of an alleged victim, suspect or witness will be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. No inmate alleging sexual abuse is required to submit to a polygraph or other truth telling devices as a condition of proceeding with the investigation.

The format for completing an investigation report are described in Procedure L, Investigation Report Format. The reviewed three (3) investigation packages contained incident reports, witness statements, and where applicable video footage. All the investigation reports were documented on incident reports. Packages also included notifications to detainees of the results of the investigation and incident reviews, where applicable.

The facility reported on the Pre-Audit Questionnaire that there were ten (10) allegations of sexual abuse or sexual harassment received during the past twelve months. Six (6) of those alleged sexual abuse, including alleged touching. One alleged penetration (a mentally ill inmate alleged he thought he had been sexual assaulted) and was referred to the West Virginia State Police and the inmate was taken to the hospital for a forensic examination. Another alleged touching and was turned over to the West Virginia State Police and the inmate was taken to the hospital for a forensic examination. Four (4) of the allegations were officer misconduct, one of which was actually a strip search complaint by an inmate. Two allegations were substantiated. These included an inappropriate comment by an officer to an inmate was related to an allegation another inmate touched another inmate.

The allegations were made the following ways:

- (6) Made to Staff (two of which were by third parties-inmates)
- (2) Made through Grievances
- (1) Made over the intercom to the staff in the "tower"
- (1) Made in a letter to the Facility Administrator

Agency policy regarding the referral of allegations of sexual abuse or sexual harassment for criminal investigations is published on the agency website. An email address and a phone number to the PREA Coordinator are provided for reporting allegations of sexual abuse or sexual harassment. The PREA Policy is available on the website as well. Instructions for reporting provide information to include in the report that will assist the facility in investigating the allegation.

**Interviews:** Facility Administrator; PREA Compliance Manager; Randomly Selected and Specialized Staff; Randomly Selected and Targeted Detainees.

An interview with the PREA Compliance Manager who also serves as the Facility's Investigator confirmed he is knowledgeable of the investigative process and has completed the specialized training provided by the National Institute of Corrections.

## 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

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**Policy and Documents Reviewed:** WVRJCFA Policy 3036-A, #10; Ten (10) Reviewed Investigation Packages; Pre-Audit Questionnaire.

### Discussion of Policy and Documents Reviewed:

WVRJCFA Policy 3036-A, #10., States the agency shall impose a standard of preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. An interview with the Agency PREA Compliance Manager/Officer, who also serves as the facility investigator, has completed the National Institute of Corrections Specialized Training, PREA: Conducting Sexual Abuse Investigations in Confinement Settings, confirmed that the standard of evidence she would use to substantiate a case of sexual misconduct is a preponderance of the evidence.

**Interviews:** Facility Administrator; PREA Compliance Manager

**Discussion of Interviews:** An interview with the PREA Compliance Manager, a Lieutenant, who also serves as the facility's facility-based investigator, confirmed that the standard of evidence he uses to substantiate a case of sexual abuse or sexual harassment is the "preponderance of the evidence."

## Standard 115.73: Reporting to inmates

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

### 115.73 (a)

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

### 115.73 (b)

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

### 115.73 (c)

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

### 115.73 (d)

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

alleged abuser has been convicted on a charge related to sexual abuse within the facility?  
 Yes  No

#### 115.73 (e)

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

#### 115.73 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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**Policy and Documents Reviewed:** WVRJCFA Policy 3036-A, Procedure O., Notification of Inmates; Reviewed (3) Inmate Notification: Determination of PREA Allegation Forms; PREA Audit Questionnaire.

Following an investigation into an allegation that he/she suffered sexual abuse in an agency facility, the facility informs the inmates as to whether the allegation has been determined to be substantiated, unsubstantiated or unfounded. This is to be accomplished through the "Inmate Determination of a PREA Allegation."

WVRJCFA Policy 3036-A, Procedure O, Notification of Inmates, requires that following an investigation into an inmate's allegation that he/she suffered sexual abuse or sexual harassment in a facility within the WVRJCFA, the Facility PREA Compliance Officer at the facility where the inmate is housed will inform the inmate in writing as to whether the allegation has been determined to be substantiated, unsubstantiated or unfounded. If the facility did not conduct the investigation it requests the relevant information from the investigative agency in order to inform the inmate. Information given to the inmate is to be documented. Following an inmate's allegation that a staff member has committed sexual abuse against an inmate (unless the facility has determined the allegation is unfounded) inmates are notified whenever: 1) The staff member is no longer posted within the inmate's pod; 2) The staff member is no longer employed at the facility; 3) The facility learns the staff member has been indicted on a charge related to sexual abuse within the facility; 4) The facility learns the alleged abuser had been indicted on a charge related to sexual abuse within the facility; or 5) The facility learns that the alleged abuser has

been convicted on a charge related to sexual abuse within the facility. Notifications are required to be documented.

