

PREA AUDIT REPORT     Interim     Final  
 JUVENILE FACILITIES

**Date of report: March 27, 2017**

<b>Auditor Information</b>			
<b>Auditor name:</b> Ana T. Aguirre, ATA3 Consulting, LLC			
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<b>Telephone number:</b> 512-708-0647			
<b>Date of facility visit:</b> July 21-22, 2016			
<b>Facility Information</b>			
<b>Facility name:</b> Western South Dakota Juvenile Services Center			
<b>Facility physical address:</b> 3505 Cambell St., Rapid City, South Dakota 57701			
<b>Facility mailing address:</b> <i>(if different from above)</i> n/a			
<b>Facility telephone number:</b> 605-394-2639			
<b>The facility is:</b>	<input type="checkbox"/> Federal	<input type="checkbox"/> State	<input checked="" 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 type="checkbox"/> Prison	<input type="checkbox"/> Jail	<input checked="" type="checkbox"/> Detention
<b>Name of facility's Chief Executive Officer:</b> Joe Gutierrez, Commander			
<b>Number of staff assigned to the facility in the last 12 months:</b> 54			
<b>Designed facility capacity:</b> 41			
<b>Current population of facility:</b> 33			
<b>Facility security levels/inmate custody levels:</b> Medium			
<b>Age range of the population:</b> 10-20			
<b>Name of PREA Compliance Manager:</b> Darren Patterson		<b>Title:</b> PREA Compliance Manager	
<b>Email address:</b> Darren.Patterson@pennco.org		<b>Telephone number:</b> 605-394-2639	
<b>Agency Information</b>			
<b>Name of agency:</b> Pennington County Sheriffs Office			
<b>Governing authority or parent agency:</b> <i>(if applicable)</i> n/a			
<b>Physical address:</b> 300 Kansas City St., Suite 100, Rapid City, South Dakota 57701			
<b>Mailing address:</b> <i>(if different from above)</i> n/a			
<b>Telephone number:</b> 605-394-6113			
<b>Agency Chief Executive Officer</b>			
<b>Name:</b> Kevin Thom		<b>Title:</b> Sheriff	
<b>Email address:</b> Kevin.Thom@pennco.org		<b>Telephone number:</b> 605-394-6113	
<b>Agency-Wide PREA Coordinator</b>			
<b>Name:</b> Melissa Reckling		<b>Title:</b> PREA Coordinator; Asst. to Jail	
<b>Email address:</b> Reckling@pennco.org		<b>Telephone number:</b> 605-394-6116	

# AUDIT FINDINGS

## NARRATIVE

The Prison Rape Elimination Act (PREA) onsite audit of the Western South Dakota Juvenile Services Center in Rapid City, South Dakota, was conducted on July 21-22, 2016, by Ana T. Aguirre, ATA3 Consulting, LLC. The facility is under the jurisdiction of the Pennington County Sheriff's Office. The agency-wide audit was conducted in conjunction with the facility audit. Ms. Melinda Allen audited the two adult facilities and Ms. Aguirre audited the juvenile facility. The Western South Dakota Juvenile Services Center is also accredited by the American Correctional Association (ACA), and was last audited on February 15-17, 2016. The ACA audit report did not reflect any PREA related concerns.

The pre-audit preparation phase included a review of all documentation, materials, and data submitted by the facility in the completed Pre-Audit Questionnaire (PAQ) via the PREA Resource Center (PRC) Online Audit System (OAS). The documentation reviewed included agency policies and procedures; forms; organizational charts; PREA related posters, brochures; training documentation for staff, and volunteers and contractors. The auditor also contacted Just Detention International (JDI) to ensure this facility had no reports with their agency. JDI reported there were no reports regarding this agency.

In preparation for the onsite audit, the facility posted the required PREA Audit Notices on June 9, 2016, which met the required six-week posting prior to the first day of the onsite audit. The agency provided emailed documentation, including pictures, to demonstrate the notices were posted in accordance with PREA Audit requirements. During the onsite audit, the auditor noted the notices were posted as requested at various locations in the facility, including in each Housing Unit. The notices were printed in bright colors (teal/green) to ensure they stood out from the regular posted information throughout the facility. The agency agreed to maintain the posted notices a minimum of six weeks after the onsite audit. The auditor did not receive any correspondence as a result of the posted notices at any time during the pre-audit or post-audit phases.

An entrance interview with key staff, including Commander Joe Gutierrez, Facility Administrator; Melissa Reckling, PREA Coordinator; and Darren Patterson, PREA Compliance Manager; and other key staff was held on Thursday, July 21, 2016. The audit process was explained with the staff. An exit interview was conducted on Friday, July 22, 2016.

During the onsite audit phase, the auditor was provided a meeting space to conduct confidential interviews with staff. The auditor was provided with private rooms to conduct confidential interviews with residents. Formal interviews were conducted with facility staff, residents, and volunteers. The auditor and co-auditor formally interviewed 10 residents from all of the occupied housing units (three); over 19 staff, of which 13 were specialized staff and one volunteer. As part of the agency-wide audit, Melinda Allen, PREA Auditor, interviewed the Agency Head, PREA Coordinator, and the Administrative (Human Resources) Staff. These staff oversee the agency-wide policies and procedures of all the facilities audited. Additionally, Ms. Allen interviewed the investigative staff responsible for criminal investigations. Ms. Aguirre interviewed the Facility Administrator, and the PREA Compliance Manager. Specialized staff interviewed included the intermediate/higher level facility staff, medical and mental health staff, volunteers, investigative staff responsible for administrative investigations, staff that

perform screening for risk of victimization and abusiveness, staff who supervise residents in isolation, incident review team staff, designated staff member charged with monitoring retaliation, security staff who have acted as first responders, intake staff and random sample of staff. Due to numerous staff being responsible for multiple tasks, several staff were interviewed on more than one Interview Protocol. Staff from all three shifts (630 - 1500, 1430 - 2300; and 2240 - 0700) was interviewed. The auditor interviewed randomly selected residents, and a minimum of one from each of the three (3) housing unit. The auditor utilized the PREA Resource Center Interview Protocols while formally interviewing staff and residents. Staff interviews included, but were not limited to, the following topics: their knowledge of the PREA zero tolerance policy on sexual abuse and sexual harassment; PREA related training received; reporting requirements, including reporting mechanisms available to residents and staff; their general knowledge of detection and protective measures related to sexual abuse and sexual harassment; and response/first responder protocols. Resident interviews included, but were not limited to, the following topics: their knowledge of the PREA zero tolerance policy on sexual abuse and sexual harassment; their rights not to be sexually abused or sexually harassed, prohibited conduct and discipline; PREA related education received; their knowledge on reporting options available to them; proper protection and response to allegations of sexual abuse or sexual harassment; not fearing retaliation for reporting; access to an outside reporting agency, their attorney, and parents or legal guardians; and access to services.

