



**PREA AUDIT REPORT Final Report ADULT PRISONS & JAILS Date of report: January 3, 2018**

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<b>Date of facility visit:</b> October 12-13, 2017			
<b>Facility Information</b>			
<b>Facility name:</b> East Jersey State Prison			
<b>Facility physical address:</b> 1100 Rahway Ave. Avenel, NJ 07001			
<b>Facility mailing address:</b> (if different from above) Lock Bag R, Rahway, NJ 07065			
<b>Facility telephone number:</b> (732) 499-5010			
<b>The facility is:</b>	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> State	<input type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
<b>Facility type:</b>	<input checked="" type="checkbox"/> Prison	<input type="checkbox"/> Jail	
<b>Name of facility's Chief Executive Officer:</b> Patrick Nogan			
<b>Number of staff assigned to the facility in the last 12 months:</b> 398			
<b>Designed facility capacity:</b> 1410			
<b>Current population of facility:</b> 1217			
<b>Facility security levels/inmate custody levels:</b> Max, close, medium, gang minimum, full minimum			
<b>Age range of the population:</b> 22-80			
<b>Name of PREA Compliance Manager:</b> Cindy Sweeney		<b>Title:</b> Associate Administrator	
<b>Email address:</b> Cindy.Sweeney@doc.nj.gov		<b>Telephone number:</b> (732) 396 - 2727	
<b>Agency Information</b>			
<b>Name of agency:</b> New Jersey Department of Corrections			
<b>Governing authority or parent agency:</b> (if applicable) New Jersey			
<b>Physical address:</b> Whittlesey Road, Trenton, New Jersey 08625			
<b>Mailing address:</b> (if different from above) P. O. Box 863 Trenton, New Jersey 08625			
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<b>Agency Chief Executive Officer</b>			
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<b>Agency-Wide PREA Coordinator</b>			
<b>Name:</b> Jennifer Malinowski		<b>Title:</b> Director, Office of Policy and Planning	
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## AUDIT FINDINGS

### NARRATIVE

On October 12-13, an audit was conducted at the East Jersey State Prison to determine compliance with the Prison Rape Elimination Act standards finalized August 2012.

A complete tour of the facility was conducted on October 12-13, 2017. Areas and operations were observed during this tour that included the following:

- Minimum Camp
- Housing units 1, 2, 3 & 4, which includes restrictive housing
- Medical area, infirmary (12 beds)

Administrative building, industries, laundry, commissary, programming, library, barbershop, education building, recreation, food service, laundry and chapel.

Documents reviewed for this audit prior to and during the audit included the completed PREA questionnaire, policies, contracts, training curriculums, staff training records, documents from personnel files, contract/volunteer training records, housing unit assignments, housing unit log books, PREA incident review meeting minutes, and sexual abuse & harassment complaints. Cameras and monitoring operations were also examined.

Formal staff interviews were conducted through random selection of staff during the audit as well as scheduled interviews with specialized staff. They were conducted with the following: The Administrator (Superintendent), PREA Compliance Manager (Associate Administrator), Human Resources, medical staff (Health Services Administrator, Mental Health Administrator, RN who are also contractual staff), thirteen corrections officers/supervisors from all areas of facility and shifts (including special management housing), industry supervisor, chaplain (volunteer coordinator) and two investigators. Informal interviews were conducted with several staff throughout the tour addressing questions relevant to the operations and the standards.

A total of twenty seven formal interviews with offenders were held. Inmate interviews were conducted in a conference room off the main hallway where inmate movement occurs. Included in this group were two inmates who wrote letters, one inmate identified as transgender/homosexual, two potential victims, one limited English. Two declined the interview in the presence of the auditor after explaining the purpose.

A total of 16 hours was spent observing, touring, and interviewing at the facility during the dates noted. The auditor was allowed free access to all areas of the facility, access to interview inmates and staff and to see any documentation requested. Posters were visible throughout the facility announcing the audit. Inmates indicated they were aware that there was an audit.

## **DESCRIPTION OF FACILITY CHARACTERISTICS**

East Jersey State Prison, the state's second-oldest institution, provides maximum, medium and minimum security programs for adult male inmates. The facility is the 1800's Auburn style, with a rotunda and "spokes" which comprise the housing units. One level of one unit serves at the restrictive housing area, another wing is dormitory style housing, two units are doubled bunked and two provide single cells. There is a food service operation and inmate dining area which is the exception for New Jersey Department of Corrections. There are eight infirmary beds available and three observation cells located in the medical clinic. The minimum custody camp is located outside the main prison and provides workers to support the outside grounds and other needed assignments.

Modifications to showers have been made to make individualized shower stalls with separation barriers and opaque covering to afford privacy but allow security staff to maintain safety.

The mission of the New Jersey Department of Corrections is to protect the public by operating safe, secure, and humane correctional facilities. The mission is realized through effective supervision, proper classification, appropriate treatment of offenders, and by providing services that promote successful reentry into society.

## **SUMMARY OF AUDIT FINDINGS**

Number of standards exceeded: 2

Number of standards met: 40

Number of standards not met: 0

Number of standards not applicable: 1

## **Standard 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

New Jersey Administrative Code Title 10A Corrections, Chapter 4 Inmate Discipline, Subchapter 12 Zero Tolerance Policies of the Department of Corrections (b) In accordance with the Federal Prison Rape Elimination Act of 2003 (PREA) 42 U.S.C. §§ 15601 et. seq., the Department maintains a zero tolerance for the incidence of sexual assault.

Zero Tolerance Policy: Prison Sexual Assault Policy Number IMM.001.004 Revised: July 1, 2013 and Level I Internal Management Procedure # IMM.001.PSA.001 Zero Tolerance of Prison Sexual Assault May 24, 2016

“It is the policy of the New Jersey Department of Corrections to maintain a zero tolerance toward all forms of sexual abuse and sexual harassment, and actively enforce all internal policies and procedures related to the prevention, detection, and response to such conduct. When the NJDOC learns that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate. The NJDOC is committed to ensuring the protection of victims of sexual assault, and will employ multiple measures, including but not limited to, housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or harassment or for cooperating with investigations in order to fulfill this commitment.

Furthermore, the NJDOC will fully investigate and aggressively prosecute those who are involved in such conduct if, in fact, a crime has been committed. Any staff who is terminated for a violation of the zero tolerance prison sexual assault policy shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies. “

In addition, the policy outlines how the agency will prevent through training of all staff, contractors, volunteers and inmates. “All staff and offenders are to be alert for behaviors in offenders which may indicate that some form of sexual abuse may be occurring or offenders are at risk for sexual abuse. Some of these include: changes in routine, mood or behavior, to include eating, hygiene and sleeping habits; avoiding staff members or staying too close to staff; staying out of dining halls or showers, requesting cell changes, etc.” Finally, it outlines a detailed response plan for all staff and custody in the event an incident is witnessed or a report is received.

Sexual Assault/Prison Rape Elimination Act (PREA) Advisory Committee written January 15, 2008, updated July 2013 and reviewed March 2017 indicates the New Jersey Department of Corrections has a zero tolerance for all forms of abuse and harassment. The Department ensures policies that address the prevention, detection, and response to any conduct as defined by this policy (which is in accordance with the PREA definitions). This policy establishes a PREA Advisory Council of which the Agency PREA Coordinator is a member, appointed by the Commissioner. This council is also represented by the Special Investigations Division, Office of Community Programs and Outreach Services, Office of Victim Services, Office of Policy and Planning, Mental and Medical Services, Corrections Ombudsman and Office of Transitional Services. This committee provides a direct link to the Commissioner. This committee is tasked with many functions including review of policy/procedure, specific cases involving sexual assault, recommendations for changes in policy/procedure, physical plant or staffing. This Committee meets at least every 30 days to also review completed sexual assault investigations.

Each facility has a PREA Compliance Manager who is of the rank of Deputy Superintendent to oversee all concerns regarding the requirements of the PREA standards. The responsibilities of the institutional PREA Compliance Manager include, but are not limited to, the following:

A. The utilization and data entry into the PREA Tracking System (PTS) for the identification and monitoring of inmates at

facility.

- B. The daily review of institutional PREA electronic email alerts.
- C. The review of PREA electronic email alerts to ensure that specific recommendations contained within the alert have been implemented. These recommendations can include the following but are not limited to:
  - 1. Special housing conditions
  - 2. Special treatment conditions
  - 3. Specific recommendations for follow up
- D. Accept and forward for investigation, reports of sexual abuse and harassment, retaliation by other inmates, staff or other individuals who cooperated in investigation, and any staff neglect or violation of responsibilities that may have contributed to such incidents. Reports may be made privately, orally, in writing, anonymously and from third parties. All oral reports must be promptly documented and coordinated with Administration, Special Investigations and Operations to take appropriate measures to protect those individuals against retaliation.
- E. The weekly review of PREA electronic courtesy alerts and confirmation that PREA identified inmates are still housed at facility.
- F. Interview inmates who previously alleged sexual victimization within 45 days of allegation to ensure they haven't experienced retaliation because of their allegation(s). For at least 90 days following report of sexual assault/harassment allegation, monitor by way of periodic status checks with the NJDOC PREA Retaliation Monitoring Form (FORM-PREA.AC Retaliation). The Institutional PREA Compliance Manager will deliver a copy of this form to the inmate who will sign for same. A copy of the signed form will be maintained by the PREA Compliance Manager and placed in Folder 115.67 on the DOCNet I drive.

Determination of compliance is based on review of the policies noted above, interview with the PREA coordinator and PREA Compliance Manager, review of randomly selected central office incident reviews and the facilities review process in addition to the review of tracking mechanisms. The PREA Compliance Manager reports directly to the Administrator.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

NJ DOC contracts with 16 community centers operated by private agencies for a total of 2642 beds. Contracts are extended through to 2018. This facility is responsible for oversight of The Harbor, Tully House, and Urban Renewal. PREA audits have been conducted at each of the centers demonstrating compliance. These halfway house operations are included with the facility's statistics and investigations.

#### **Standard 115.13 Supervision and monitoring**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Post Trick Analysis/Baseline Custody Staffing Policy 3301 recognizes staffing levels as a dynamic and continuous process which addresses design and layout of the physical plant, custody level and programming. Requests for staffing can be submitted at any time and will be reviewed, analyzed and assessed by central office within weeks.

This operation uses numerous accepted correctional practices: Staffing levels are reviewed daily at the administrative staff morning meeting, inmate movement is well controlled with the practice of limiting mass movement, and limiting the number of inmates who can move from place to place. Corrections officers assigned to housing units are keenly aware of the inmates located in their unit and actively work to prevent problems from occurring (based on staff interviews and observations during the tour).

There are no judicial findings of inadequacy; there are no findings of inadequacy from Federal investigative agencies, there are no findings of inadequacies from internal or external oversight bodies. Review of physical plant and blind spots are done through security reviews and audits conducted regularly at this facility. The composition has remained the same. Staffing levels are reviewed annually with the specific purpose of assessing sexual abuse and harassment elimination which involves the direct participation of the PREA Coordinator. There are no applicable state laws, local laws or regulations that affect PREA standards.

Number and placement of supervisory staff is reviewed through budgetary review daily. Supervisors were located throughout the facility. Supervisory presence was evident when reviewing logbooks in the housing units. Informal interviews with staff and inmates support that supervisors are readily available and make frequent unannounced visits to the units.