The facility's obligation to report under this policy terminates if the inmate is released from the authority's custody.

The facility's Pre-Audit Questionnaire documented ten (10) criminal and/or administrative investigations completed during the past twelve (12) months. It also documented three (3) notifications made to inmates. Two investigations are being conducted by the West Virginia State Police. The Facility-Based Investigator documented notifications to inmates as required and these were documented on the West Virginia Regional Jails Notification Form.

**Interviews:** Facility Administrator, PREA Compliance Manager; Facility-Based Investigator

**Discussion of Policy and Documents Review:**

The facility PREA Compliance Manger confirmed the process for notifying inmates of the results of investigations at the conclusion of the investigation.

## 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

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**Policy and Documents Reviewed:** WVRJACFA Policy 3052; Pre-Audit Questionnaire; PREA Acknowledgment Forms

### Discussion of Policy and Document Review:

Any staff who violates an agency sexual abuse policy will be placed on administrative leave and if the allegations are substantiated the staff will be sanctioned and the presumptive sanction will be termination. Any staff who resigns while an investigation is underway will not avoid the consequences and the investigation will continue. An interview with the Jail Administrator indicated staff violating agency sexual abuse policies will be terminated. Staff violating agency policies against sexual abuse will be referred for prosecution as well.

WVRJACFA Policy 3052, Procedure H., Staff and Inmate Discipline, A., Staff Discipline, requires that when an allegation is made involving a staff member, contract services provider, volunteer or intern or any individual who has business with or uses the resources of the Regional Jail Authority, who engages in, fails to report, or knowingly condones sexual abuse or sexual harassment of an inmate shall be subject to appropriate disciplinary or administrative action.

When an allegation is made involving a staff member, contract service provider, volunteer, intern, or any individual the facility will take appropriate remedial measure and consider whether to prohibit further contact with inmates, in the case of any violation of agency sexual abuse or sexual harassment policy.

WVRJACFA Policy 3052, Page 32, # 12 states that staff members that are alleged perpetrators will be

immediately placed on non-punitive, non-disciplinary suspension pending the outcome of the internal and criminal investigation.

Where evidence suggests that the alleged abuse took place, the staff member will be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.

Termination is the presumptive disciplinary sanction for staff who has engaged in sexual abuse.

Policy 3052 requires, in #12.c., that disciplinary sanctions for violations of policies relating to sexual abuse or sexual harassment, other than actually engaging in sexual abuse, shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

Lastly, policy requires all terminations for violations of sexual abuse or harassment policies, or resignations that staff that would have been terminated if not for their resignation, will be reported to law enforcement agencies, unless the act was clearly not criminal, and to any relevant licensing bodies.

An allegation that a staff member made inappropriate comments to an inmate was investigated and substantiated. The issue was addressed and reflected on the employee performance report, requiring needed improvement.

**Interviews:** Facility Administrator; PREA Compliance Manager; Personnel Manager; Randomly Selected Staff

**Discussion of Interviews:** Interviews with staff indicated they understood the consequences for violating a sexual abuse or sexual harassment policy would result in their being disciplined and possibly terminated. The facility administrator indicated the employee would be disciplined and that would be up to and including termination.

## 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.*

**Policy and Documents Reviewed:** WVRJCFA Policy 3052, Procedure H.; Pre-Audit Questionnaire; Reviewed Investigation Packages (10)

**Discussion of Policy and Documents Reviewed:** WVRJACFA Policy 3052, Procedure H., Staff and Inmate Discipline, A., Staff Discipline, requires that when an allegation is made involving a staff member, contract services provider, volunteer or intern or any individual who has business with or uses the resources of the Regional Jail Authority, who engages in, fails to report, or knowingly condones sexual abuse or sexual harassment of an inmate shall be subject to appropriate disciplinary or administrative action.