Ms. Allen and Ms. Aguirre toured the facility program and operational areas and observed the following: the facility's configuration; location of cameras; staff to resident ratios; housing unit layout including the shower areas; placement of PREA related information; resident intake, admission, and search procedures; resident programming; and areas designated for staff support/operational areas. Ms. Aguirre also conducted informal interviews of staff and residents while conducting the tour and arranged her schedule to allow for onsite observation of each shift. As it pertains to policies, the auditor noted they had recently been adopted on 7-7-16

## **DESCRIPTION OF FACILITY CHARACTERISTICS**

The Western South Dakota Juvenile Services Center (WSDJSC) is located at 3505 Cambell St., in Rapid City, South Dakota. The facility is under the jurisdiction and is one of the divisions of the Pennington County Sheriff's Office. The facility was constructed as a result of the formation of the Western South Dakota Regional Juvenile Services Center Compact. The compact counties include Butte, Custer, Fall River, Harding, Lawrence and Pennington. Currently, the center has service contracts with the Federal Bureau of Prisons, the United States (US) Probation Pre-Trial Services, District of South Dakota US Marshals and the South Dakota Department of Corrections. The WSDJSC provides secure housing and care for pre and post-adjudicated male and female juveniles between 10 - 20 years of age. The facility reported it contains one building. The 41-bed facility has three housing units with a total of 29 single-cell room and 6 double occupancy rooms. Each room is a wet room. Each housing unit is equipped with a day room and at least two (2) showers, which are designed to allow one resident to shower at a time. The facility does not have a specified unit used solely for segregation. Two of the housing units are solely designated to house male residents; and the third is solely designated to house female residents or male residents depending on the needs of the population.

The facility operates a health clinic that is staffed by the Pennington County Sheriff's Office. The clinic provides medical and dental screenings and medical care for minor health conditions. There is a

registered nurse on-site Tuesday, Thursday, and Friday on the day shift. The Pennington County Jail provides on-call nursing coverage on the weekends and the off shifts.

During the onsite audit, the current populaton stood at 33 residents, which included 29 male residents and 4 female residents. The agency reported 553 residents had been admitted to the facility in the past 12 months, with 179 residents whose length of stay in the facility was for 10 or more day, and 292 residents admitted to the facility whose length of stay in the facility was for 72 or more hours. The agency reported 54 employed staff at the facility during the past 12 . The agency reported one (1) contractor with the school district who would have contact with residents and 71 volunteers currently authorized to enter the facility.

### **SUMMARY OF AUDIT FINDINGS**

During the past 12 months, the WSDJSC reported there were 20 allegation of sexual abuse and sexual harassment, which resulted in one being referred for criminal investigation. The case was not referred by law enforcement to the prosecutor’s office.

The agency is policy driven and, although not required by every provision, has developed and implemented a policy for several provision of most standards. As the agency revised policies during the corrective action period, the auditor made an effort to accurately reflect the applicable agency policy(ies) for each applicable provision of each standard. In reviewing each provision and the applicable policy, the auditor reviewed applicable documentation and/or interviewed staff to confirm the policy had been implemented. Based on staff and resident interviews, there was a strong indication the PREA standards are implemented as required and in accordance with the agencies policies.

Overall, the interviews of residents reflected they were aware of PREA, and acknowledged familiarity with how they could report allegations of sexual abuse and sexual harassment. All residents interviewed reported feeling safe at the facility. The auditor noted that residents receive the PREA information verbally, in written format (Detainee and Resident Handbooks, PREA Brochures) during intake and orientation, as well as weekly via group sessions every Sunday. All staff, including the volunteer, interviewed indicated they were knowledgeable of PREA and of their roles and responsibilities related to reporting requirements as well as awareness of the procedures to follow if they are the first responders to any PREA related allegation. Documentation reviewed reflected the efforts the agency has made to develop and implement policies and procedures to meet the PREA standards.

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Number of standards exceeded:	0
Number of standards met:	39
Number of standards not met:	0
Number of standards not applicable:	2

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### **115.311 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator**

#### **Final Determination:**

- 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)

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

#### **115.311(a)**

**Policy/Document Review:** Agency Policy JCS 8.60, Section III(A), Pg. 1, states, “The Western South Dakota Juvenile Services Center maintains a zero tolerance toward all forms of sexual abuse/harassment/misconduct.” Section II addresses staff/volunteer/contractor training and resident education, Intake screening, classification, reassessment, reporting methods, investigations, resident notification, victim services, and sexual abuse data. The following agency policies outline protocols specific to PREA: JSC 8.70 – Admission Assessment; JSC 8-80 – Reporting; JSC 8.90 – Response to Sexual Assault/Abuse; JSC 8.100 – Investigations; and Appendix I – Prison Rape Elimination Act Policies Definitions.

**Interviews:** Commander, PREA Coordinator, and PREA Compliance Manager

**On-site Review / Tour Observation:** PREA posters and signage throughout the facility

**Findings:** The facility has a zero-tolerance policy and outlines the agency’s approach to preventing, detecting, and responding to sexual abuse and sexual harassment. The policy includes definitions of prohibited behaviors regarding sexual abuse and sexual harassment, and a description of agency strategies and responses to prevent, detect and reduce sexual abuse and sexual harassment of residents. During staff and resident interviews, it was apparent most were aware of PREA and understood that there was a zero tolerance expectation towards sexual abuse and sexual harassment. During the tour, there were several posters attached to the walls giving notice of the zero tolerance expectation.

#### **115.311(b)**

**Policy/Document Review:** Agency organizational charts

**Interviews:** PREA Coordinator

**Findings:** The PREA Coordinator is assigned to the Pennington County Jail. This staff member supervises three PREA Managers, which are assigned to two other facilities: one PREA Manager assigned to the Western South Dakota Juvenile Services Center and two PREA Managers to the City County Drug Alcohol

Program (CCDAP). The two PREA Managers at the CCDAP co-facilitate the facility's efforts in PREA compliance. It does not appear as though the PREA Coordinator have sufficient authority over the other facilities.