Searches of Inmates and Correctional Facilities Effective Date: September 15, 2007 , Revised: March 20, 2014 Internal Management Procedure # CUS.001.SEA.001 states, "The intermediate-level and higher-level corrections staff are to conduct and document unannounced supervisory rounds at random times every month. These rounds are for the purpose of identifying and deterring sexual abuse and sexual harassment being carried out by corrections staff members. Staff members are prohibited from alerting other staff members that these rounds are occurring, unless such an announcement is related to a legitimate operational function. These rounds are to occur during both the day shifts and night shifts. "

Compliance based on policy, review of all housing unit log books, staff interviews, inmate interviews, union presence (who will not allow staffing levels to go too low) and review of 12 randomly selected daily assignment rosters.

#### **Standard 115.14 Youthful inmates**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

N.J.S.A. 2A:4A-26.1 (P.L. 2015 c.89) provides that juveniles "shall serve any custodial sentence imposed in a State juvenile facility operated by the Juvenile Justice Commission (JJC) until the age of 21." Therefore, no youthful offenders are housed at any NJDOC facilities.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Searches of Inmates and Correctional Facilities Effective Date: September 15, 2007 supports the requirements of this standard. Pat searches are conducted when an inmate is fully clothed. Either male or

female officers regardless of the sex of the inmate may conduct pat searches. *N.J.A.C. Title 10A: 3-5.6*. Strip searches are conducted while the inmate is unclothed. Custody staff of the same sex as the inmate conducts strip searches. *N.J.A.C. Title 10A: 3-5.7* Strip searches of inmates may be conducted by custody staff of the opposite sex under emergent conditions as ordered by the Administrator, Assistant Superintendent or the highest-ranking custody supervisor on duty. *N.J.A.C. Title 10A: 3-5.7(d)*.

Searches of Inmates and Correctional Facilities Internal Management Procedure CUS.001.SEA.001 March 20, 2014 specifies how body cavity searches are to be conducted. Females are not involved in the process at male facilities.

Gender Restrictions of Custody Posts Policy Number CUS.003.001 states, "In order to accommodate the privacy interests of inmates, modesty barriers are provided in all multiple shower head shower areas and unobstructed view single head shower areas and shall be permitted on open-bar cell doors from base to lock-level provided immediate ingress is not impeded. In dormitory housing, one modesty panel per fifty inmates shall be available at the officers' desk. Modesty panels shall be available for inmates' use while changing, but must be used within sight of the officer." When an opposite-gender staff member enters a housing unit where there is not already another opposite-gender staff present, the opposite-gender staff is required to verbally announce their arrival on the unit by announcing "male/female on the floor." This policy applies to both custody and non-custody staff.

Training curriculum demonstrates that staff have been appropriately trained on pat down searches, strip searches, and transgender searches. Professionalism, dignity and respect were emphasized.

It was reported that no cross gender strip searches or cavity searches by opposite gender staff have occurred; the auditor found no evidence to dispute this statement during the entirety of the audit process. Finding of compliance based on review of policy, staff, training curriculum, formal and informal interviews with staff and formal and informal interviews with inmates.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Americans With Disabilities Act and New Jersey Law Against Discrimination – Reasonable Accommodations for Inmates Revised: November 30, 2015 Policy Number IMM.002.003, "The Department shall ensure that inmates with disabilities shall have equal opportunity to participate in or benefit from the Department of Correction's efforts to prevent, detect, and respond to sexual abuse and sexual harassment in accordance to the standards of the Federal Prison Rape Elimination Act of 2003. "

Deaf/Hard of Hearing Inmates Internal Management Procedure PCS.001.DFH.01 August 15, 2016 supports all methods for communication and to ensure participation for hard of hearing prisoners.

Limited English Proficient (LEP) Language Assistance: Bilingual Staff and Use of the Language Line June 29, 2017. Except in emergency circumstances, other inmates shall not be utilized to provide interpretation for LEP inmates in significant matters that include psychological, medical and safety. An exception may be made for trained counsel substitutes in disciplinary proceedings. During the intake process, staff will employ necessary measures to accurately identify LEP inmates and the languages they speak. This should be accurately reflected on each inmate's face sheet. A system of on-going identification and tracking for each identified inmate will be facilitated by the inclusion of a "flag" on the face sheet, which denotes LEP status and the inmate's primary language. To change an inmate's LEP designation after intake, utilize Form 160 "LEP Designation/Change". A print and fillable version of Form 160 are located on the NJDOC intranet, Forms Management

System. Completed forms shall be forwarded to the facility's LEP coordinator. Staff shall be trained annually on the availability of the Language Line and how to access this service, and a copy of the training attendance shall be sent to the Director of the Office of Educational Services. The DOC will continually monitor the effectiveness of its policy and/or IMPS and where needed implement alternative methods to ensure sufficient communication with LEP inmates. Posters shall be prominently posted at several key areas of each facility that notifies the inmate population of the availability services to assist LEP inmates. Inmates will be advised that the Department will provide LEP inmates free interpretation and translation services relative to inmate programming, safety, medical, and quasi-legal proceedings. Acknowledged on the back of inmate id card, form preferred method of communication, request for TDD call form, cell magnet.

Compliance determined by observations during the audit tour and interviews. The auditor interviewed a hard of hearing inmate with the assistance of an interpreter. The auditor has used the language line to interview limited English inmates. Posters regarding the language line were visible as well as posters in English and Spanish regarding the PREA requirements and the audit. Staff could readily identify inmates who were disabled, have special mental health needs and who have limited English skills.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Pre-Employment and ID Card Renewal Background Checks: Issuance of Employee/Volunteer ID Cards Policy Number ADM.006.007 states, "To establish a policy whereby a background check is conducted on all individuals being considered for employment (including permanent, temporary and contract employment positions) with the NJ DOC, and for those individuals being considered to work as volunteers within the Department. Background checks will also be conducted as NJ Department of Corrections (NJ DOC) ID cards expire and individual renews the ID card. The background checks are conducted by the Special Investigations Division and the results of the background check determine if an applicant is suitable for employment and/or performing volunteer services for the Department. All approved applicants will be fingerprinted and NJ DOC ID cards, specific to the employment/volunteer position, will be issued to the new employees/volunteers."

The NJ DOC conducts background checks at least every five years for current permanent employees, every three years for contractors, and annually for temporary employees and volunteers. The background checks are completed by the Special Investigations Division at the time the NJ DOC ID card is renewed. In addition, any DOC employee being considered for promotion receives an updated background check before a promotion can be approved. The process requires completion and submission of a PREA compliant background check form to enable SID to run the background. There is a 28 page questionnaire, returned notarized, with notification of duty to report even during the application process.

Policy Number PSM.001.001 The Reporting of Summons, Arrests, Incarcerations: The Confiscation of Firearms and/or Suspension of Firearms Privileges of New Jersey Department of Corrections Employees Revised: September 1, 2013 Reviewed: September 2015 mandates continuous reporting by staff.

Staff Selection and Promotions Policy Number PSM.001.011 Revised: March 10, 2014 Reviewed: March 2015 In accordance with the Prison Rape Elimination Act (PREA) of 2003-115.17, the NJ DOC will also consider any incidents of sexual harassment in determining whether to hire and/or promote applicants/employees. The applicant/employee shall be advised by the NJ DOC Office of Human Resources that the Department does not hire or promote anyone who has engaged in sexual abuse, has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force or coercion, or if the victim did not consent or was unable to consent or refuse, or; has been civilly or administratively adjudicated to have engaged in the activity described herein. In interviews for hiring or promotions,

applicants/employees shall be asked about the above. Material omissions regarding such misconduct or the provision of materially false information shall be grounds for termination.

**Résumé Review Criteria and PREA Check:** The Résumé Review Criteria form shall include a PREA hiring eligibility check for all candidates. 1. New Hires: Each candidate shall indicate on the background check form whether he or she 1) has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other 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 in number 2 of this paragraph. 2. Promotional Candidates: The HR Manager will ensure completion of an updated background screening by contacting SID, EED and Employee Relations to ensure that currently employed promotional candidates meet the same PREA related standards as described for new hires in subsection 1 above.

Interview with the Human Resource manager on site supports that they will provide information on prior employees with a signed release from that employee. Review of three randomly selected staff paperwork supports compliance with the procedure. Interview with the investigators regarding actions taken when conducting a background check supports compliance. Interviews with staff who had three years or less with the department supported a finding of compliance as well.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Capital Planning and Construction: Mission, Goals and Objectives SOP.001.000 Revised: February 1, 2014

“The mission of the Capital Planning and Construction Unit is to provide for the shelter needs of the Department of Corrections and to provide controlled, safe and healthy living environments for all staff and inmates. “

“H. To ensure the protection of inmates from sexual abuse in accordance with the standards of the Federal Prison Rape Elimination Act of 2003.” No new modifications have been made to this facility.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Special Investigations Division Internal Management Procedure #014 is as follows:

I. PURPOSE: To establish a policy to be followed in all sexual incidents which is designed to insure the integrity of evidence and to provide for the safety of staff and/or inmates involved in sexual assaults.

II. DEFINITIONS: Federal Prison Rape Elimination Act of 2003 (PREA): This act was established to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and provide information, resources, and recommendation and funding to protect individuals from prison rape.

III POLICY This procedure will conform with the current New Jersey Administrative Code ET AL and the New Jersey Statutes on Rules of Evidence and the Federal Prison Rape Elimination Act.

Investigation Procedures #035 Revised January 2016 states The New Jersey Department of Corrections assigns the responsibility of investigating violations of the laws of the State Of New Jersey, as well as violations of the New Jersey Administrative Code (10A) and NJ Department of Corrections policies and procedures by inmates, employees and other individuals who visit NJ Department of Corrections facilities to the Special Investigations Division. All Special Investigations Division investigators will be required to complete the New Jersey Division of Criminal Justice Basic Course for investigators. The specialized training received by members of the Division ensures that such investigations are done thoroughly, competently, in an unbiased objective manner and using the most modern techniques and equipment possible. While remaining cognizant of the limitations and ramifications of the use of such techniques, any lawful techniques to perform an investigation may be used.

Health Services Unit Internal Management Procedures Sexual Assault Internal Management Procedure # MED.MLI.007  
“The New Jersey Department of Corrections also mandates that the healthcare staff shall follow the institution’s written plan for responding to allegations of sexual assault of inmates. The assaulted inmate will be transported to an Emergency Department properly equipped to assess (i.e. SANE Nurse), treat, and provide required prophylaxis, contraceptives, pregnancy termination counseling and gathering of forensic evidence. Healthcare staff shall not be involved in the management or treatment of sexual assault cases unless it is necessary to stabilize the inmate before the transfer to the appropriate community facility. Such care may include the control of bleeding or stabilizing of other injuries incurred, but most frequently would involve emotional support and understanding.”

Hospitals that have certified staff to conduct forensic examinations also have a Sexual Assault Response Team which includes a qualified rape crisis advocate from the community who reports to the hospital. Compliance based on review of policies, law regarding victim advocacy services, and interviews with staff and the S.I.D. investigators. There has not been an incident requiring transport for a forensic exam in the past 12 months.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Procedures for Sexual Offenses Internal Management Procedure #014 March 2015PURPOSE Establishes a policy to be followed in all sexual incidents which is designed to insure the integrity of evidence and to provide for the safety of staff and/or inmates involved in sexual assaults. It includes the following:

II. DEFINITIONS: Federal Prison Rape Elimination Act of 2003 (PREA): This act was established to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and provide information, resources, and recommendation and funding to protect individuals from prison rape.

III POLICY: This procedure will conform with the current New Jersey Administrative Code ET AL and the New Jersey Statutes on Rules of Evidence and the Federal Prison Rape Elimination Act.