When an allegation is made involving a staff member, contract service provider, volunteer, intern, or any individual the facility will take appropriate remedial measure and consider whether to prohibit further contact with inmates, in the case of any violation of agency sexual abuse or sexual harassment policy.

Any volunteer or contractor who violates an agency sexual abuse policy will immediately be removed from the facility and facility grounds and all contact with inmates ceased.

**Interviews:** Facility Administrator; PREA Compliance Manager

**Discussion of Interviews:** Interviews with the Facility Administrator and PREA Compliance Officer confirmed that if the allegations were substantiated, the contractor or volunteer would be terminated from all future services and referred for prosecution as indicated. There were no occasions since the last PREA Audit in which a contractor or volunteer was alleged to have violated any sexual abuse or sexual harassment policy. Policy requires any contractor or volunteer who engages in sexual abuse is prohibited from contact with inmates and is required to be reported to law enforcement agencies, unless the activity was clearly not criminal and to relevant licensing bodies.

## Standard 115.78: Disciplinary sanctions for inmates

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

#### 115.78 (a)

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

#### 115.78 (b)

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

#### 115.78 (c)

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

#### 115.78 (d)

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

#### 115.78 (e)

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

#### 115.78 (f)

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

## 115.78 (g)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*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.*

**Policy and Documents Reviewed:** WVRJACFA Policy 3052, B. Inmate Discipline; Reviewed Investigation Packages (10); Pre-Audit Questionnaire.

**Discussion of Policy and Documents Reviewed:** Any inmate who violates an agency sexual abuse or sexual harassment policy will be sanctioned. If the substantiated allegations were of a criminal nature, the inmate will be referred for prosecution. If the allegations were of sexual harassment the inmate may be sanctioned through the inmate disciplinary code. Inmates will be sanctioned only after a finding of guilt in a due process hearing. Sanctions will take into account the mental status of the inmate as will be commensurate with the charges and sanctions given in similar cases. This was confirmed through reviewed policies and interviews with the Jail Administrator and PREA Compliance Officer.

WVRJACFA Policy 3052, B., Inmate Discipline, provides that inmates are subject to disciplinary sanctions pursuant to the formal disciplinary process following a full investigation that concluded the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse. Sanctions are commensurate with the nature and circumstances of the abuse or harassment committed, the inmate's disciplinary history and the sanctions imposed for comparable offenses by other inmates with similar histories. The disciplinary process considers whether an inmate's mental disabilities or mental illness contributed to his/her behavior when determining what type of sanction, if any, should be imposed. When an inmate is found guilty of a Class 1 Misconduct related to sexual abuse, the Facility PREA Manager will refer the inmate to the psychologist for evaluation and possible treatment. The facility may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact. A report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

Disciplinary action was documented on a substantiated case of harassment. Documentation was provide in the investigation package to confirm the action.

**Interviews:** Facility Administrator; PREA Compliance Manager; Interviewed Staff and Inmates

**Discussion of Interviews:** Interviews confirmed detainees involved in sexual abuse or sexual harassment, following a substantiated allegation, will be sanctioned up to and including referral for prosecution. If the allegation is not criminal, the detainee will be written up and charged with the appropriate rule violation in the disciplinary code.

## MEDICAL AND MENTAL CARE

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

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

#### 115.81 (a)

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

#### 115.81 (b)

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

#### 115.81 (c)

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

#### 115.81 (d)

- Is any information related to sexual victimization or abusiveness that occurred in an institutional setting strictly limited to medical and mental health practitioners and other staff as necessary to inform treatment plans and security management decisions, including housing, bed, work,

education, and program assignments, or as otherwise required by Federal, State, or local law?  
 Yes  No

### 115.81 (e)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*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.*

**Policy and Documents Reviewed:** WVRJCFA Policy 3052, J. PREA Screening Instrument, #11; Reviewed the Mental Health Screening and Assessment (NURSE) Instrument; Reviewed PREA Screening Instruments (30); Reviewed PREA Screening Reassessments (30);

**Discussion of Policy and Documents Reviewed:** WVRJCFA Policy 3052, J. PREA Screening Instrument, #11., states if the screening indicates that an inmate has experienced prior sexual victimization whether it occurred in an institutional setting or in the community, staff are required to ensure the inmate is offered a follow-up meeting with the facility mental health within 14 days of the intake screening. If the screening indicates an inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff are required to ensure that the inmate is offered a follow-up meeting with the facility mental health practitioner within 14 days of intake screening.