The PREA Coordinator reports to an Administrative Assistant III, who reports to a vacant position of Commander, who then to the Chief Deputy. The PREA Coordinator acts as the PREA Manager at the jail. While she does seem to have unfettered access to the Chief Deputy to discuss all PREA related issues and concerns. The PREA Coordinator does not have sufficient time to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities. It was recommended, in order to meet compliance, the PREA Coordinator should have sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities. Subsequently, the PREA Coordinator had her duties modified so that more time is spend in overseeing the agency's efforts in complying with PREA

### **115.311(c)**

**Policy/Document Review:** Agency organizational charts

**Interviews:** PREA Compliance Manager

**Findings:** The agency employs a PREA Coordinator and three PREA Compliance Managers. The PREA Coordinator is responsible for oversight of three PREA Managers in two other facilities: one PREA Manager assigned to the Western South Dakota Juvenile Services Center and two PREA Managers to the City County Drug Alcohol Program (CCDAP). The two PREA Managers at the CCDAP co-facilitate the facility's efforts in PREA compliance. The Pennington County Jail did not have a PREA Manager assigned. In order to meet compliance, each facility shall designate a PREA Compliance Manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards. It was recommended, a PREA Compliance Manager be appointed to the Pennington County Jail. Subsequently, the PREA Coordinator was also assigned and designated as the PREA Compliance Manager at the Pennington County Jail.

The facility has appointed one PREA Manager to the Western South Dakota Juvenile Services Center. The PREA Compliance Manager reports to the Commander and PREA Coordinator. The PREA Compliance Manager also reports to the Programs Sergeant. It was recommended the Commander and Programs Sergeant continue to support the efforts of the PREA Compliance Manager in having the authority to further develop, implement, and oversee the facility's efforts to comply with the PREA standards. Subsequently, the PREA Compliance Manager had his duties modified so that he may have more time working on maintaining PREA compliance. The PREA Compliance Manager has sufficient authority in developing, implementing, and overseeing the facility's efforts in complying with PREA. He also reports directly to the Commander on all issues related to PREA.

### **115.312 Contracting with other entities for the confinement of residents**

**Final Determination:**

- 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)
- Not Applicable

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

**115.312(a-b)**

**Findings:** The Agency Head, Commander, and PREA Coordinator were interviewed and reported while this agency has multiple contracts for housing residents for agencies, they do not contract for the confinement of its residents with private agencies or other entities including other government agencies. This standard is non-applicable.

**115.313 Supervision and monitoring**

**Final Determination:**

- 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)

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

**115.313(a)**

**Policy/Document Review:** In the Pre-Audit Questionnaire (PAQ), the agency reported the average daily number of residents housed at the facility as 41, which is the facility’s designed capacity. The agency submitted a document titled as the “Staffing Plan” indicating the number of staff assigned to specific areas in the facility, including supervisors.

**Interviews:** Commander, PREA Compliance Manager

**Findings:** The one page document presented reflected security staff assignments within the facility. This does not meet the staffing plan requirements of this provision, nor does it address each element of this provision. Staff interviews reflected staff understood the requirements of the staffing plan, including how each element of this provision needs to be addressed in the staffing plan. It was recommended the agency develop a formal staffing plan and seek guidance from the PREA Resource Center (PRC). The PRC provides, as a resource, a Staffing Plan Webinar and a Staffing Plan Guide. Subsequently, the agency provided a staffing plan that addresses all the required elements of this provision.

### **115.313(b)**

**Policy/Document Review:** There was no staffing plan available for review.

**Interviews:** Commander

**Findings:** There was no staffing plan to review therefore there was no means to determine if there would have been any deviations to document. When interviewed the Commander reported he could not see how they could not meet the needs of the residents. If something unexpected came up, they would make sure they would meet the needs of the residents. He commented on the value of having tenured staff. It was recommended, once the staffing plan is developed, the agency complies with the staffing plan and documents any deviations in accordance with this provision. Subsequently, the agency provided a staffing plan and reported there had been no deviations to date and that any deviations from the staffing plan will be documented.

### **115.313(c)**

**Interviews:** Commander

**Findings:** Staff reported the contractual agreements require the 1:8; 1:16 staffing ratios and 'shift relief factors' are activated based on the resident population. Staff positions are identified and supervisors make sure all required posts are covered.

### **115.313(d)**

**Policy/Document Review:** The agency reported in the PAQ the PREA Coordinator is not involved when reviewing the staffing plan.

**Interviews:** PREA Coordinator

**Findings:** The agency reported the PREA Coordinator is not involved when reviewing the staffing plan in accordance with this provision. The PREA Coordinator reported she would be involved when reviewing the staffing plan from now on. It was recommended the PREA Coordinator be included and consulted with when reviewing the staffing plan as required by this provision. The PREA Coordinator's involvement must be documented. Subsequently, the PREA Coordinator and PREA Compliance Manager were included and consulted with during the drafting of the Staffing Plan.

### **115.313(e)**

**Policy/Document Review:** Agency Policy JSC 16.80, Section III, F, Pg. 2. Shift Supervisor Post Orders, Post Checks, and PowerPoint Slide indicating content covered in training on conducting unannounced rounds.

**Interviews:** Intermediate or Higher-Level Staff

**On-site Review / Tour Observation:** While conducting the on-site review/tour, the auditor noted unannounced rounds are electronically recorded.

**Findings:** Staff reported they do conduct unannounced rounds, which are electronically recorded. Staff discussed strategies used when conducting unannounced rounds. During the tour, staff demonstrated and the auditor observed post checks being conducted. The post checks are electronically coded and recorded and reflect the exact minute and location the post check is conducted. The recorded electronic entry is pre-coded therefore it would be hard to demonstrate staff is cognizant of PREA specific behaviors to look for while conducting unannounced rounds. It was recommended agency policy and the Post Orders be enhanced, by including PREA specific instructions. In response to the recommendation, the agency enhanced agency policy and revised the Post Orders.



### **115.315 Limits to cross-gender viewing and searches**

#### **Final Determination:**

- 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)

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

#### **115.315(a)**

**Policy/Document Review:** Staff reported in the PAQ there were no cross-gender strip or cross-gender visual body cavity searches of residents conducted in the past 12 months. The agency also reported they require a male and female staff member on each shift. Agency Policy JSC 16.110, Section II(C), Pg. 1, states, “Strip Search: A search requiring complete removal of all clothing which includes a visual inspection of the body conducted by same gender staff member.” Section III(A), Pg. 1, states, “Manual or instrument inspection of the body cavity will be completed only by health care personnel and when authorized by the Commander.”