Zero Tolerance of Prison Sexual Assault Level I Internal Management Procedure # IMM.001.PSA.001 POLICY

It is the policy of the New Jersey Department of Corrections to maintain a zero tolerance toward all forms of sexual abuse and sexual harassment, and actively enforce all internal policies and procedures related to the prevention, detection, and response to such conduct. When the NJDOC learns that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate. The NJDOC is committed to ensuring the protection of victims of sexual assault, and will employ multiple measures, including but not limited to, housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or

staff who fear retaliation for reporting sexual abuse or harassment or for cooperating with investigations in order to fulfill this commitment.

#### Intervention/Staff Reporting

1. Staff who receive an initial report of sexual assault or harassment must separate the victim from the alleged assailant to protect the victim and prevent further violence.
2. Staff who receive an initial report of sexual assault or harassment are required to promptly intervene on the victim's behalf to ensure the victim receives prompt medical and psychological assistance, as appropriate to his or her needs and the circumstances of the alleged offense.
3. Regardless of the source, NJDOC staff, contract employees and volunteers who receive information concerning offender on offender sexual assault, or who observe an incident of offender on offender sexual assault, or have reasonable cause to suspect that an offender is a victim of sexual assault (inmate on inmate or staff on inmate), that retaliation against inmates or staff who reported such an incident occurred, or that any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation, must immediately report the information or incident to their immediate supervisor and/or shift supervisor. This report must be made regardless of when or at which institution the alleged incident occurred. The immediate supervisor/shift supervisor will immediately notify the Special Investigations Division and forward all written reports to the SID investigative unit. The assigned investigator will notify local law enforcement.
4. Apart from reporting to designated supervisors or officials, staff shall not reveal information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.
5. An employee, contractor or volunteer who fails to report an allegation, or coerces or threatens another person to submit inaccurate, incomplete or untruthful information with the intent to alter a report, may face disciplinary charges, up to and including dismissal, even on a first offense. Investigations by the Special Investigations Division ADM.006.011 Revised: July 28, 2015 "The NJDOC assigns to the SID the responsibility of investigating violations of the laws of the United States, the State of New Jersey, as well as violations of the New Jersey Administrative Code (10A), New Jersey Criminal Code Title 2C and NJDOC policies and procedures by inmates, staff and other individuals who visit NJDOC facilities. The specialized training received by members of the SID helps to ensure that such investigations are conducted in a thorough, competent, objective manner and using the most current techniques and equipment possible. While remaining cognizant of the limitations and ramifications of the use of such investigatory techniques, any lawful techniques to perform an investigation may be used. "

Crime Scene Management CUS.001.CSM.01 Revised: July 22, 2015 is a confidential policy with details of how to ensure crime scenes are maintained and evidence is appropriately collected.

Procedures for Sexual Offenses Internal Management Procedure #014 March 2015PURPOSE establishes a policy to be followed in all sexual incidents which is designed to insure the integrity of evidence and to provide for the safety of staff and/or inmates involved in sexual assaults.

II. DEFINITIONS: Federal Prison Rape Elimination Act of 2003 (PREA): This act was established to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and provide information, resources, and recommendation and funding to protect individuals from prison rape.

III. POLICY: This procedure will conform with the current New Jersey Administrative Code ET AL and the New Jersey Statutes on Rules of Evidence and the Federal Prison Rape Elimination Act.

Compliance based on the policies, review of three completed PREA investigations, interviews with investigators, interviews with staff and interviews with inmates.

#### **Standard 115.31 Employee training**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the

relevant review period)

- Does Not Meet Standard (requires corrective action)

Standards of Professional Conduct: Staff/Inmate Over Familiarity ADM.010.004 Revised: March 1, 2016 states, “Staff members of the NJDOC hold a special position of trust. Because the NJDOC is a law enforcement agency, staff members must meet a higher standard of personal conduct and ethical behavior that is intended to hold the respect and confidence of both the citizens of the State and the NJDOC inmate population. Whether on or off duty, the individual conduct of NJDOC staff members reflects upon the employee and, in some circumstances, upon the NJDOC and the State of New Jersey.” Overview/Sexual Assault Victim Response Booklet is issued to all staff and thorough explains all aspects of the law and the standards requirements. Staff interviewed had them in their possession for reference. Staff sign acknowledgement of receipt of Quik Series Prison Rape Elimination Act (PREA).

Zero Tolerance of Prison Sexual Assault Level I Internal Management Procedure # IMM.001.PSA.001 May 24, 2016 Prevention states, that all NJDOC staff, contract employees and volunteers with direct and/or incidental contact with offenders receive documented PREA training. Staff signs the Acknowledgement of Receipt Prison Rape Elimination Act (PREA) Public Law 108-79 which places responsibility on them to ensure they understand the training before signing. The New Jersey Department of Corrections is committed to ensure that all employees know the agency’s current sexual abuse and sexual harassment policies and procedures. NJDOC holds refresher PREA training every two years. In years in which an employee does not receive refresher training, we distribute all updated information on current sexual abuse and sexual harassment policies. If you should have any questions regarding any aspect of the Prison Rape Elimination Act please contact your institutional training department or your institutional PREA representative. Failure to sign this form does not relieve an employee of the responsibility to understand and adhere to all NJDOC policy and procedures. Please find your refresher packet attached. Please attest below with your signature that you have received and understand this information.

Training curriculum addressed the following: Zero tolerance; What to do to prevent, detect, report, and response policies; Inmates’ right to be free from sexual abuse and sexual harassment; Right to be free from retaliation for reporting – both staff and inmates; Dynamics of sexual abuse and harassment in confinement; Common reactions of sexual abuse and sexual harassment; How to detect and respond to signs of threatened and sexual abuse; How to avoid inappropriate relations with inmates; How to communicate effectively with lesbian, gay, transgender, etc; Relevant laws of mandatory reporting and it was tailored to the gender of the facility.

Compliance finding based on review of policy, review of the training curriculum, interviews with staff custody and non-custody, review of training records reflecting all staff have been trained in 2017. Staffs were able to articulate what specific actions they take to prevent sexual abuse and harassment in their assigned areas. Exceeds standards based on annual review of the PREA requirements as well as issuance of PREA quick books to all staff. Regular contractual staff receive training about the PREA standards and requirements from their agency in addition to getting the same training that non-custody staff at the facility receive.

### **Standard 115.32 Volunteer and contractor training**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Training of volunteers includes, “Any form of Sexual Misconduct to include staff/volunteer on inmate or inmate on inmate sexual harassment, sexual assault, sexual abusive contact and consensual sex. Any volunteer who engages in, fails to report, or knowingly condones sexual harassment or sexual contact with or between inmates may be subject to criminal prosecution.”

Pre-Employment and ID Card Renewal Background Checks: Issuance of Employee/Volunteer ID Cards ADM.006.007 Revised: June 1, 2015 establishes a policy whereby a background check is conducted on all individuals being considered for employment (including permanent, temporary and contract employment positions) with the NJ DOC, and for those individuals being considered to work as volunteers within the Department. Background checks are also conducted as NJ Department of Corrections (NJ DOC) ID cards expire and individual renews the ID card.

POLICY: Volunteer Service Program PCS.001.003 January 1, 2017 , “The NJ DOC authorizes the use of volunteer services offered by professionals, students and members of the community in areas such as, but not limited to, chaplaincy services, educational services and social services. All volunteers are subject to an extensive application process, which includes appropriate screening, criminal history background check, and volunteer orientation and training. The NJ DOC reserves the right to curtail, suspend or discontinue the services of a volunteer for reasons included, but not limited to:

1. Any breach of confidentiality; 2. Unlawful conduct or breach of correctional facility rules and regulations; 3. Physical or emotional illness; 4. Inability to cooperate with staff; 5. Erratic or unreliable attendance; 6. Violation(s) of the rules of the Volunteer Service Program; 7. Any prohibited conduct contained in the volunteer contract; and 8. Any conduct which threatens the order or security of the correctional facility or the safety of the volunteer.

See response above regarding contractual training. “

Compliance based on review of policy, review of volunteer handbook, and interview with the volunteer coordinator and the volunteer agreement, which confirms that the volunteer understands the PREA training they received. Interview with the investigators confirm that the volunteers have backgrounds checks before authorizing to provide services.

### Standard 115.33 Inmate education

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Zero Tolerance of Prison Sexual Assault Level I Internal Management Procedure # IMM.001.PSA.001 May 24, 2016 establishes that during intake and as offenders are transferred between facilities, all offenders will receive information about the NJDOC’s policies regarding the Prison Rape Elimination Act (PREA) and Zero Tolerance for Sexual Assault/Rape. Additional information regarding prevention, intervention, treatment and counseling will be provided by designated staff in a manner that is clearly understood by offenders.

Upon arrival, inmates receive a handbook to the facility with the following information inserted:

#### *ZERO TOLERANCE POLICY – PRISON SEXUAL ASSAULT*

*The New Jersey Department of Corrections preserves and protects the rights of sexual assault victims in its prisons and correctional facilities, and will fully investigate and aggressively prosecute those who are involved in such conduct if, in fact, a crime has been committed. Accordingly, the NJ DOC maintains a zero tolerance policy (IMM.001.004 Zero Tolerance Prison Sexual Assault) for the incidence of sexual assault. This means the NJDOC DOES NOT tolerate any level of sexual harassment, sexual abuse or assault in this facility.*

*To achieve the goals of this policy, any inmate found guilty of sexual assault shall be subject to prohibited act \*.050, Sexual Assault and a finding of guilt shall result in the most severe sanctions (see N.J.A.C. 10A:4-4.1). Additionally, pursuant to N.J.A.C. 10A:4-4.2, all prohibited acts that may constitute crimes of the first degree (including aggravated sexual assault), second degree (including sexual assault) and/or third or fourth degree crimes under the Criminal Code of the State of New Jersey (N.J.S.A. 2C:1-1 et seq.) shall be referred to the prosecutor of the county of which the correctional facility is located.*

#### *PRISON RAPE ELIMINATION ACT (PREA)/SEXUAL ASSAULT-FREE ENVIRONMENT (SAFE)*

*PREA means the Federal Prison Rape Elimination Act of 2003. This act was established to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and provide information, resources, and*

recommendations and funding to protect individuals from prison rape, sexual abuse and sexual harassment. The major provisions of PREA include adherence to a zero-tolerance standard for the incidence of inmate sexual assault and rape, the development of standards for the detection, prevention, reduction and punishment of prison rape and the collection and dissemination of information on the incidence of prison rape.

The NJDOC is committed to your safety and the safety of staff. You have the right to serve your sentence with dignity and free from sexual assault, sexual harassment, and retaliation. You are encouraged to familiarize yourself with the PREA information provided to you at orientation and for reporting allegations of sexual abuse to a staff member in a timely manner.

Additionally, the NJDOC is responsible for planning and implementing measures to create a safe environment for both inmates and staff which are free from sexual abuse and misconduct. Through federal funding provided by PREA, the Office of Victim Services has developed the SAFE (Sexual Assault-Free Environment [SAFE] Program) that is designed to: Increase the awareness and education of staff/inmates on the impact and effects of sexual assault; Provide procedures for inmates to report threats of sexual assault in an effort to give power to inmates to seek out support and assistance that is needed; Change the existing correctional facility culture surrounding reporting, policies, procedures and other efforts to help inmates who fall prey to sexual assault while in prison;

**How to Report:** The Prison Rape Elimination Act at the New Jersey Department of Corrections

NJ DOC has a zero-tolerance policy for all forms of inmate sexual abuse and sexual harassment. NJ DOC works to prevent, detect and respond to all allegations and incidents of sexual abuse and harassment during confinement. All allegations of sexual abuse and sexual harassment will be referred for investigation.