Medical staff conduct a Mental Health Screening and Assessment of all detainees on admission into the facility. The form used is the Mental Health Screening and Assessment NURSE. The instrument is a four (4) page document asking the detainee to respond to certain questions with other items documented by the nurse. This is a computer-based screening instrument. Items 22,23, 24, 25, and 26 address PREA. Item 22 is a "yes" "no" statement, saying "History of Sexual Offenses"; #23 documents with either "yes" or "no" a "History of Sexual Victimization" and # 25 inquires into a "History of Violent Behavior, Sexually Abusing/Assaulting Anyone. Further probing asks where designated events offenses occurred. If the detainee endorses number 22, 23, or 25 the computerized screening

instrument sends a “task” to the mental health staff who receive the referral and meet with the detainee within 14 days, usually within a few days, and never more than 14 days.

Several examples were reviewed documenting the referral and subsequent note that they were seen.

If booking staff or the PREA Compliance Manager upon conducting the initial risk assessment have a detainee affirm the question about prior victimization (and either in an institution or not) the staff conducting the assessments informs medical or mental health who then offers the detainee a follow-up with mental health.

The facility provided examples of referrals and documentation that the detainee was seen by mental health and offered counseling.

**Interviews:** Mental Health Director; Health Services Administrator; PREA Compliance Manager

**Discussion of Interviews:** An interview with the Facility’s Health Services Administrator and the facility’s Mental Health Professional confirmed inmates disclosing prior victimization are referred mental health for follow-up. Staff provided examples of referrals made to mental health. Once the disclosure is made, even in the initial screening process, a task is set, notifying the mental health staff of the need for follow-up.

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

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

### **115.82 (a)**

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

### **115.82 (b)**

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

### **115.82 (c)**

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

### **115.82 (d)**

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

**Auditor Overall Compliance Determination**

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

**Instructions for Overall Compliance Determination Narrative**

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

**Policy and Documents Reviewed:** WVRJCFA Policy 3052, A., Allegations of Abuse Occurring Within the Past 96 Hours; WV Regional Jail and Correctional Facility Authority Medical-PREA Checklist; Shift Supervisor – PREA Checklist

**Discussion of Policy and Documents Reviewed:** WVRJCFA Policy 3052, A., Allegations of Abuse Occurring Within the past 96 Hours, requires staff to immediately escort the victim to the facility’s medical unit. If there are no qualified medical or mental health practitioners on duty the shift supervisor will take preliminary steps to protect the victim and immediately notify the appropriate medical and mental health staff. This policy also requires the victim to be transported to the local Emergency Department for further treatment, examination, documentation, collection of forensic evidence and testing for sexually transmitted diseases. Inmate victims of sexual abuse at Potomac Highlands Regional Jail are taken to the emergency room at the hospital in Wheeling, West Virginia.

Staff first responders are required to separate the inmate alleged victim from the alleged abuser. The supervisor is to be notified immediately. The inmate victim is advised not to shower, use the restroom, brush teeth, urinate or defecate or do anything to contaminate, degrade or destroy potential evidence. Staff contact medical staff and take the inmate to medical for evaluation/assessment. The potential abuser is required not to shower or take any actions to contaminate or destroy potential evidence.

The reviewed Shift Supervisor’s PREA Checklist documents the actions of the first responders including the following:

- Alleged victim is taken to medical
- Alleged perpetrator is placed in interview room or dry cell
- Alleged victim and perpetrator instructed to avoid washing, brushing teeth, changing clothing

,urinating, defecating, drinking or eating.

During transport, the shift supervisor ensures the alleged victims keeps his/her clothing on and if the detainee has changed clothes, those clothes are identified and secured in a paper bag, marked, sealed and taken to the hospital. Sheets and blankets, where applicable, are taken as well.

The reviewed Medical- PREA Checklist provides for the following in response to an allegation of sexual abuse:

Initial Medical Care consists of the following:

- Initial Medical Care responsibilities included: 1) Inform the alleged victim of his right to free medical treatment
- Check the alleged victim and treat for injuries that require immediate attention
- Remind the alleged victim to avoid washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating
- Update inmate's medical record with relevant information

Sexual Assault Forensic Exam and Transport

- Inform alleged victim of his right to a free forensic exam in a community hospital
- Notify hospital victim is going to the hospital for a forensic exam
- If a SAFE or SANE is not available at the closest hospital, medical works with shift supervisor to make arrangements for the closest hospital where one is available
- Inform the alleged victim that a victim advocate from the community was called to provide support during the forensic exam.
- The facility medical staff send copies of pertinent information related to things such as the inmate's allergies, medication etc.