**Interviews:** Random Sample of Staff

**Findings:** Agency policy prohibits cross-gender strip searches and requires body cavity searches be completed by health care personnel. Staff interviewed reported cross-gender strip searches are prohibited.

#### **115.315(b)**

**Policy/Document Review:** Staff reported in the PAQ there were no cross-gender pat-down searches of residents conducted in the past 12 months. The agency reported they require a male and female staff member on each shift. Agency Policy JSC 16.110, Section II(B), Pg. 1, states, “Pat Searches: ... All Pat Searches are conducted by same gender staff member.”

**Interviews:** Random Sample of Staff, and Random Sample of Residents

**Findings:** Agency policy prohibits cross-gender pat-down searches. Staff interviewed reported cross-gender pat-down searches are prohibited.

#### **115.315(c)**

**Policy/Document Review:** The agency self-reported cross-gender searches are not documented. Agency policy prohibits all types of cross-gender searches. Agency Policy JSC 16.110, addresses searches; Section IV(9), Pg. 4 addresses cross gender and transgender pat searches only in exigent circumstances. Agency policy requires pat searches when a juvenile enters the facility or anytime a reasonable suspicion exists that a juvenile has contraband.

**Findings:** During the Pre-Audit Phase, agency policy prohibited all types of cross-gender searches and requires all strip searches be documented. Based on this assessment, there is no indication a cross-gender search would ever occur therefore no occasion to document such an event would present itself. Although agency policy and practice prohibit cross-gender searches, it was recommended the agency continue to be proactive and plan for any potential 'exigent circumstance.' It was recommended staff be trained and be prepared in the event an exigent circumstance were to arise. It was recommended the agency develop the appropriate form(s), and train staff on when and how to complete the forms when documenting cross-gender searches and include the requirement of documenting the justification for the cross-gender search. Subsequently, the PREA Compliance Manager utilized the PRC video as a resource and trained key staff on cross-gender searches. The facility reported the WSDJSC staff will be trained yearly about cross-gender pat searches and what an 'exigent' circumstance is. Additionally, the WSDJSC will utilize incident reports per policy whenever a cross-gender pat search occurs. The report will be reviewed and approved by the Commander.

#### **115.315(d)**

**Policy/Document Review:** The agency reported in the PAQ that juvenile showers are conducted individually and secured from viewing. Agency policy OM 6.80-1 addresses shower procedures. There were no policies available for review specific enabling residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks; or policies specific to staff announcements according to this provision.

**Interviews:** Random Sample of Staff, and Random Sample of Residents

**Findings:** There was no policy available for review enabling residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. The facility design allows for residents to shower one at a time and the cells in the housing unit are wet cells. Residents interviewed reported they showered, changed clothes, and perform bodily functions without opposite gender staff viewing them. There was no policy available for review requiring staff of the opposite gender to announce their presence when entering a resident housing unit. Staff interviewed reported this was a fairly new procedure and are working towards complying with this new rule. Resident interviewed reported for the most part that they do hear staff of the opposite gender announce when they enter the housing unit. Although there is no policy, the auditor noted staff and resident interviews reflect the practice has been initiated and staff is working hard towards meeting this requirement. It was recommended the agency develop written policy enabling residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks and requiring staff of the opposite gender to announce their presence when entering a resident housing unit. Policies 6.80 and 6.90 were revised to include that detainees are able to shower and perform bodily functions without nonmedical staff of the opposite sex viewing the detainee.

#### **115.315(e)**

**Policy/Document Review:** The agency reported in the PAQ that staff have been trained that this is not allowed and that this will be added to policy. A one page Power Point presentation (training) slide noted, "No searches of transgender youth just to determine genital status."

**Interviews:** Random Sample of Staff; there were no Transgender or Intersex Residents available to interview.

**Findings:** Nearly all staff interviewed reported searching of transgender youth to determine genital status was prohibited. A couple of staff reported they had not participated in the training due to extenuating circumstances. It was recommended the agency continue with its plan of action and develop written policy in response to this provision. It is also recommended the agency ensure all staff participate and complete all PREA related training. Policy 16.110 was revised in response to this provision. Staff provided supporting documentation indicating staff had received training.

**115.315(f)**

**Policy/Document Review:** The agency reported in the PAQ that approximately 75% of the staff had completed training on how to conduct cross-gender pat-down searches, and searches of transgender and intersex residents, and that they are currently in the process of training all staff. Agency Policy JSC 16.110, addresses searches; Section IV(9), Pg. 4, addresses cross gender and transgender pat searches only in exigent circumstances.

**Interviews:** Random Sample of Staff

**Findings:** Staff interviewed reported cross-gender pat-down searches are prohibited. Some staff indicated being aware of transgender searches protocols, and others acknowledged they had not received the training yet. It was recommended the agency continue with its plan of action to train all staff on transgender searches protocols. It is also recommended the agency consider training curriculum resources available through the PRC. Staff provided supporting documentation indicating staff had received training on transgender pat searches and agency policy was enhanced in response to this provision.

**115.316 Residents with disabilities and residents who are limited English proficient**

**Final Determination:**

- 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)

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

**115.316(a)**

**Policy/Document Review:** A TTY machine is located in the Booking area and Language Line services are available.

**Interviews:** Agency Head. There were no residents with disabilities or who are limited English proficient available to interview.

**On-site Review / Tour Observation:** During the tour, there was an attempt to get the TTY machine to operate, but it proved to be unsuccessful.

**Findings:** Staff interviewed reported counselors work with the residents. It was recommended staff received training on how to use the TTY machine. Subsequently, staff provided documentation reflecting staff had received training on the use of the TTY machine.

**115.316(b)**

**Policy/Document Review:** Language Line Services, Spanish versions of the PREA Booking Handout, and WSDJSC PREA Orientation form.

**Interviews:** There were no residents with disabilities or who are limited English proficient available to interview.

**Findings:** Spanish language materials are available to the residents. Staff interviewed reported translators are available to work with the residents.

**115.316(c)**

**Policy/Document Review:** The agency reported in the PAQ there have been no instances where resident interpreters, readers, or other types of resident assistants have been used in the past 12 months.