Inmates or anyone on behalf of an inmate (lawyer, clergy person, friend, counselor, etc.) may report sexual abuse and sexual harassment to a staff member or by using any of the following:

Inmate Remedy System Form

NJ Office of the Corrections Ombudsman Free Confidential Hotline

Special Investigations Division Locked Confidential Mailbox

NJ DOC SID Confidential Tip Line

Important Reporting Information

NJ DOC SID Confidential Tip Line 609-530-2500

NJ Office of the Corrections Ombudsman 609-633-2596 for reporting by Family, Friends and any other individual on behalf of an inmate

NJ Office of the Corrections Ombudsman 1-555-555-5555 (Inmate Only Toll Free Number)

NJ Office of the Corrections Ombudsman by Mail:

Office of the Corrections Ombudsman

PO Box 855

Trenton, NJ 08625

Within one week, inmates attend orientation and receive follow up information in the form of a video.

Information continuously and readily available: Permanent, fixed notices were seen throughout the facility regarding the zero tolerance for sexual abuse and sexual harassment. In addition, information on how to contact the Ombudsman and that the number is not monitored was affixed to walls next to the telephones in the unit. A video is played continuous loop on the prison video channel (as confirmed by inmate interviews). These posters and inserts are also available in Spanish. Language needs are assessed at intake and noted in the inmate management system to ensure non-English needs are met.

Compliance based on review of information and confirmation that it is received which was validated by interviews with the inmate population.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the

relevant review period)

- Does Not Meet Standard (requires corrective action)

Investigations by the Special Investigations Division Policy Number ADM.006.011 July 28, 2015

Special Investigations Division (SID), (prior to November 17, 1999 known as the Internal Affairs Unit), means the unit responsible for conducting investigations at the discretion of the commissioner or designee. SID is the division within the Office of the Commissioner whose duties include, but are not limited to, ensuring that possible violations of the laws of the State of New Jersey, as well as violations of the New Jersey Administrative Code (10A), the NJ Criminal Code Title 2C, the Prison Rape Elimination Act of 2003 (PREA) and NJDOC policies and procedures by inmates, employees and individuals who visit NJDOC correctional facilities are investigated. Additionally, the SID shall serve as the NJDOC liaison to all other law enforcement agencies, conduct cooperative investigations in conjunction with federal, state, county and municipal law enforcement agencies and supervise the safety and security of the NJDOC Central Office Complex.

The New Jersey Department of Corrections assigns the responsibility of investigating violations of the laws of the State of New Jersey, as well as violations of the New Jersey Administrative Code (10A) and NJ Department of Corrections policies and procedures by inmates, employees and other individuals who visit NJ Department of Corrections facilities to the Special Investigations Division. All Special Investigations Division investigators will be required to complete the New Jersey Division of Criminal Justice Basic Course for investigators. The specialized training received by members of the Division ensures that such investigations are done thoroughly, competently, in an unbiased objective manner and using the most modern techniques and equipment possible. While remaining cognizant of the limitations and ramifications of the use of such techniques, any lawful techniques to perform an investigation may be used.

Training curriculum for investigators has been reviewed; it is very detailed and specific to issues regarding sexual abuse and sexual harassment investigations. Investigators are in a separate division and are able to conduct both administrative and criminal investigations. Documentation showing all investigators in the state has been reviewed and specific investigators for the three investigations reviewed were cross reference on the list. Compliance based on review of policy, training curriculum, training documents, interviews with three investigators and review of twenty completed investigations.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Medical, dental and mental health services are provided through a contract with University Correctional Health Care. Contractual staffs are trained in the same manner as custody staff in addition to training received by their agency. Agency training is detailed regarding detecting signs of sexual abuse. Medical staffs at the facility are not responsible for collecting evidence but are trained regarding how to preserve evidence. Emphasis is placed on how to respond professionally to the victims of abuse and harassment. Both training curriculums specify specific procedures for how to report sexual abuse and harassment. Compliance is based on review of the non custody training curriculum, medical, dental and mental health training curriculum, training records, and interviews with medical and mental health staff.

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

- Exceeds Standard (substantially exceeds requirement of standard)

- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Health Appraisals at Reception Internal Management Procedure MED.IMA.001 January 2017 states, The New Jersey Department of Corrections mandates that a comprehensive health appraisal of each new admission inmate, including medical history and physical examination, is to be completed within seventy-two (72) hours after admission to a reception facility. Documentation of any conditions relevant to the Prison Rape Elimination Act of 2003 (PREA) that require special accommodations or notifications occurs during this assessment. A PREA Monitoring tool is used to assess if an inmate is a perpetrator, victim or both. Information is maintained in the medical record and classification records and noted in the electronic system that informs the PREA Compliance Managers at the different facilities.

The assessment is not completed in person when an inmate transfers from one facility to another.

**Corrective Action Needed:** Revise policy to require that the intake assessment is completed on all inmates in person when they transfer from facility to facility. Determine what objective tool will be used as this process involves both medical/mental health staff and classification staff. Determine what will define an inmate as a perpetrator, victim, potential perpetrator and potential victim. Determine controls on dissemination of information. Provide the revised policy, and examples of assessments completed on inmates who arrived from other facilities within 60 days.

**Corrective Action Completed:** A memo from the Deputy Commissioner has been issued clarifying that the requirements of the policy include a review, in person, of each inmate who arrives from another facility. Documentation was provided showing compliance with the intake process in that the inmate is seen in person by medical staff, and asked verbally the questions as required by the standard.

#### **Standard 115.42 Use of screening information**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Classification Intake Procedures Internal Management Procedure CLS.002.INT.001 May 18, 2015 Ensures that the inmate is thoroughly reviewed by classification staff upon arrival at a housing unit.

Review of Inmates by Classification and Review Committees Policy Number CLS.005.001 June 1, 2016

Each inmate committed to the custody of the NJ DOC shall be individually reviewed on a case by case basis. Instructions regarding the scheduling of inmate committee reviews and the responsibilities, composition, and decision making criteria of the various classification and review committees can be found in N.J.A.C. 10A:9 and the applicable Internal Management Procedures (see section V).

The classification review of a transgender or intersex inmate shall be an in-person review. Placement and programming assignments for each transgender or intersex inmate shall be scheduled for classification review every six months. Additional procedures regarding the classification review of transgender or intersex inmates can be found in Internal Management

Procedure PCS.001.006 Transgender/Intersex Review Committee.

Institutional Prison Rape Elimination Act (PREA) Compliance Manager Procedure # PCS.001.PREA.ICM Effective Revised: June 29, 2015 Reviewed: June 1, 2016-No Change includes the following:

“D. Gender Identity Based Housing Requests 1. On a case by case basis, the Sexual Assault Advisory Council will review a transgender/intersex inmate’s request for housing that is based on gender identity. The committee will consider: Medical and/or mental health evaluations/information to include reports that address an inmate’s transgender, intersex and/or gender dysphoric status along with a recommendation for suitability to house in a male correctional facility, a female correctional facility, or both types of correctional facilities; b. The needs expressed by the inmate including the inmate’s own views with respect to safety and the inmate’s expressed gender identity; c. Security threat level (STG/TST Information); d. Objective Classification Score/assigned custody level; e. Maximum expiration date and parole eligibility dates. f. Prosecutor Notification requirements; g. Criminal history; h. Disciplinary history; i. Likelihood of perpetrating abuse; j. Types of facilities and location; k. Inmate population; l. Staffing issues; m. Physical plant issues; n. Programming requirements and availability; o. Sentencing/and other legal requirements; p. Institutional adjustment; and q. Any other relevant factors. 2. Once the gender identity transfer request has been reviewed, the council will make a recommendation regarding gender identity based housing. This recommendation will be forwarded to the correctional facility Institutional Classification Committee for consideration when determining the inmate’s housing assignment. The housing assignment/transfer and notification to the inmate will be handled in accordance with all applicable operational policies and procedures and the provisions set forth in N.J.A.C. 10A. “

Compliance based on interview with the PREA Compliance Manager, review of policy, review of PREA tracking list, interviews with inmates. There is not a dedicated wing for transgender, intersex inmates. Showers are separate and available throughout the day. No requests for separate shower times has been made.

#### **Standard 115.43 Protective custody**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Zero Tolerance of Prison Sexual Assault Level I Internal Management Procedure # IMM.001.PSA.001

POLICY: “It is the policy of the New Jersey Department of Corrections to maintain a zero tolerance toward all forms of sexual abuse and sexual harassment, and actively enforce all internal policies and procedures related to the prevention, detection, and response to such conduct. When the NJDOC learns that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate. The NJDOC is committed to ensuring the protection of victims of sexual assault, and will employ multiple measures, including but not limited to, housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or harassment or for cooperating with investigations in order to fulfill this commitment.”

Review of investigations and response to questionnaire indicate that no high risk victims have been placed in involuntary restrictive housing. During the review of documentation, interviews and tour of the facility the auditor found no evidence to dispute this finding. Inmates are reviewed at intake; the electronic PREA management system alerts the facility to incoming victims or abusers.

#### **Standard 115.51 Inmate reporting**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

- Does Not Meet Standard (requires corrective action)

Inmates are provided the following information:

**PREA and NJ DOC Zero Tolerance of Prison Sexual Assault**

***How Inmates Can Report Allegations of Sexual Abuse/Harassment***

*As part of NJ DOC's compliance with the Prison Rape Elimination Act (PREA), inmates who have been victimized or who have knowledge of sexual abuse or harassment can **immediately** report an incident of sexual abuse/harassment directly to any custody or civilian staff member. Additional methods of reporting sexual abuse/harassment are:*

*NJ DOC Inmate Remedy System*

*NJ Office of the Corrections Ombudsman – inmates may use the free confidential telephone hotline, complete the “Office of the Corrections Ombudsman Request for Assistance form” or send written correspondence to the NJ Office of the Corrections Ombudsman. Correspondence may be sent interoffice mail with no postage required.*

*Special Investigations Division at your facility*

*Institutional PREA Compliance Manager at your facility*

*NOTE: Third parties on behalf of an inmate (family, friends, etc.) may utilize the NJ DOC Inmate Remedy System or contact the NJ Office of the Corrections Ombudsman to report an incident of sexual abuse/harassment.*

*NJ Office of the Corrections Ombudsman*

***Office of the Corrections Ombudsman***

***PO Box 855***

***Trenton, NJ 08625***

***1-609-633-2596 (Main Office)***

***1-555-555-5555 (Inmate Only Toll Free Number)***

Level I Internal Management Procedure # IMM.001.PSA.001 Zero Tolerance of Prison Sexual Assault

Offenders may utilize the Inmate Remedy System form/JPay kiosk to report sexual abuse or harassment; however, offenders are not required to go through the Inmate Remedy System to report allegations of sexual abuse or harassment. Designated staff will process such reports as a high priority in accordance with established facility emergency procedures and forward copies to the facility's Administrator and PREA Compliance Manager; or

2. Offenders may use the free confidential telephone hotline to report sexual abuse or harassment to the Corrections Ombudsman. Offenders may also utilize the Office of the Corrections Ombudsman Request for Assistance form or send written correspondence to their office; or

1. Offenders may use the Special Investigation Division (SID) confidential tip phone line and/or the locked SID mailbox to report sexual abuse or harassment to the SID Investigative Unit.

Staff can call the S.I.D. hotline should they need to report a PREA incident privately. This was confirmed by interview with the investigators and staff.

Compliance based on review of inmate materials, policy, staff interviews, inmate interviews, review of completed investigations and the posters visible throughout the tour.

**Standard 115.52 Exhaustion of administrative remedies**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

INMATE REMEDY SYSTEM Policy Number IMM.002.001 & Internal Management Procedure # IMM.002.IRS.001 February 1, 2014 supports compliance for this standard.