Refusal of Sexual Assault Forensic Exam

- Inmate refusing health care services required to document it on a Refusal of Health Care form.
- Inmate is informed about the risks of STI's and pregnancy and is offered testing from the Regional Jail Authority.

One inmate alleged that he "thought" he may have been sexually assaulted while he slept. He revealed this to his mental health counselor. He was assessed by medical and transported to the emergency room to be examined by a sexual assault nurse examiner. The case was turned over to the West Virginia State Police.

**Interviews:** Facility Administrator; PREA Compliance Manager; Health Services Administrator, Mental Health Counselor; Randomly Selected Staff; Specialized Staff

**Discussion of Interviews:** Interviewed medical staff confirmed that inmate victims of sexual abuse would be brought to medical, at which time, medical staff would conduct an assessment to see the extent of any injuries that might require care outside the facility. The inmate would be treated for any serious injuries or wounds and will be seen by the Sexual Assault Nurse Examiner, who will conduct the forensic exam. The medical and mental health staff affirmed the services provided are based on the medical staff's professional judgment and consistent with established and approved protocols. An

interview with the mental health staff confirmed, in an interview, that inmate victims of rape will be seen by mental health and follow-up services will be provided.

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

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

### **115.83 (a)**

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

### **115.83 (b)**

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

### **115.83 (c)**

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

### **115.83 (d)**

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

### **115.83 (e)**

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

### **115.83 (f)**

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

### **115.83 (g)**

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

## 115.83 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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**Policy and Documents Reviewed:** WVRJCFA Policy 3052, A., Allegations of Abuse Occurring Within the Past 96 Hours; Medical- PREA Checklist; Shift Supervisor- PREA Checklist

**Discussion of Policy and Documents Reviewed:** WVRJCFA Policy 3052, A., Allegations of Abuse Occurring Within the past 96 Hours, requires staff to immediately escort the victim to the facility's medical unit. If there are no qualified medical or mental health practitioners on duty the shift supervisor will take preliminary steps to protect the victim and immediately notify the appropriate medical and mental health staff. This policy also requires the victim to be transported to the local Emergency Department for further treatment, examination, documentation, collection of forensic evidence and testing for sexually transmitted diseases.

The Potomac Regional Jail has contacted medical and mental health staff. These staff are required by policy and procedures to 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

When an inmate is alleged to have been a victim of sexual abuse the inmate is taken immediately to medical for assessment, first aid, and transport to the hospital for a forensic exam. At the hospital the inmate will be offered a forensic exam and informed of the risks of STI and offered STI prophylaxis and testing, as indicated. Continued care is provided at the facility, providing any needed services in compliance with the discharge orders. Female victims are offered pregnancy testing when appropriate.

Services provided at the facility are consistent with the community level of care.

Follow-up mental health services are provided as well. These include any additional counseling or treatment consistent with the needs and desires of the inmate victim.

**Interviews:** Facility Administrator; PREA Compliance Manager; Health Services Administrator; Mental Health Professional

**Discussion of Interviews:** Interviews confirmed that inmate victims are going to receive immediate assessment, treatment as needed, a forensic exam and follow-up as needed or provided for in the discharge or other physician's orders. Inmate victims are offered mental health counseling and follow-up, as are perpetrators.

## 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.*

**Policy and Documents Review:** WVRJCFA Policy 3052, Procedure G., Data Collection; PREA Incident Review Form; Completed Incident Review Form.

**Discussion of Policy and Documents Reviewed:** The Potomac Regional Jail requires and conducts 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.

WVRJCFA Policy 3052, Procedure G, Data Collection, addresses Sexual Abuse Incident Reporting in Paragraph A., Sexual Abuse Incident Reporting. Policy requires the PREA Compliance Officer review each report of alleged sexual abuse and collect accurate information for every allegation of inmate-on-inmate sexual abuse and staff-on-inmate sexual misconduct and forward to the Chief Correctional Officer and WVRJCFA PREA Coordinator for review. Paragraph B. Incident Reviews, requires each facility to conduct a Sexual Abuse Incident Review at the conclusion of every sexual abuse investigation where the allegation was substantiated or unsubstantiated. Reviews are not required if the allegation has been determined to be unfounded. Policy requires reviews to occur within 30 working

days of the receipt of the satisfactory investigation notification from the Facility Investigator, WVRJFA Investigator or State Police.