**Interviews:** Random Sample of Staff. There were no residents with disabilities or who are limited English proficient available to interview.

**Findings:** Staff interviewed reported residents would never be allowed or asked to assist with translation. They would rely on the Language Line or List of Interpreters for translation services or ask staff that can translate to assist.

**115.317 Hiring and promotion decisions**

**Final Determination:**

- 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)

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

**115.317(a)**

**Policy/Document Review:** Agency Global Policy GP 2-23 Background Investigation Pre-Employment and Pre-Volunteer, Section I(A), states, “The Pennington County Sheriff’s Office conducts a reasonable investigation into the background of prospective employees, contractors, and volunteers, who, by the nature of the position to be filled, will have access to sensitive information, facilities, computer systems,

clients, detainees, inmates, procedures, and/or reports. In order to minimize the Sheriff's Office risk exposure, this policy has been established to ensure fair and consistent evaluation. All candidates for full- and part-time employment with the Sheriff's Office undergo a comprehensive background investigation prior to being made a final offer. Candidates for Seasonal / Temporary employment, contractors, or volunteers are subjected to a limited background investigation." sampling of staff files which included applications and hiring information

**Findings:** Although policy is not required for this provision, the policy provided did not address all the elements of this provision. When candidates previously worked for or contracted with another law enforcement agency, the agencies are contacted for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse. The agency should inquire if the applicant has ever been a party to a lawsuit as a result of their actions in the performance of their previous law enforcement, corrections or community confinement job to determine if they have been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section. It was recommended the agency implement a practice in response to this provision. The agency reported the background information forms were modified to include the required elements. Sample forms were provided in response to this standard.

#### **115.317(b)**

**Policy/Document Review:** The agency reported criminal background checks were conducted on all 15 individuals hired in the past 12 months. Agency Global Policy GP 2-23;

**Interviews:** Administrative (Human Resources) Staff, PREA Coordinator, the Agency Head and Investigators

**Findings:** There was no inquiry into incidents of sexual harassment in determining whether to hire or promote anyone or to enlist the services of any employee or contractor who may have contact with the residents. The hiring and promotion practices should include an inquiry into the consideration of any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any employee or contractor, who may have contact with residents. Subsequently, Human Resources amended their hiring and promotional practices to include inquiry into the consideration of any incidents of sexual harassment.

#### **115.317(c)**

**Policy/Document Review:** The agency reported they conducted criminal background checks on staff covered under contracts. Agency Global Policy GP 2-23, sampling of staff files, which included applications and hiring information. In regards to child abuse registry checks, the agency reported DSS would not run central registry checks to screen for abuse and neglect unless the facility for which the individual works is a DSS facility.

**Interviews:** Administrative (Human Resources) Staff, PREA Coordinator, the Agency Head and Investigators

**Findings:** Although policy is not required for this provision, the policy provided did not address all the elements of this provision. The agency inquires if the applicant has ever had an improper relationship with a client, sexual or otherwise, ever resigned from employment after becoming aware of, being notified of, or during the course of an investigation about your behavior/actions while employed as a law enforcement officer or correctional officer. The agency inquires what was the investigation about and what is the status of that investigation. In response to this provision, the Background Questionnaire was revised to reflect the provisions of this standard.

### **115.317(d)**

**Policy/Document Review:** Agency Global Policy GP 2-23; Sampling of staff files, which included applications and hiring information.

**Interviews:** Administrative (Human Resources) Staff, PREA Coordinator, the Agency Head and Investigators

**Findings:** In regards to child abuse registry checks, the agency reported DSS would not run central registry checks to screen for abuse and neglect unless the facility for which the individual works is a DSS facility. The agency provided a copy of a letter from DSS regarding the DSS practice, which states "Per agency policy the Department of Social Services would no longer screen WSDJSC employees against the Central Registry for Abuse and Neglect in South Dakota. Based on the supporting documentation provided, it was determined the facility does not have any other recourse at this time specific to this provision.

### **115.317(e)**

**Policy/Document Review:** The agency reported in the PAQ that currently background checks are not done and that every year, the DL is run and the agency is notified if needed. There is no agency policy in response to this provision. Sampling of staff files, which included applications and hiring information

**Interviews:** Administrative (Human Resources) Staff, PREA Coordinator, the Agency Head and Investigators

**Findings:** Background checks are not completed every five years for contractors, volunteers and employees. Background checks should be completed every five years for contractors, volunteers and employees. Human Resources modified their practice to include background checks every five years.

### **115.317(f)**

**Interviews:** Administrative (Human Resources) Staff, PREA Coordinator, the Agency Head and Investigators

**Findings:** There was no supporting documentation that demonstrated this provision was met. The agency should impose upon employees a continuing affirmative duty to disclose any such misconduct. In response to this provision, the Background Questionnaire was revised to reflect the provisions of this standard.

### **115.317(g)**

**Policy/Document Review:** The agency reported agency policy addresses this provision, but no policy was provided for review.

**Findings:** Although policy is not required for this provision, the agency provided draft policy, PCSO Global Policy, which will be revised in response to this provision. The Background Questionnaire was revised to reflect the provisions of this standard.

### **115.317(h)**

**Interviews:** Administrative (Human Resources) Staff, PREA Coordinator, the Agency Head and Investigators

**Findings:** The agency does not provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work unless the former employee has signed a waiver

permitting the release of the information. If law permits, the agency shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work, unless providing information on substantiated allegations of sexual abuse or sexual harassment involving a former employee is prohibited by law. Although policy is not required for this provision, the agency reported PCSO Global Policy has been revised in response to this provision.

### **115.318 Upgrades to facilities and technologies**

#### **Final Determination:**

- 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)

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

#### **115.318(a)**

**Findings:** The agency marked “No” on the PAQ. The facility has not acquired a new facility or made a substantial expansion to existing facilities since August 2012. This provision is not applicable, as the agency does not contract for the confinement of its residents.

#### **115.318(b)**

**Policy/Document Review:** Documentation indicating the monitoring system was updated/upgraded.

**Interviews:** Agency Head; Commander

**On-site Review / Tour Observation:** Toured the facility, including control room, and noted camera placements.

**Findings:** Staff interviewed reported extra larger monitors have been added. Staff reported the monitors were ordered on August 14, 2015 for the Control Room as an upgrade at a total cost of \$281.13. Video monitoring is used to enhance the monitoring of resident activity.