Processing of Remedy Forms under the Prison Rape Elimination Act of 2003 (PREA):

No time limits will be imposed on when an inmate may submit a grievance regarding an allegation of sexual abuse or when an inmate is subject to a substantial risk of imminent sexual abuse.

All grievance forms involving allegations of sexual abuse or risk of sexual abuse will be immediately forwarded to SID for investigation and notification will be made to the facility Administrator.

Grievances submitted alleging sexual abuse will not be referred to a staff member for response who is the subject of the complaint.

“A final decision on the merits of a grievance alleging sexual abuse must be issued within 90 days of the initial filing of the grievance. Computation of the 90 day time period shall not include time consumed by inmates in preparing any administrative appeal. An extension of 70 days may be granted, with approval of the Administrator, if the normal time period is insufficient to make an appropriate decision. If the inmate does not receive a response within the timeframes indicated, including any properly noticed extension, the inmate may consider the absence of a response to be a denial.

After receiving an Inmate Remedy Form alleging an inmate is subject to a substantial risk of imminent sexual abuse, the grievance shall be immediately forwarded to SID for immediate corrective action with a copy to the facility Administrator. An initial response will be provided within 48 hours and a final decision will be issued within 5 calendar days. The initial response and final decision shall document the determination whether the inmate is in substantial risk of imminent sexual abuse and what actions were taken in response to the grievance. “

SID forwards the findings from grievances that allege sexual assault back to the institutional Inmate Remedy System Coordinator within the required time frames. The coordinator will provide forward a response to the inmate.

“Under the PREA law, third parties, including fellow inmates, staff members, family members, attorneys and outside advocates will be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse and will be permitted to file a Remedy Form on behalf of the inmate.”

Compliance based on review of the policy and procedure and sporadic interviews with inmates. No grievances were received regarding a PREA incident in the past twelve months at this facility.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

An insert to the inmate handbook was written, printed and distributed information inmates of all the numbers for outside services that are available. It did not have information on the extent of monitoring.

#### ***Facts for the Offender***

- *All cases of sexual assault are investigated by the Special Investigations Division (SID) as a criminal investigation. You may be prosecuted for a criminal offense and if found guilty, any additional prison time will be added to your current sentence.*
- *You will be issued a notice of charges. If you are found guilty, sanctions will be harsh. In addition, your classification level will be reviewed and likely increased, which could mean a transfer to a higher security prison or unit with significantly less freedom of movement and limited privileges. If you have family, this may affect them and their ability to visit you.*

- *Engaging in such conduct in prison significantly increases your risk of HIV infection, along with exposing you to other sexually transmitted diseases.*
- *If you have trouble controlling your actions, seek help from mental health staff and/or consider participating in programs designed to control anger or reduce stress. To reduce immediate feelings of anger or aggression, try talking to or writing a friend, meditate or do breathing exercises to relax, work on a hobby, or engage in some type of exercise.*

It is required to have an inmate pin to test the phone, so at the time of the audit, it could not be determined that the inmate population is able to reach the phone number listed. Contact was made outside the facility; the system re-directed the phone call to the closest county.

During interviews with the inmate population, most inmates did indicate they had possession of this brochure.

Subsequently, contact was made with Jyoti Venketraman, Programs Initiative Manager for the New Jersey Coalition Against Sexual Assault. She confirmed there are 21 county based rape crisis centers to serve in the primary role to support survivors of sexual violence. These services include a confidential 24 hour crisis hotline. Counselors attend a 40 hour training course to be certified. They are educated regarding the laws of confidentiality. She states they have received calls from the correctional facilities and she is aware of PREA and the requirement to provide outside confidential support service. Services can be provided in English, Spanish and through use of a language line if needed.

**Corrective Action Needed:** Provide documentation that the updated inserts have been provided to the population. Develop an MOU with the New Jersey Coalition Against Sexual Assault to define limits when providing services to the inmate population. Obtain a generic personal identification number from the company that provides phone services to the inmate population, test inmate phones at this facility and provide documentation that the calls were able to be made. Consider making the phone number not monitored; provide information as to why this could not be done.

**Corrective Action Completed:** Revised brochures for Cumberland (SSCF & SWSP) and Middlesex (ADTC & EJSP) counties have been developed and issued to the inmate population.

Since the New Jersey Coalition Against Sexual Assault is a state organization that works with all county rape crisis centers but does not control the individual county hotline numbers, the NJDOC will be establishing MOUs with each county that houses inmates separately. An MOU with Cumberland County and Middlesex County is in process. Both counties already have MOUs with county jails and are open to completing an MOU for the state facilities as well as the remaining New Jersey Department of Corrections facilities.

Brochures contain direct phone numbers and mailing addresses of county specific outside confidential support services. The direct phone numbers were tested through the inmate phone service and documentation provided. Ultimately, the DOC will establish, through its inmate telephone provider, a universal number that will connect directly to the county rape crisis center where the inmate is housed. These calls will be either confidential or subject to limited monitoring. Currently, the calls are subject to limited monitoring and inmates are aware as it is posted directly above the number on the brochure. In the future, with the establishment of the universal number, the call may be confidential or subject to limited monitoring, depending on what is allowable during set up. The universal number requires commissioner approval and established MOUs in all counties where facilities are located.

### **Standard 115.54 Third-party reporting**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Posted on the website:

*THE NJ DEPT OF CORRECTIONS RECOGNIZES THE RIGHT OF OFFENDERS TO BE FREE FROM SEXUAL MISCONDUCT*

*What is PREA? The Prison Rape Elimination Act (PREA) is a federal law that went into effect in September of 2003 and prohibits sexual misconduct in correctional settings such as prisons, jails, lockups, juvenile facilities and Immigration Services/ICE detention facilities.*

*Sexual misconduct under this law includes: Offender-on-offender sexual assault and abuse Staff-on-offender sexual misconduct (sexual/inappropriate relationships with offenders) Offender-on-offender and staff-on-offender sexual harassment .*

*The NJ Department of Corrections (NJDOC) has zero tolerance for sexual misconduct of any kind and will impose discipline for such misconduct, up to and including dismissal for staff and discipline for offenders who victimize other offenders. Incidents of sexual misconduct will also be referred to law enforcement when applicable. NJDOC policies prohibiting sexual misconduct apply to all offenders, employees, contractors, and volunteers.*

*How would I know if my family member/ friend is being threatened/victimized? A victim may: Have trouble sleeping Suffer a loss of appetite Experience stomachaches and/or headaches Display anger or rage Seem unusually anxious Express concern about their safety Seem unusually detached or withdrawn Have episodes of crying or shaking Not care about their personal hygiene .*

*What can I do to help? There are many ways to help someone who has been a victim of sexual misconduct during confinement including: Don't be judgmental Listen; be supportive and patient Encourage them to report the abuse Reporting abuse on their behalf.*

*Having a family member or friend who has been the victim of sexual misconduct can be very upsetting. For this reason, it is also important to take care of yourself.*

*Can I report sexual abuse/misconduct for my family member/friend? If you have information regarding a NJDOC offender who has been the victim of sexual misconduct while under NJDOC custody, you may:*

*Contact the PREA Compliance Manager at any of the NJDOC facilities*

*Contact Special Investigations Division 609-826-5617*

*Call the Special Investigations Division Tip Line at 609-530-2500*

*Call the Office of the Corrections Ombudsman at 609-633-2596*

*The NJDOC has a zero tolerance for all forms of retaliation against any person because of his/her involvement in the reporting or investigation of a PREA claim.*

Most inmate interviews confirmed they were aware that a third party complaint can be received.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Level I Internal Management Procedure # IMM.001.PSA.001 Zero Tolerance of Prison Sexual Assault has the following information:

1. Staff who receive an initial report of sexual assault or harassment must separate the victim from the alleged assailant to protect the victim and prevent further violence.
2. Staff who receives an initial report of sexual assault or harassment are required to promptly intervene on the victim's behalf to ensure the victim receives prompt medical and psychological assistance, as appropriate to his or her needs and the circumstances of the alleged offense.

3. Regardless of the source, NJDOC staff, contract employees and volunteers who receive information concerning offender on offender sexual assault, or who observe an incident of offender on offender sexual assault, or have reasonable cause to suspect that an offender is a victim of sexual assault (inmate on inmate or staff on inmate), that retaliation against inmates or staff who reported such an incident occurred, or that any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation, must immediately report the information or incident to their immediate supervisor and/or shift supervisor. This report must be made regardless of when or at which institution the alleged incident occurred. The immediate supervisor/shift supervisor will immediately notify the Special Investigations Division and forward all written reports to the SID investigative unit. The assigned investigator will notify local law enforcement.
4. Apart from reporting to designated supervisors or officials, staff shall not reveal information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.
5. An employee, contractor or volunteer who fails to report an allegation, or coerces or threatens another person to submit inaccurate, incomplete or untruthful information with the intent to alter a report, may face disciplinary charges, up to and including dismissal, even on a first offense.

#### D. Security

Once an alleged incident of sexual assault has been reported, staff will follow appropriate security procedures to include: 1. Providing medical and mental health assistance for the alleged victim as soon as possible; 2. Separating the victim from the alleged assailant; 3. If the alleged abuse occurred within a time period that still allows for the collection of physical evidence, request that the victim not take any actions that could destroy evidence, including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. 4. Taking reasonable measures to identify, isolate and separate witnesses; 5. Preserve and protect any crime scene until appropriate steps can be taken to collect evidence. 6. Secure the incident scene so items cannot be removed or introduced; and 7. Permitting only assigned investigators to assess the scene; 8. If the first staff responder is not a custody staff member, the responder shall be required to request the victim not take any actions listed in subsection D. (3) of this section, and then immediately notify custody staff.

Compliance based on the policy, staff interviews, investigator interviews and review of the three completed investigations.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Zero Tolerance of Prison Sexual Assault IMM.001.PSA.001 states the following, “It is the policy of the New Jersey Department of Corrections to maintain a zero tolerance toward all forms of sexual abuse and sexual harassment, and actively enforce all internal policies and procedures related to the prevention, detection, and response to such conduct. When the NJDOC learns that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate. The NJDOC is committed to ensuring the protection of victims of sexual assault, and will employ multiple measures, including but not limited to, housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or harassment or for cooperating with investigations in order to fulfill this commitment.”

Compliance finding based on staff interviews, investigator interviews, supervisor interviews and review of the completed investigations.

#### **Standard 115.63 Reporting to other confinement facilities**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Level I Internal Management Procedure Title: Institutional PREA Compliance Manager

Effective Date: January 1, 2014 Revised: June 29, 2015 Internal Management Procedure # PCS.001.PREA.ICM includes that the institutional PREA Compliance Manager must also accept reports that an inmate was sexually abused while incarcerated at another facility. The IPCM advises their administrator and serves as administrator's designee in notifying the head of the facility/agency where the alleged abuse occurred no later than 72 hours after receiving the allegation. Maintain documentation of such notification in Folder 115.63 on the DOCNet I drive. Convene an institutional level sexual assault review of the sexual assault allegation within 30 days of the completion of the investigation by the Special Investigations Division (SID). The review is held in accordance with PREA Standard 115.86 and COHQ's Sexual Assault Advisory Council's procedures and review form. A copy of the signed review committee form is maintained by the Compliance Manager and placed in Folder 115.86 on the DOCNet I drive.

No complaints were received from other agencies or at this facility that needed to be sent to other facilities or agencies for investigation during the past 12 months.