Policy requires the committee to consider whether the allegation or investigation indicates need to change policy or practice to better detect or respond to sexual abuse; consider whether the incident or allegation was motivated by race, ethnicity, gender identity, status or perceived status, or gang affiliation or was motivated or otherwise caused by other group dynamics at the facility; examine the area where the incident allegedly occurred to assess whether physical barriers in the area enabled the abuse; assess the adequacy of staffing levels during different shifts; assess whether monitoring technology should be deployed or augmented to supplement supervision by staff and; prepare a report of findings to the Facility Compliance Officer, the Jail Administrator and WRJFA PREA Coordinator. The committee also is charged with ensuring any deficiencies in inmate supervision are promptly identified and corrected.

The Incident Review Committee is addressed in Paragraph C., Incident Review Committee. The committee is chaired by the PREA Compliance Officer and in collaboration with the Chief of Security, will determine the exact composition of the team based on the nature of the incident. Minimally, the team consists of 1) Facility PREA Compliance Officer; 2) Chief of Security; 3) Director of Inmate Services; 4) Facility Health Care Administrator; Counselor; 5) Administrator and 6) Agency PREA Coordinator, when necessary. The facility is required to implement the recommendations for improvement and/or document the reasons for not doing so. The PREA Coordinator reviews all reports of Sexual Abuse and Incident Review from the facilities, as well as all investigations of sexual abuse.

Incident-based data is retained and compiled and aggregated data collected in order to assess and improve the effectiveness of the agency's PREA prevention, detection and response. The incident-based data collected includes at a minimum, the data necessary to answer all the questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice. The PREA Coordinator maintains, reviews and collects data as needed from all available incident-based documents, including reports, investigation files and sexual abuse incident reviews.

Incident Reviews are documented on a PREA Incident Review Form. The form is a two-page document that identifies members of the review team, recommendations related to prevention, detection and response, documentation of the dynamics (motivations involved), as well as a host of questions that essentially dissect the incident. In addition to the dynamics being considered, the review considers physical barriers, staffing levels, deployment of monitoring technology and whether or not recommendations were implemented and if not, the reasons.

There were two (2) actual cases involving sexual abuse; these included (3) allegations made during the past 12 months. One (1) of the three (3) documented the required incident reviews. One of the incidents was determined to be unfounded after and inmate said the sexual contact was consensual and a third allegation was referred to the West Virginia State Police.

The documented team members included the following:

- PREA Compliance Manager  
Lieutenant
- Director of Inmate Services
- Medical Staff

The reviewed PREA Sexual Abuse Incident Review Form documented the following:

- Policy changes
- Recommendations for improvement with regard to prevention, detection, and response
- Motivations documented having been considered included: race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, intersex, inmate status, perceived status and gang affiliation; and after each one the team rated each motivating factor and rated the degree to which the dynamics played a role in the alleged incident: none, minimal, moderate, high

The agency goes further with the dynamics by asking the question, "Were the above dynamics recognized or addressed during the initial screening and classification process?" Why or why not? A place is also provided to comments on other group dynamics that may have played a role in the alleged incident.

- Physical barriers
- Staffing levels
- Deployment of technology

And lastly the form asks the question, "Were the recommendations implemented? Why or why not?"

**Interviews:** Facility Administrator; PREA Compliance Manager; Members of the Incident Review Team

**Discussion of Interviews:** Interviewed members of the Incident Review Team described a process in which they meet within 30 days after the conclusion of an investigation to essentially consider the incident and to attempt to assess the areas identified on the Review Form to determine if there was anything the facility might have done or could potentially do in the future to prevent future incidents. All of the members could name the other members and the process described was consistently the same.

## 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.*

**Policies and Documents Reviewed:** WVRJACFA Policy 3052, Procedure G., Data Collection; PREA Monthly Statistical Report; Annual PREA Report FY 2017.