### **115.321 Evidence protocol and forensic medical examinations**

#### **Final Determination:**

- 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)

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

**115.321(a)**

**Policy/Document Review:** Agency Policy JSC 8.100 addresses investigation protocols in support of the PREA Standards. Agency Law Enforcement Policies revised 05-13-16 and Section 600 addresses criminal investigations.

**Interviews:** Random Sample of Staff

**Findings:** Agency policy dictates that the WSDJSC will conduct administrative investigations of all allegations of sexual abuse/harassment/misconduct. Any allegation determined to be criminal in nature is immediately referred to law enforcement. Staff interviewed reported if a sexual abuse allegation were to be made, they would be responsible for securing the scene, the alleged victim and the alleged perpetrator and immediately notify one of the facility’s three designated PREA Investigators.

**115.321(b)**

**Policy/Document Review:** The agency reported Law Enforcement is responsible for this.

**Findings:** The interview of the victim advocacy agency indicated sexual assault victims would be taken to the emergency room at the hospital where SANE/SAFE staff would be responsible for forensic examinations. The auditor attempted a follow-up interview with the victim advocacy agency but was unable to speak with a representative regarding the protocol.

**115.321(c)**

**Policy/Document Review:** Agency Policy JSC 8.90, Section III, addresses the protocols staff is required to follow in response to a sexual assault. The agency reported in the PAQ there had been no forensic examinations conducted in the past 12 months.

**Interviews:** SAFE/SANE Staff

**Findings:** Agency Policy JSC 8.90, Section III(F), pg. 2, indicates agency medical staff may collect forensic evidence, which is then given to the investigator assigned to the case. There was no policy or other supporting documentation indicating that forensic examinations would be offered to residents who experience sexual abuse without financial cost. The interview of the victim advocacy agency indicated sexual assault victims would be taken to the emergency room at the hospital where SANE/SAFE staff would be responsible for forensic examinations. It is recommended the agency develop and implement policy to ensure victims of sexual abuse are afforded access to a forensic medical examination without financial cost to the resident. This information should be included in the resident handbook. This information should be made available to the residents via PREA brochure/literature and the Resident Handbook. It is recommended the agency enter into an agreement that outlines responsibilities related to PREA incidents or document it’s efforts. The agency modified policy JCS 8.60, Section III(I)(1), Pg. 3, in response to this provision. Additionally, information has been added in the PREA brochure provided to detainees upon intake. The agency reported this information is also in the Orientation Video, which plays daily.



### **115.321(d)**

**Policy/Document Review:** The agency reported on the PAQ that the Sheriff's Office Law Enforcement Division typically provides this to the detainee. Victim Specialist credentials.

**Interviews:** PREA Compliance Manager. There were no residents who reported sexual abuse available to interview during the on-site audit.

**Findings:** Recent efforts indicate outreach has been made to a local rape crisis center. Staff interviewed reported the agency uses Working Against Violence, Inc. (WAVI) as a local victim advocacy resource. This is a newly identified resource for the facility. Staff also reported one of the staff, a Mental Health Caseworker, is available to provide emotional support. Additionally, the Sheriff's Office employs two victims' specialists who would be used throughout the investigation phase. If the case goes to prosecution, the State Attorney's Office Victim's Assistance would take over the victim advocacy. An MOU, dated September 2015, was entered into between law enforcement, W.A.V.I., Sexual Assault Nurse Examiners, and the Pennington County State Attorney's Office and addresses this provision. In the event law enforcement would conduct a sexual abuse allegation, they would activate the MOU. This MOU applies to adult victims.

### **115.321(e)**

**Policy/Document Review:** Informational handout regarding Working Against Violence, Inc. (WAVI), and mental health staff credentials (license), and PREA Investigator Training Certificate for mental health staff member

**Interviews:** PREA Compliance Manager. There were no residents who reported sexual abuse available to interview during the on-site audit.

**Findings:** Staff interviewed reported the agency uses Working Against Violence, Inc. (WAVI) as a local victim advocacy resource. This is a newly identified resource for the facility. Staff also reported one of the staff, a Mental Health Caseworker, is available to provide emotional support. The interview of the victim advocacy agency indicated sexual assault victims would be taken to the emergency room at the hospital where, if requested by the victim, they would send a victim advocate to the hospital to be with the victim. Additionally, the one of the agency's mental health staff participated in the PREA Investigator Training in order to better understand the investigative process. This effort exceeds the requirements of this provision.

### **115.321(f)**

The agency checked "No" on the PAQ.

**Findings:** The WSDJSC is one of the divisions under the Pennington County Sheriff's Office. Agency policy dictates that the WSDJSC will conduct administrative investigations of all allegations of sexual abuse/harassment/misconduct. Any allegation determined to be criminal in nature is immediately referred to law enforcement. The Law Enforcement Division would be responsible for conducting the criminal investigation. This provision is applicable as the facility is under the umbrella of the agency and the agency is responsible for administrative and criminal investigations.

### **115.321(g)**

**NOTE: Provision 115.321(g) does need to be assessed as part of the facility audit.**

### **115.321(h)**

**Findings:** The facility utilizes the Working Against Violence, Inc. (WAVI) to access victim advocacy services for victims of sexual assault. This provision is not applicable, as the agency attempts to make available a victim advocate from a rape crisis center service provider.

### **115.322 Policies to ensure referrals of allegations for investigations**

#### **Final Determination:**

- 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)

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

#### **115.322(a)**

**Policy/Document Review:** Agency Policy 8.60. The agency reported in the PAQ there were 20 allegations of sexual abuse and sexual harassment received in the past 12 months; 20 allegations resulted in administrative investigations and one (1) was referred for criminal investigation.

**Findings:** Agency Policy 8.60 does not address the requirement that the agency will ensure an administrative or criminal investigation is completed for all allegations of sexual abuse or sexual harassment. Staff interviewed reported all administrative or criminal investigations are thorough and complete, not just PREA related investigations. It was recommended agency policy be developed and implemented to ensure all administrative or criminal investigations are completed for all allegations of sexual abuse and sexual harassment. Agency Policy 8.90 addresses the response (administrative investigation) and immediate referral to law enforcement for criminal investigations.