**Standard 115.64 Staff first responder duties**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Level I Internal Management Procedure # IMM.001.PSA.001 Zero Tolerance of Prison Sexual Assault has the following information:

D. Security

Once an alleged incident of sexual assault has been reported, staff will follow appropriate security procedures to include: 1. Providing medical and mental health assistance for the alleged victim as soon as possible; 2. Separating the victim from the alleged assailant; 3. If the alleged abuse occurred within a time period that still allows for the collection of physical evidence, request that the victim not take any actions that could destroy evidence, including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. 4. Taking reasonable measures to identify, isolate and separate witnesses; 5. Preserve and protect any crime scene until appropriate steps can be taken to collect evidence. 6. Secure the incident scene so items cannot be removed or introduced; and 7. Permitting only assigned investigators to assess the scene; 8. If the first staff responder is not a custody staff member, the responder shall be required to request the victim not take any actions listed in subsection D. (3) of this section, and then immediately notify custody staff.

Compliance based on the policy, staff interviews, investigator interviews and review of the investigations. All staff were keenly aware of the process to follow in the event of having to be a first responder.

**Standard 115.65 Coordinated response**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Level I Internal Management Procedure # IMM.001.PSA.001 Zero Tolerance of Prison Sexual Assault has the following information:

D. Security

Once an alleged incident of sexual assault has been reported, staff will follow appropriate security procedures to include: 1. Providing medical and mental health assistance for the alleged victim as soon as possible; 2. Separating the victim from the alleged assailant; 3. If the alleged abuse occurred within a time period that still allows for the collection of physical evidence, request that the victim not take any actions that could destroy evidence, including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. 4. Taking reasonable measures to identify, isolate and separate witnesses; 5. Preserve and protect any crime scene until appropriate steps can be taken to collect evidence. 6. Secure the incident scene so items cannot be removed or introduced; and 7. Permitting only assigned investigators to assess the scene; 8. If the first staff responder is not a custody staff member, the responder shall be required to request the victim not take any actions listed in subsection D. (3) of this section, and then immediately notify custody staff.

Compliance based on the policy, staff interviews, investigator interviews and review of the investigations. All staff, including medical and mental health staff, were keenly aware of the process to follow in the event of having to be a first responder.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Contracts have been reviewed for all union staff; they do not prevent management from changing assignments. Interview with the state wide union representative supports that the officers’ union will not impede having a staff member’s assignment changed, pending the outcome of the investigation.

**Standard 115.67 Agency protection against retaliation**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Institutional Prison Rape Elimination Act (PREA) Compliance Manager Procedure # PCS.001.PREA.ICM Revised: June 29, 2015 Reviewed: June 1, 2016 states . . . . “Interview inmates who previously alleged sexual victimization within 45 days of allegation to ensure they haven’t experienced retaliation because of their allegation(s). For at least 90 days following report of sexual assault/harassment allegation, monitor by way of periodic status checks with the NJDOC PREA Retaliation Monitoring Form (FORM-PREA.AC Retaliation). The Institutional PREA Compliance Manager will deliver a copy of this form to the inmate who will sign for same. A copy of the signed form will be maintained by the Compliance Manager and placed in Folder 115.67 on the DOCNet I drive. “

PREA E Management System July 1, 2015 PCS.001.PREA.IMS PREA New Incident Alerts/New Incident Alerts 45 Day and 90 Day Reminders The New Incident Alerts occur hourly each day and the New Incident 45 Day Reminder and 90 Day Reminder alerts occur within the time frame of the established retaliation monitoring period. Recipients of the New Incident Alerts are: Agency Wide PREA Coordinator, Institutional PREA Compliance Manager, COHQ PREA Compliance Unit & Rutgers Recipients. Recipients of the 45 and 90 Day Reminder alerts are: Agency Wide PREA Coordinator, Institutional PREA Compliance Manager, SID Recipients.

The IPCM at the institution where the inmate resides monitors inmate disciplinary reports, performance reviews and reassignments for staff to determine if there is any suggestion of possible retaliation. If there is a suggestion of possible retaliation, any evidence of possible retaliation must be referred to the SID for investigation and the Agency Wide PREA Coordinator must be advised of same. The IPCM shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.

Compliance decision based on review of policy, review of tracking records, review of retaliation monitoring, interview with PREA Compliance Manager and inmates interviews.

#### **Standard 115.68 Post-allegation protective custody**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

INMATE PLACEMENT INVESTIGATION FORM is completed on each incident, when it was reported, to assess the proper placement of the inmate who has made an allegation. This facility has numerous options for placement. As a last resort, an inmate will be placed in Restrictive housing, a unit which has four wings which are completely separated to afford privacy if the only option appeared to require this. This placement is approved by the Administrator, or designee. Restrictive Housing Policy Number ADM.019.002 December 21, 2015 Temporary Close Custody means the non-punitive removal of an inmate from general population or other assigned housing, with restriction to the inmate's cell or to a close custody unit for a period not to exceed 72 hours, for special observation (other than a healthcare need) or investigation, unless information or evidence warrants an extension beyond 72 hours.

Compliance based on use of Temporary Close Custody as a last resort in which a decision will be rendered within 72 hours. This is non-punitive placement in which privileges are maintained as feasible.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Procedures for Sexual Offenses Internal Management Procedure #014 March 2015 states that regardless of the source, NJDOC staff, contract employees and volunteers who receive information concerning offender on offender sexual assault, or who observe an incident of offender on offender sexual assault, or have reasonable cause to suspect that an offender is a victim of sexual assault (inmate on inmate or staff on inmate), that retaliation against inmates or staff who reported such an incident occurred, or that any staff neglect or violation of responsibilities that may have contributed to an incident or

retaliation, must immediately report the information or incident to their immediate supervisor and/or shift supervisor. This report must be made regardless of when or at which institution the alleged incident occurred. The immediate supervisor/shift supervisor immediately notifies the Special Investigations Division and forwards all written reports to the SID investigative unit. The assigned investigator will notify local law enforcement.

Investigations by the Special Investigations Division ADM.006.011 Revised: July 28, 2015 states, "The NJDOC assigns to the SID the responsibility of investigating violations of the laws of the United States, the State of New Jersey, as well as violations of the New Jersey Administrative Code (10A), New Jersey Criminal Code Title 2C and NJDOC policies and procedures by inmates, staff and other individuals who visit NJDOC facilities. The specialized training received by members of the SID helps to ensure that such investigations are conducted in a thorough, competent, objective manner and using the most current techniques and equipment possible. While remaining cognizant of the limitations and ramifications of the use of such investigatory techniques, any lawful techniques to perform an investigation may be used."

Investigation Procedures Internal Management Procedure #035 Revised: January 2016 and Procedures for Sexual Offenses Internal Management Procedure #014 IV PROCEDURE is as follows: 1. The Principal Investigator will meet with the Institutional Majors and establish procedures to be followed pending arrival of the investigator from the Special Investigations Division. Procedures will include the following: A. Isolate and protect the victim until escorted to the institution infirmary. Do not allow the victim to change clothing or to wash. B. Contact Center Control to inform them of the incident. C. If the perpetrator (s) of the offense is suspected, he is also to be isolated and protected. D. If the incident occurs on a housing unit, isolate the areas of the assault, the cell of the victim, and the cell of the perpetrator. If appropriate the area will be declared as a crime scene. E. If the incident occurs in another area of the institution, the area in which the alleged assault took place will be isolated if possible and the housing unit officer will be notified by Center Control to isolate the cells of all inmates involved in the assault. F. Give a summary of your actions to investigators pending a full written report. G. Enter record of action taken in unit log book. H. Do not allow anyone into the area of assault without permission of the investigator. I. Isolate and separate all witnesses. 2. Center Control Lieutenant upon notification of a possible sexual assault will perform the following procedures. A. Contact investigators from the Special Investigations Division. B. Contact the institution Administrator or on-call Administrator and the NJDOC Health Services Director. C. Dispatch a custody supervisor to handle and document the preliminary investigation of the incident pending the arrival of investigators from the Special Investigations Division. D. Obtain required information from on-scene officers and instruct officers to isolate appropriate areas or cells of inmates involved in the offense. E. Investigators from the Special Investigations Division will evaluate the incident as reported by Center Control. If the evidence or information obtained indicates that a sexual assault may have occurred, the investigator will notify the County Prosecutors Office of the incident and request direction in obtaining a sex crime kit in accordance with that offices procedure. F. It is the responsibility of the custody supervisor to assign an officer to protect and observe the victim to prevent the destruction of evidence pending medical examination. The suspected perpetrator (s) will also be kept under continual observation in an area not accessible to the victim. Officers assigned to protect and observe victim and/or perpetrator will submit a written report confirming this surveillance. G. The hospital physician or authorized medical representative by the Prosecutors Office will take the required evidence from the victim and perpetrator, if known, using the appropriate SEX CRIMES KIT. The investigator will witness this taking of evidence from the person concerned. When appropriate, photographs of any evidence will be obtained by the Investigator. 3. All evidence gathered from the scene of the incident and taken by the physician will be retained in the evidence room located in the Special Investigations Division pending shipment to the Forensic Laboratory, or handled in accordance with the guidelines of the County Prosecutors Office. A. Chain-of-evidence procedures will be strictly adhered to and fully documented. B. All evidence will be collected under the supervision of the Special Investigations Division. 4. Specific procedures will be used for the collection, preservation and packaging of Evidence in a sexual assault. A. Stains-items to be submitted must be dry before packaging. B. Clothing-submit each item in a separate paper bag. Handle the clothing as little as possible, do not touch or fold areas where there are suspected seminal stains. C. Package and submit large objects relevant to the investigation (blankets, sheets, bedding, rugs) in their entirety. Receipts for personal items confiscated will be issued as required. D. Additional evidence is obtained by using the Sex Crimes Kit as explained above. Samples should be obtained by a qualified medical practitioner. It is important the victim be examined as soon as possible for the presence of motile (active or alive) spermatozoa. 5. Initial interviews will be conducted by the Special Investigations Division investigators ensuring the victim and perpetrator have been advised of their rights. Formal statements will be taken during the interview from witnesses, victims (s), and alleged perpetrator(s). This will be completed following initial medical

examinations and evidence gathering. All interviewed suspects should be videotaped in accordance with the Attorney Generals guidelines. 6. The Special Investigations Division investigator will advise the Chief Investigator and administration of the status of the investigation with continuing updates as the investigation continues. The County Prosecutor's Office will also be advised of the incident and status of the investigation. 7. The Special Investigations Division investigator will assure that the proper inmate disciplinary reports are written and processed when warranted. Institutional disciplinary action is separated from criminal proceedings; however, much of the required information is the same. 8. Incident reports will be written and issued to the appropriate authorities. 9. If the victim or perpetrator of the alleged sexual assault is not an inmate, the County Prosecutor's Office will be advised and the proper investigative procedures will be adhered to. 10. In the event that a subject of a sexual assault investigation is transferred to another correctional facility, appropriate notifications will be made to the institution.

Based on review of the training curriculum, interview with the investigators and review of the investigations, a polygraph is not used to support investigative findings. In addition, the investigator training supports the criteria of a preponderance of evidence for administrative investigations, and referral to prosecutors for potential criminal investigations, individual assessment of credibility, as well as criteria to evaluate staff contributions to each situation. Compliance based on review of policy, training curriculum, training records, review of three completed investigations from the previous 12 months, and interviews with the investigators.

#### **Standard 115.72 Evidentiary standard for administrative investigations**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

See response to 115.71.