**Discussion of Policies and Documents Reviewed:** Data collection is addressed in WVRJACFA Policy 3052, Procedure G., Data Collection. Each FPCO is required to review each report of alleged sexual abuse and collect accurate information for every allegation of inmate-on-inmate and staff-on-inmate sexual abuse and staff-on-inmate sexual misconduct. Monthly the incident-based data reports are submitted to the WVRJACFA PREA Coordinator by the 7<sup>th</sup> of the following month. The data collected at a minimum includes the following:

- 1) Total number of allegations of inmate-on-inmate nonconsensual sexual acts and abusive sexual contacts;
- 2) Total number of staff sexual misconduct and staff sexual harassment allegations;
- 3) Each inmate and staff sexual misconduct allegation must include the incident of investigation number and the disposition;
- 4) Dispositions for each allegation are reported as substantiated, unsubstantiated, unfounded or ongoing;
- 5) The statistical portion of the report is completed for substantiated allegations.

Incident-based data collected includes, at a minimum, the data necessary to answer all the questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.

Data is aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection and response policies, practices and training by identifying problem areas; taking corrective action on an ongoing basis; and preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.

WVRJ&CFA PREA Monthly Statistical Report, Policy 3052, Attachment E., is a four page document for facilities to submit a wide variety of data, monthly, to the Agency's PREA Coordinator. Data includes the following:

- Numbers of allegations of nonconsensual sexual acts; abusive sexual contacts; sexual harassment; staff sexual misconduct; and staff sexual harassment
- Incident Report and/or Investigation Numbers
- Dispositions per allegation (substantiated, unsubstantiated or unfounded)

Page two (2) of the report asks for the following data for each victim:

- Date of report/incident
- Location of incident
- Video monitoring present
- Time of incident
- How many victims involved
- Age of the victim
- Race/Ethnicity of each victim
- Physical injuries
- Medical treatment for injuries
- Who reported the incident
- Was the victim given 1) Medical exam; 2) Rape Kit; 3) Tested for HIV; 4) Provided counseling or mental health
- Offered but declined
- Already released/discharged
- Type of sexual violence

Page three (3) solicits information on the alleged perpetrator and includes”

- Gender identity
- Age

- Race/ethnicity
- Nature of the incident
- Types of pressure or physical force used by the perpetrator on the victim
- Sanction imposed on the perpetrator

Page four (4) deals with staff on inmate sexual abuse and sexual harassment and asks for the following information:

- Nature of incident
- How many staff involved
- Gender of staff
- Age
- Employee, Contractor or Volunteer
- Primary Position of the staff
- Sanction imposed
- How long staff had worked at facility

The WVRJCFA PREA Coordinator submits an annual report of the aggregate data to include facility recommendations and corrective actions to the Chief of Operations no later than June 30 of each year. It includes comparisons of the current year's data and corrective actions with those from prior years and includes an assessment of the progress in addressing sexual abuse.

Specific material is redacted when publication would present a clear and specific threat to the safety and security of a facility but must indicate the nature of the material redacted.

**Interviews:** Previous interview with the PREA Coordinator; PREA Compliance Manager; Facility Administrator

**Discussion of Interviews:** Interviews confirmed the facility compiles statistics and submits a statistical report to the agency's PREA Coordinator monthly. The PREA Coordinator utilizes the information to develop strategic plans and plans for addressing issues in specific facilities and the agency as a whole.

## 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.*

**Policy and Documents Review:** WVRJCFA, C. Incident Review, Paragraph 10; Annual PREA Report FY 2017; RJA Website – <http://rja.wv.gov/Pages/PREA.aspx>

**Discussion of Policy and Documents Reviewed:** WVRJCFA 3052, C. Incident Review, Paragraph 10, requires the PREA Coordinator to aggregate the data in-order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training by identifying problem areas, taking corrective action on an ongoing basis; and preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.

Policy also requires the PREA Coordinator to submit an annual report of the aggregate data to include facility recommendations and corrective actions to the Chief of Operations no later than June 30th of each year. The report must include comparisons of the current year's data and corrective actions with those from prior years and will include an assessment of the WVRJCFA's progress in addressing sexual abuse. The information from the aggregated sexual abuse data from all facilities is readily available to the public at least annually through the WVRJCFA website.

The agency, may, according to policy, redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but indicate the nature of the material redacted. All personal identifiers are removed from the aggregated sexual abuse data before making the data public. The report is required to be approved by the Director or Deputy Director of the WVRJCFA. Upon request, the WVRJCFA will provide all such data from the previous calendar year to the Department of Justice no later than June 30 of each year.