#### **115.322(b)**

**Policy/Document Review:** Agency Policy JSC 8.100

**Findings:** Agency policy dictates that the WSDJSC will conduct administrative investigations of all allegations of sexual abuse/harassment/misconduct. Any allegation determined to be criminal in nature is immediately referred to law enforcement. Agency Policy 8.100 has not been posted on the agency’s website. The agency has initiated an electronic data system designed to track all allegations. It was recommended the agency continue with finalizing its referral tracking system. It was recommended the agency post Agency Policy 8.100, which addresses this provision. The agency posted the policy on the agency’s website:

<http://docs.pennco.org/docs/SO/policies/WSDJSC/8.60%20Zero%20Tolerance.pdf>

#### **115.322(c)**

**Findings:** The WSDJSC is one of the divisions under the Pennington County Sheriff's Office. Agency policy dictates that the WSDJSC will conduct administrative investigations of all allegations of sexual abuse/harassment/misconduct. Any allegation determined to be criminal in nature is immediately referred to law enforcement. The Law Enforcement Division would be responsible for conducting the criminal investigation. This provision is applicable, as the facility is under the umbrella of the agency. It was recommended the agency post Agency Policy 8.100 and outlines the responsibilities of each division in accordance with this provision. The agency posted the policy on the agency's website: <http://docs.pennco.org/docs/SO/policies/WSDJSC/8.60%20Zero%20Tolerance.pdf>

**115.322(d)**

**NOTE: Provision 115.322(d) does need to be assessed as part of the facility audit.**

**115.322(e)**

**NOTE: Provision 115.322(e) does not need to be assessed as part of the facility audit.**

**115.331 Employee training**

**Final Determination:**

- 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)

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

**115.331(a)**

**Policy/Document Review:** Training Manual: Implementing the Prison Rape Elimination Act (PREA); Random Sample of Personnel Training Files

**Interviews:** Random Sample of Staff

**Findings:** The Training Manual addressed all 11 topics required of this provision. A random selection of staff training files indicated staff had completed PREA training. Staff interviews indicated staff receives annual training as well as on-going training.

**115.331(b)**

**Policy/Document Review:** Training Manual: Implementing the Prison Rape Elimination Act (PREA); Random Sample of Personnel Training Files

**Findings:** A random selection of staff training files indicated staff had completed additional PREA training. The agency houses male and female residents.

**115.331(c)**

**Policy/Document Review:** The agency reported in the PAQ they employ 35 staff. Random sample of staff training files.

**Findings:** Training records reviewed indicated staff received PREA related training twice a year. Only two employee files indicated one training event, which was due to being within the past year. Both new employees received the PREA training within two weeks of their hire date.

**115.331(d)**

**Policy/Document Review:** Random sample of staff training files

**Findings:** The agency does not document that employees understand the training they receive. It was recommended the agency document that employees understand the training they have received. The agency reported the WSDJSC has implemented documenting staff understanding of the training they receive. A sample copy was provided in response to this provision.

**115.332 Volunteer and contractor training**

**Final Determination:**

- 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)

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

**115.332(a)**

**Policy/Document Review:** The agency reported in the PAQ, they have 14 contractors and volunteer who have contact with residents and have been trained on PREA. WSDJSC Volunteer Orientation Slide Presentation; Random Sample of Volunteer Training Records – PREA Training Form; Random Sample of Contract Staff (Teacher) Training File; and Module: “PREA Compliance and Responsibilities – Juvenile”

**Interviews:** Volunteer

**Findings:** A review of the volunteer orientation presentation slides do not indicate PREA topics are addressed as it pertains to the prevention, detection, and response to sexual abuse and sexual harassment of residents. Training documentation from both randomly selected volunteers reflect the volunteers completed the PREA training. The form addresses the required topics under this provision. The contractor’s training records indicate the contractor received training on “PREA Compliance and Responsibilities – Juvenile.” The volunteer interviewed reported receiving the required training, in accordance with this provision, and was familiar with the topics pertaining to prohibited conduct, inappropriate relationships with residents, and the reporting requirements. It was recommended the

agency provide the proper volunteer training curriculum for review or develop the required PREA specific training for volunteers. The agency provided a revised training curriculum.

### **115.332(b)**

**Policy/Document Review:** WSDJSC Volunteer Orientation Slide Presentation; Random Sample of Volunteer (local church) Training Files; Random Sample of Contract Staff (Teacher) Training File; Module: “PREA Compliance and Responsibilities – Juvenile”

**Interviews:** Volunteer

**Findings:** A review of the volunteer orientation presentation slides reflect the PREA topics, specifically the agency’s zero tolerance policy regarding sexual abuse and sexual harassment or how to report such incidents, are not addressed. The contractor’s training records indicated the contractor received training on “PREA Compliance and Responsibilities – Juvenile,” which addresses all 11 elements required of staff under 115.331(a). The volunteer interviewed was familiar with the zero tolerance policy regarding sexual abuse and sexual harassment and the reporting requirements. It was recommended the agency provide the proper volunteer training presentation for review by the auditor or develop the required PREA specific training for volunteers. The agency provided a revised training curriculum.

### **115.332(c)**

**Policy/Document Review:** Random sample of contract staff training files

**Findings:** The agency does not document that contractors and volunteers understand the training they have received. The agency utilizes a PREA Training Acknowledgement Form, but the acknowledgement statement does not include the provision that the volunteer/contractor understand the training they have received. It was recommended the agency document that volunteers and contractors understand the training they have received. The agency reported the WSDJSC has implemented documenting contractor and volunteer understanding of the training they receive, similar to the staff form. It was noted the “Orientation Training” form reflects the required training, and the signed PREA training form was attached.

## **115.333 Resident education**

### **Final Determination:**

- 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)

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

### **115.333(a)**

**Policy/Document Review:** Staff reported on the PAQ that 631 residents admitted in the past 12 months have been provided PREA information at intake. Resident Handbook; PREA Orientation Handout; PREA Orientation Acknowledgement Form

**Interviews:** Intake Staff; Random Sample of Residents

**On-site Review / Tour Observation:** N/A

**Findings:** Staff interviewed reported residents are provided information on the zero tolerance policy and how to report incidents or suspicions of sexual abuse or sexual harassment at intake. This is provided to the resident in a packet. Staff reported the resident would be provided the information even if the resident claimed to already know the information. All residents interviewed reported they had received the information during intake.

**115.333(b)**

**Policy/Document Review:** The agency reported in the PAQ they schedule PREA training for 30 minutes every Sunday. Resident Handbook; PREA Orientation Handout

**Interviews:** Intake Staff; Random Sample of Residents

**Findings:** Staff interviewed reported the PREA training is provided to the residents at the beginning of Swing Shift on Sundays. Residents interviewed reported receiving this information at intake and that it is provided every Sunday by staff that read out loud the information from the PREA book.