#### **Standard 115.73 Reporting to inmates**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Institutional Prison Rape Elimination Act (PREA) Compliance Manager Procedure # PCS.001.PREA.ICM Revised: June 29, 2015 Reviewed: June 1, 2016 indicates that the PREA Compliance Manager will advise inmates who previously alleged sexual victimization of the disposition of the investigation. The Institutional PREA Compliance Manager will deliver a copy of form Sexual Assault Investigation Disposition to the inmate who will sign for same. A copy of the signed form will be maintained by the Compliance Manager and placed in Folder 115.73 on the DOCNet I drive.

Compliance based on policy, and interview with the PREA manager.

#### **Standard 115.76 Disciplinary sanctions for staff**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the

relevant review period)

- Does Not Meet Standard (requires corrective action)

Level I Internal Management Procedure # IMM.001.PSA.001 Zero Tolerance of Prison Sexual Assault is as follows: “It is the policy of the New Jersey Department of Corrections to maintain a zero tolerance toward all forms of sexual abuse and sexual harassment, and actively enforce all internal policies and procedures related to the prevention, detection, and response to such conduct. When the NJDOC learns that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate. The NJDOC is committed to ensuring the protection of victims of sexual assault, and will employ multiple measures, including but not limited to, housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or harassment or for cooperating with investigations in order to fulfill this commitment. Furthermore, the NJDOC will fully investigate and aggressively prosecute those who are involved in such conduct if, in fact, a crime has been committed. Any staff who is terminated for a violation of the zero tolerance prison sexual assault policy shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies. Regardless of the source, NJDOC staff, contract employees and volunteers who receive information concerning offender on offender sexual assault, or who observe an incident of offender on offender sexual assault, or have reasonable cause to suspect that an offender is a victim of sexual assault (inmate on inmate or staff on inmate), that retaliation against inmates or staff who reported such an incident occurred, or that any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation, must immediately report the information or incident to their immediate supervisor and/or shift supervisor. This report must be made regardless of when or at which institution the alleged incident occurred. The immediate supervisor/shift supervisor will immediately notify the Special Investigations Division and forward all written reports to the SID investigative unit. The assigned investigator will notify local law enforcement.”

Apart from reporting to designated supervisors or officials, staff shall not reveal information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions. An employee, contractor or volunteer who fails to report an allegation, or coerces or threatens another person to submit inaccurate, incomplete or untruthful information with the intent to alter a report, may face disciplinary charges, up to and including dismissal, even on a first offense.

Policy, Disciplinary Action Policy, training curriculum, staff interviews as well as inmate interviews support compliance. Review of the completed investigations for the previous 12 months indicates no staff have been disciplined or terminated for sexual abuse or harassment.

#### **Standard 115.77 Corrective action for contractors and volunteers**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Volunteer Service Program PCS.001.003 Revised: January 1, 2017 POLICY: “The NJ DOC authorizes the use of volunteer services offered by professionals, students and members of the community in areas such as, but not limited to, chaplaincy services, educational services and social services. All volunteers are subject to an extensive application process, which includes appropriate screening, criminal history background check, and volunteer orientation and training. The NJ DOC reserves the right to curtail, suspend or discontinue the services of a volunteer for reasons included, but not limited to: 1. Any breach of confidentiality; 2. Unlawful conduct or breach of correctional facility rules and regulations; 3. Physical or emotional illness; 4. Inability to cooperate with staff; 5. Erratic or unreliable attendance; 6. Violation(s) of the rules of the

Volunteer Service Program; 7. Any prohibited conduct contained in the volunteer contract; and 8. Any conduct which threatens the order or security of the correctional facility or the safety of the volunteer. “

All volunteers are provided information regarding conduct and consequences for violating the required conduct. There were no volunteers terminated for sexual abuse or harassment during the past twelve months as determined by staff interviews, interview with the volunteer coordinator, information noted on the facility questionnaire, and review of the completed investigations. Contractors are provided information in the same manner as employees. No contractors have been disciplined or terminated for sexual harassment or sexual abuse towards and inmate.

**Standard 115.78 Disciplinary sanctions for inmates**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Administrative Codes support zero tolerance of sexual abuse and harassment as well as inmate discipline. The inmate discipline handbook is provided to the inmates and notes action can be taken for sexual assault, engaging in sexual acts with others, making sexual proposals or threats to another, and indecent exposure. Sanctions are commensurate with the act as established by the disciplinary process. Participation in offender therapy is driven by the Judge and not considered by the facility in relation to PREA.

Mental health staff reviews misconduct reports to determine if mental disabilities or mental illness contributed to the act before the report is sent to the hearing officer. Inmates are not written misconducts for sexual behavior with staff that involved staff consent. In the previous 12 months, no inmates have received misconduct for filing a false report. Based on interviews, this would only occur with clear and substantial evidence, such as a video recording, that the allegations were false.

Compliance based on review of policies, interviews with mental health staff, interviews with the investigators and review of the three completed PREA investigations.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Mental Health Services: Mental Health Reception and Evaluation Internal Management Procedure MED.MHS.001.002 January 2017 has the following information: “PREA means Prison Rape Elimination Act of 2003. PREA requires that correctional facilities provide the means for detection, prevention, and reduction of sexual assault and is a standard adopted by the National Commission on Correctional Health Care. Sexual assault is defined as a sexual act that is coercive or assaultive in nature and involves the use or threat of force. PREA standards begin with detection at intake and provide mechanisms for reporting sexual victimization and abusiveness to Administrative staff on an ongoing basis for safety and security purposes.”

The screening nurse immediately refers any inmate who requires further mental health evaluation (based upon the results of the intake screening) to the Clinician Supervisor or designee for disposition. This referral is documented in the EMR and

routed electronically to the Mental Health Department via the Mental Health Desktop. The Clinician Supervisor or designee will review EMR referrals to the MH Desktop at least twice during the day and before leaving for the day. Upon this review, the Clinician Supervisor or designee will triage the referrals and document this by appending the nursing screen. Alternatively, they may write a separate MH miscellaneous chart note specifying whether the inmate can be seen for the routine MH intake process or needs to be evaluated more emergently. If an emergent evaluation is determined to be warranted, the nurse will make this referral verbally to the MH Clinician Supervisor or designee in addition to the EMR referral. If the referral is of an emergent nature, the psychologist will evaluate the inmate within four (4) hours. If for any reason this is not possible, clinical determination will be obtained through the on-call procedure.

When an inmate has been identified through the Intake Psychological Evaluation to be MH Special Needs, but has not yet seen the psychiatrist/nurse practitioner, a referral to psychiatry via the EMR (MH Desktop) is made. If the referral is of an emergent nature and the psychiatrist/nurse practitioner is not available to see the inmate immediately, the evaluating psychologist will place the inmate on close or constant watch until evaluated by the psychiatrist/nurse practitioner. All intake psychological evaluations of inmates will be conducted within 5 calendar days (120 hours) following admission to reception facility.

The risk assessment questions are included in the intake review and are recorded in the EMR. The process ensures follow up with mental health staff. Policy indicates encounters for nursing, provider and psychological intake to address ongoing PREA monitoring. Noting this in the EMR ensures the information is limited to mental and medical staff.

Compliance finding is based on review of policy regarding screening by medical staff with follow up within five days. This is reviewed when transferring from facility to facility. Consent is addressed with the initial visit with mental health which covers many areas including sexual abuse outside of the institutional setting. There are no inmates housed at this facility who are under the age of 18 years old.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Health Services Unit Internal Management Procedures Internal Management Procedure # MED.MLI.007 Revised/Reviewed: January 2017 POLICY: "The NJ DOC mandates that the following medical and health care services be available in all Operational Units housing inmates and in compliance with any existing PREA standard: 1. Twenty-four (24) hours per day, 7 days per week emergency medical, dental and mental health care. 2. A physician will be available twenty-four hours a day, seven days a week for consultation. On-call physician's schedules with pager/telephone numbers and pertinent names and telephone numbers of local emergency medical services to be used will be accessible to the medical staff. 3. Accurate, timely reporting, investigation and notification of appropriate staff and family of all critical illnesses, injuries or deaths. 4. Emergency cardiopulmonary resuscitation (CPR) will be available from trained custody and healthcare staff. 5. Properly trained custody and healthcare staff will carry out emergency medical transfer procedures. 6. The New Jersey Department of Corrections also mandates that the healthcare staff shall follow the institution's written plan for responding to allegations of sexual assault of inmates. The assaulted inmate will be transported to an Emergency Department properly equipped to assess (i.e. SANE Nurse), treat, and provide required prophylaxis, contraceptives, pregnancy termination counseling and gathering of forensic evidence. Healthcare staff shall not be involved in the management or treatment of sexual assault cases unless it is necessary to stabilize the inmate before the transfer to the appropriate community facility. Such care may include the control of bleeding or stabilizing of other injuries incurred, but most frequently would involve emotional support and understanding. 7. The appropriately equipped Emergency Department for each NJDOC facility is listed at the end of this document."

Counseling Services for Victims of Sexual Assault Revised/Reviewed: January 2017 MED.MHS.002.010 POLICY: “The NJ Department of Corrections mandates that all incarcerated individuals under the control of the Department of Corrections will have access to Mental Health Services which shall include, but not be limited to, counseling by trained mental health services staff, for inmates who are victims of sexual assault, in addition to counseling offered by the emergency department of the hospital to which the inmate is referred. Mental health professional staff will not participate in gathering forensic information related to names, dates or circumstances surrounding the assault.”

IV PROCEDURES: “The following procedures are to be followed in dealing with inmates who are victims of sexual assault: A. Prior to transport to the emergency facility: 1. Healthcare staff is to contact custody/administrative staff to solicit information whenever there is a suspicion of alleged sexual assault reported to them. 2. The main goal at this point is to assess suicide risk and ability to proceed with forensic interventions such as SID investigations and other potentially invasive inquiries. At this point, as best as possible, health care staff avoids contaminating any evidence. The evidence will be gathered at the emergency facility where it is expected that SAFE/SANE designated healthcare staff will conduct further examination. 3. Contact site Administrator to advise them of a potential sexual assault situation, with the understanding that Administration will contact SID. As per EMR directions, this will include a written report identifying the inmate as a Victim, Perpetrator or Victim and Perpetrator. 4. Provide supportive counseling and consult psychiatry if indicated. 5. If the need for mental health assistance arises after normal business hours, the Clinician Supervisor, or designee, will be contacted and arrange for services to be provided to the inmate, either in person or by phone, prior to transport to the emergency facility.”

Internal Management Procedure Title: Counseling Services for Victims of Sexual Assault Effective Date April 1, 2005 B. “Following the inmate’s return to the facility mental health services will: 1. Perform an evaluation of the inmate which will include a suicide assessment as part of that evaluation. 2. Review recommendations reported by the rape counselor or hospital’s emergency services, and implement any warranted interventions. 3. Assess the inmate for signs/symptoms of acute emotional distress or other reactive mental health problems related to trauma and provide treatment if necessary. Document services provided and assessment results in the Electronic Medical Record under the appropriate PREA monitoring encounter. 4. If the inmate is returned to the facility after normal business hours, the inmate will be placed on Constant Watch (see Internal Management Procedure MED.MHS.002.009 Management of Potentially Suicidal Inmates) until he/she is evaluated in person by a psychologist or psychiatrist/nurse practitioner. Further guidance may be found in MED.MLI.007 Sexual Assault. 5. At the time of release from NJ DOC, aftercare services will be arranged for any active mental health disorder in accordance with current procedures for release planning. When mental health determines that follow up services are warranted relative to the sexual assault, separate from mental health needs, referrals will be made in accordance with recommendations reported by the SAFE/SANE counselor and/or other hospital emergency department staff. C. In accordance with PREA standards, the mental health staff will conduct an evaluation of all known inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate.”