The reviewed Annual PREA Report FY 2017 describes the data collected. Data from FY 2017 for each facility is provided. Additionally, the report provides a Comparative Data Analysis comparing the statistical data from FY 2013 through FY 2017. In addition to the numbers provided the report discusses the comparison between 2016 and 2017. The Coordinator describes the agency's initiatives to attempt to prevent and at least reduce the incidents of PREA allegations in the Agency's Regional Jails. He indicated in reviewing the allegations from each facility, it was clear to him that the staff is implementing the PREA information received and are aware of the PREA guidelines. He reported that "all PREA allegations are addressed immediately upon their receipt and all the allegations are immediately investigated."

The reviewed website for the West Virginia Regional Jail Authority confirmed the Annual PREA reports are posted for the public to review and the first page of the agency website has a PREA icon that, when clicked, takes the viewer to the PREA page that includes important PREA related information as well as the Annual Reports and facility PREA Audit Reports.

## **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.*

#### Policies and Documents Reviewed: WVRJCFA Policy 3052, C.7

#### Discussion of Policies and Documents Reviewed:

WVRJCFA Policy 3052, C.7, requires the PREA Coordinator to retain and compile incident-based and aggregated data collected in order to assess and improve the effectiveness of the agency's PREA prevention, detection and response. All sexual abuse data is required to be maintained for at least 10 years after the date of its initial collection.

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

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

##### 115.401 (a)

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

##### 115.401 (b)

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

##### 115.401 (h)

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

##### 115.401 (i)

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

##### 115.401 (m)

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

##### 115.401 (n)

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

#### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

*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 PREA Coordinator confirmed and a review of the agency's website indicated the agency has ensured that each of the Regional Jails, starting on August 20, 2013 and during each three-year period thereafter, each facility operated by the agency was audited at least once. During each one-year period starting on August 20, 2013, the agency had 1/3 of the Regional Jail Authority's Facilities was audited.

The auditor was provided complete and unfettered access to all areas of the facility. Space in an office was provided for the auditor to conduct interviews with complete privacy. When additional documentation was requested it was provided expeditiously. During the on-site review, the auditor freely walked around the facility, interviewing informally, staff and probationers. This audit was conducted by two (2) Certified Auditors. The associate auditor was also provided space enabling her to privately interview randomly selected and targeted detainees. Too, she was allowed access to any area of the facility at any time requested.

The auditor received facility information in hard copies prior to the on-site audit. The provided documentation included policies, procedures, forms, MOUs, Contacts, agreements, and samples of documentation to confirm the Potomac Highlands Regional Jail's practices. While the information provided was informative and voluminous, the lead auditor requested additions documentation and explained that additional documentation would be needed to be provided on-site. The PREA Compliance Officer was always professional and receptive to any request or suggestions made by the auditors.

The PREA Notice was observed posted throughout the facility. The notice contained contact information for the auditor. The auditor did not receive any correspondence as a result of the notice posting. During the tour of the facility the auditor informally talked with detainees and staff. None of the detainees requested to talk with the auditor in private. Interviews were conducted in complete privacy and every resident chosen for interviews participated in the interviews. The audit was free to move about the facility at will, providing the opportunity for any resident to communicate with the auditor, if they needed to.

The PREA Compliance Officer, a Lieutenant, related the Facility Administrator supports him and his efforts to implement PREA. An interview and discussions with the Facility Administrator during the audit indicated he is committed to zero tolerance and communicates that both verbally and by limiting the duties of the Administrative Lieutenant to enable him to devote quality time to PREA and to PREA related investigations.

Corrective actions were developed to address deficiencies identified in the audit. These are addressed in the Corrective Action. The auditors assisted the facility in developing corrective action plans. The facility provided documentation of the completion of the corrective action plan on April 30, 2018 and a follow-up May 5, 2018.

## Standard 115.403: Audit contents and findings

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

### 115.403 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*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 Regional Jail Authority's PREA Coordinator ensures that all PREA Reports are published on the agency's website within 90 days of the completion of the report. Reports for all facilities for all reporting periods are posted on the agency's website and easily accessible to the public.

The auditor reviewed the Agency's website and reviewed a sample of PREA reports as well as annual reports that were posted on the website.

## 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.

Robert Lanier \_\_\_\_\_

May 15, 2018 \_\_\_\_\_

**Auditor Signature**

**Date**

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

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