Co-Pay for Eligible Health and Dental Care Internal Management Procedure MED.IMHC.010 Revised/Reviewed: January 2017 “The following services are excluded from the co-payment requirement: • Emergency services. • Prescribed laboratory work to include inmate requests for HIV testing. • Psychiatric, psychological, substance abuse and social work treatment including medication prescribed by the psychiatrist for mental health purposes • Medical visits initiated by medical/mental health staff to comply with NJDOC policy or regulations. • Follow-up visits scheduled by a qualified healthcare professional.”

During the previous 12 months, no incident occurred that required an inmate to be taken to an outside hospital. Compliance based on review of policies, all staff interviews, inmate interviews, investigator interviews and review of the three investigations from the previous 12 months.

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

Exceeds Standard (substantially exceeds requirement of standard)

- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Sexual Assault Internal Management Procedure # MED.MLI.007 January 2017

POLICY: The NJ DOC mandates that the following medical and health care services be available in all Operational Units housing inmates and in compliance with any existing PREA standard. It includes the following: “The New Jersey Department of Corrections also mandates that the healthcare staff shall follow the institution’s written plan for responding to allegations of sexual assault of inmates. The assaulted inmate will be transported to an Emergency Department properly equipped to assess (i.e. SANE Nurse), treat, and provide required prophylaxis, contraceptives, pregnancy termination counseling and gathering of forensic evidence. Healthcare staff shall not be involved in the management or treatment of sexual assault cases unless it is necessary to stabilize the inmate before the transfer to the appropriate community facility.”

Counseling Services for Victims of Sexual Assault Internal Management Procedure MED.MHS.002.010 January 2017 includes the following: “2. Review recommendations reported by the rape counselor or hospital’s emergency services, and implement any warranted interventions. 3. Assess the inmate for signs/symptoms of acute emotional distress or other reactive mental health problems related to trauma and provide treatment if necessary. Document services provided and assessment results in the Electronic Medical Record under the appropriate PREA monitoring encounter. 4. If the inmate is returned to the facility after normal business hours, the inmate will be placed on Constant Watch (see Internal Management Procedure MED.MHS.002.009 Management of Potentially Suicidal Inmates) until he/she is evaluated in person by a psychologist or psychiatrist/nurse practitioner. Further guidance may be found in MED.MLI.007 Sexual Assault. 5. At the time of release from NJ DOC, aftercare services will be arranged for any active mental health disorder in accordance with current procedures for release planning. When mental health determines that follow up services are warranted relative to the sexual assault, separate from mental health needs, referrals will be made in accordance with recommendations reported by the SAFE/SANE counselor and/or other hospital emergency department staff. C. In accordance with PREA standards, the mental health staff will conduct an evaluation of all known inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate. “

Co-Pay for Eligible Health and Dental Care Internal Management Procedure MED.IMHC.010 Revised/Reviewed: January 2017 “The following services are excluded from the co-payment requirement: • Emergency services. • Prescribed laboratory work to include inmate requests for HIV testing. • Psychiatric, psychological, substance abuse and social work treatment including medication prescribed by the psychiatrist for mental health purposes • Medical visits initiated by medical/mental health staff to comply with NJDOC policy or regulations. • Follow-up visits scheduled by a qualified healthcare professional.”

Compliance based on policy, interview with medical and mental health staff, and review of the twenty completed investigations. There were no known inmate abusers that required review. During the previous 12 months, no incident occurred that required an inmate to be taken to an outside hospital.

### **Standard 115.86 Sexual abuse incident reviews**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Sexual Assault/Prison Rape Elimination Act (PREA) Advisory Council September 27, 2016 PCS.001.PREA.001

States the purposes as “To establish a panel to assess and improve the effectiveness of the department’s sexual abuse prevention, detection and response protocols and to review, on a case by case basis, housing requests for transgender/intersex inmates based on gender identity.”

Committee Functions include the following:

1. Provide a forum to address issues related to the prevention and detection of and response to prison sexual assault/harassment.
2. Provide administration with recommendations and/or corrective action, if necessary, upon completion of the case review/housing request.
3. Address sexual assault victimization within the NJDOC.
4. Address legislative and public policy issues affecting prison rape victims throughout New Jersey’s prisons.
5. Provide recommendations relative to prison rape prevention and intervention programming and services.
6. Assist in the development of training and educational efforts directed toward custodial and non-custodial staff members as it relates to PREA.
7. Provide additional support and input as needed.
8. Collaborate with outside agencies as indicated.
9. Monitors and tracks retaliation reviews and the service of the final PREA disposition in conjunction with Agency

Institutional Prison Rape Elimination Act (PREA) Compliance Manager Procedure # PCS.001.PREA.ICM Effective Date: January 1, 2014 Revised: June 29, 2015 Reviewed: June 1, 2016-No Change states, “The responsibilities of the institutional PREA Compliance Manager include, but are not limited to, the following:

- A. The utilization and data entry into the PREA Tracking System (PTS) for the identification and monitoring of inmates at facility.
- B. The daily review of institutional PREA electronic email alerts.
- C. The review of PREA electronic email alerts to ensure that specific recommendations contained within the alert have been implemented. These recommendations can include the following but are not limited to:
  1. Special housing conditions
  2. Special treatment conditions
  3. Specific recommendations for follow up
- D. Accept and forward for investigation, reports of sexual abuse and harassment, retaliation by other inmates, staff or other individuals who cooperated in investigation, and any staff neglect or violation of responsibilities that may have contributed to such incidents. Reports may be made privately, orally, in writing, anonymously and from third parties. All oral reports must be promptly documented and coordinated with Administration, Special Investigations and Operations to take appropriate measures to protect those individuals against retaliation.
- E. The weekly review of PREA electronic courtesy alerts and confirmation that PREA identified inmates are still housed at facility.
- F. Interview inmates who previously alleged sexual victimization within 45 days of allegation to ensure they haven’t experienced retaliation because of their allegation(s). For at least 90 days following report of sexual assault/harassment allegation, monitor by way of periodic status checks with the NJDOC PREA Retaliation Monitoring Form (FORM-PREA.AC Retaliation). The Institutional PREA Compliance Manager will deliver a copy of this form to the inmate who will sign for same. A copy of the signed form will be maintained by the Compliance Manager and placed in Folder 115.67 on the DOCNet I drive.
- G. Advise inmates who previously alleged sexual victimization of the disposition of the investigation. The Institutional PREA Compliance Manager will deliver a copy of form Sexual Assault Investigation Disposition to the inmate who will sign for same. A copy of the signed from will be maintained by the Compliance Manager and placed in Folder 115.73 on the DOCNet I drive.
- H. The institutional PREA Compliance Manager must also accept reports that an inmate was sexually abused while incarcerated at another facility. The IPCM will advise their administrator and serve as administrator’s designee in notifying the head of the facility/agency where the alleged abuse occurred no later than 72 hours after receiving the allegation. Maintain documentation of such notification in Folder 115.63 on the DOCNet I drive.”

Compliance based on policies, review of randomly selected incident review at the agency level, and facility level as well as interview with the PREA Manager. Exceeds compliance based on the extra level of review at the central office.

## Standard 115.87 Data collection

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Sexual Assault/Prison Rape Elimination Act (PREA): Sexual Assault Advisory Council September 28, 2016 PCS.001.005. ensures that the committee reviews all investigations statewide. Definitions are established to ensure consistency. "Sexual Abuse means sexual abuse of an inmate by another inmate and sexual abuse of an inmate by a staff member, contractor or volunteer. Sexual abuse by another inmate or sexual abuse by a staff member, contractor or volunteer includes any of the following acts, if the victim does not consent, is coerced into such an act by overt or implied threats of violence, or is unable to consent or refuse:

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
2. Contact between the mouth and the penis, vulva, or anus;
3. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
4. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, excluding contact incidental to a physical altercation.
5. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
6. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
7. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
8. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1) – (5) of this section;
9. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, and
10. Voyeurism by a staff member, contractor, or volunteer.

Sexual Harassment means repeated and unwelcome sexual advances, requests for sexual favors or verbal comments, gestures or actions of a derogatory or offensive sexual nature by one inmate to another and repeated verbal comments or gestures of a sexual nature to an inmate by a staff member, contractor or volunteer, including but not limited to demeaning references to gender, sexually suggestive or derogatory comments about body or clothing or obscene language or gestures. Victim means a person who reports having been subjected to sexual assault, harassment and/or rape or a person who suffers personal, physical or psychological injury. "

Compliance based on review of policy which provides standardized definitions consistent with those established with the PREA standards, review by the facility and statewide committee of all investigations. Statewide investigators use a standardized investigation format. Information in 2015 was aggregated and posted on the website. Compliance also based on review of the 2012, 2013, 2014, 2015, and 2016 Surveys on Sexual Victimization.

## Standard 115.88 Data review for corrective action

- Exceeds Standard (substantially exceeds requirement of standard)

- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Sexual Assault/Prison Rape Elimination Act (PREA) Advisory Council Level I Internal Management Procedure # PCS.001.PREA.001 May 18, 2016 POLICY “It is the policy of the New Jersey Department of Corrections (NJDOC) to review and analyze at the departmental level all allegations and incidents of sexual assault/harassment in accordance with the Prison Rape Elimination Act (PREA) to ensure that all applicable policies and procedures have been followed.”

“IV. PROCEDURES: A. Committee Organization (members) 1. Membership and participation on the PREA Advisory Council is contingent upon final approval of the Commissioner of the NJDOC. 2. Committee members shall consist of, but are not limited to, a representative of the following departments:

A. Agency PREA Coordinator (Executive staff member appointed by Commissioner) b. Division of Operations c. Special Investigations Division d. Office of Community Programs and Outreach Services e. Office of Victim Services f. Office of Policy and Planning g. Office of Transitional Services h. Mental Health Services i. Medical Services j. Corrections Ombudsman

3. The Chairperson shall keep the NJDOC Commissioner or designee informed of the committee's activities and recommendations.

B. Committee Member Recruitment and Selection

The Commissioner shall designate a chairperson. Assistant Commissioners may designate other members from their respective divisions.

C. Committee Functions

1. Provide a forum to address issues related to the prevention and detection of and response to prison sexual assault/harassment.
2. Provide administration with recommendations and/or corrective action, if necessary, upon completion of the case reviews.
3. Address sexual assault victimization within the NJDOC.
4. Address legislative and public policy issues affecting prison rape victims throughout New Jersey's prisons.
5. Provide recommendations relative to prison rape prevention and intervention programming and services.
6. Assist in the development of training and educational efforts directed toward custodial and non-custodial staff members as it relates to PREA.
7. Provide additional support and input as needed.
8. Collaborate with outside agencies as indicated.
9. Monitors and tracks retaliation reviews and the service of the final PREA disposition in conjunction with Agency.”

PREA Coordinator and Institutional PREA Compliance Managers. Compliance based on policy, review of the summary reports for 2012, 2013, 2014, 2015 and 2016 which are posted on the website for the NJ DOC. This information does not require redaction.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Aggregated data is on the website from 2012 to 2016. <http://www.state.nj.us/corrections/pages/PREA/PREA.html>. Retention and Disposal schedule requires retention for 10 years. There are no personal identifiers. Investigations are securely retained by the Special Investigation Division indefinitely. Review minutes are securely retained by the PREA

coordinator and PREA manager. The information includes data from the halfway houses that are contracted to provide services with the New Jersey Department of Corrections.

Compliance based on review of the website, interview with the investigators, and interviews with the PREA Coordinator and PREA Manager.

**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.

*Amy Fairbanks* Amy Fairbanks

January 3, 2018

Auditor Signature

Date