**115.333(c)**

**Policy/Document Review:** The agency reported in the PAQ they schedule PREA training for 30 minutes every Sunday for all residents. Agency Policy JCS 8.6, Section II(D), Pg. 1

**Interviews:** Intake Staff

**Findings:** Agency policy requires all residents will receive the required information upon intake and then a more comprehensive education within PREA standards time frame. Staff interviewed reported all residents are provided the PREA information at intake.

**115.333(d)**

**Policy/Document Review:** Staff reported in the PAQ that residents are provided PREA education information in the following formats, based on their needs: Language Line, TTY, and staff read the information to the resident. Spanish versions of the PREA Booking Handout and WSDJSC PREA Orientation Form.

**On-site Review / Tour Observation:** A TTY machine is located in the Booking area and Language Line services are available.

**Findings:** During the tour, there was an attempt to get the TTY machine to operate, but it proved to be unsuccessful. Spanish language materials are available to the residents. Staff interviewed reported translators are available to work with the residents.

**115.333(e)**

**Policy/Document Review:** Log Book entries in the Housing Units. WSDJSC PREA Orientation Form

**Findings:** Staff reported in the PAQ they maintain a log in the housing units and electronic records are maintained to document resident participation. A review of the log entries reflected residents participate in PREA education sessions.

**115.333(f)**

**Policy/Document Review:** Resident Handbook; PREA Orientation Handout; PREA Orientation Acknowledgement Form

**Interviews:** Intake Staff; Random Sample of Residents

**On-site Review / Tour Observation:** PREA information is posted throughout the facility, including the housing units.

**Findings:** PREA information is posted throughout the facility, including the housing units.

**115.334 Specialized training: Investigations**

**Final Determination:**

- 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)

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

**115.334(a)**

**Policy/Document Review:** Training Certificates for Facility Investigative Staff; PowerPoint Presentation titled, “Investigating Sexual Abuse in Confinement Settings: Training for Correctional Investigators” secured from the PRC. Employee Training Logs from 2016 and 2015.

**Interviews:** Investigative Staff

**Findings:** The training PowerPoint presentation’s source is the PRC. The facility’s investigative staff provided certificates of completion. The facility’s investigative staff interviewed reported receiving training in all the required topics. It was noted the agency’s investigative staff (Law Enforcement Division) reported not receiving training specifically for in-custody. The staff for which the WSDJSC have control over received the required training. The Employee Training Logs from 2016 and 2015 reflected all the facility investigators had completed the required training under 115.331. It was recommended the agency leadership ensure investigative staff assigned to conduct criminal investigations at the WSDJSC is trained in accordance to the PREA standards. The agency provided training documentation reflecting the law enforcement investigative staff received the required PREA training in accordance with this provision.

**115.334(b)**

**Policy/Document Review:** Training Certificates for Facility Investigative Staff; PowerPoint Presentation titled, “Investigating Sexual Abuse in Confinement Settings: Training for Correctional Investigators” secured from the PRC

**Interviews:** Investigative Staff

**Findings:** The training PowerPoint presentation’s source is the PRC. The investigative staff provided certificates of completion. The facility’s investigative staff interviewed reported receiving training in all the required topics. The agency’s investigative staff (Law Enforcement Division) reported not receiving training specifically for in-custody. The staff for which the WSDJSC have control over received the required training. It was recommended the agency leadership ensure investigative staff assigned to conduct criminal investigations at the WSDJSC is trained in accordance to the PREA standards. The agency provided training documentation reflecting the law enforcement investigative staff received the required PREA training in accordance with this provision

**115.334(c)**

**Policy/Document Review:** Training Certificates for Facility Investigative Staff

**Findings:** The facility’s investigative staff provided certificates of completion. It was noted the agency’s investigative staff (Law Enforcement Division) reported not receiving training specifically for in-custody. The staff for which the WSDJSC have control over received the required training. It was recommended the agency leadership ensure investigative staff assigned to conduct criminal investigations at the WSDJSC is trained in accordance to the PREA standards. The agency provided training documentation reflecting the law enforcement investigative staff received the required PREA training in accordance with this provision.

**115.334(d)**

**This provision need not be assessed as part of the facility audit.**

**115.335 Specialized training: Medical and mental health care**

**Final Determination:**

- 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)

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

**115.335(a)**

**Policy/Document Review:** The agency reported on the PAQ that three (3) of its medical staff had received the required training. Agency Policy JCS 8.60, Section II(C); Module: Specialized Training PREA



Medical and Mental Care Standards (Table of Contents) which was developed by the National PRC and National Commission on Correctional Health Care; Employee Training Log for Medical and Mental Health Providers

**Interviews:** Medical and Mental Health Staff

**Findings:** Agency Policy JCS 8.60, Section II(C), pg. 1, states, “All staff, volunteers and contractors having contact with detainees will be trained on the Prison Rape Elimination Act’s standards.” The language does not specifically address the four elements listed in this provision. Staff interviewed reported receiving training in all the required topics. The medical and mental health staff are employees of the Pennington County Sheriff’s Office (PCSO) and are assigned to the WSDJSC facility. The training documentation reflected all the PCSO medical and mental health staff, including the staff assigned to the JSC, had received the required PREA training.

**115.335(b)**

**Findings:** The agency reported in the PAQ that the agency’s medical staff does not conduct forensic medical exams. Staff interviewed reported they do not conduct forensic medical exams. This provision is not applicable.

**115.335(c)**

**Policy/Document Review:** Module: Specialized Training PREA Medical and Mental Care Standards (Table of Contents) which was developed by the National PRC and National Commission on Correctional Health Care; Employee Training Log for Medical and Mental Health Providers

**Findings:** The training documentation reflected all the PCSO medical and mental health staff, including the staff assigned to the JSC, had received the required PREA training.

**115.335(d)**

**Policy/Document Review:** Employee Training Logs from 2015.

**Findings:** The Employee Training Logs from 2015 reflected the facility’s medical and mental health staff had completed the required training under 115.331.

**115.341 Screening for risk of victimization and abusiveness**

**Final Determination:**

- 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)

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

### **115.341(a)**

**Policy/Document Review:** The agency reported in the PAQ that 337 residents had entered the facility whose stay in the facility was for 72 hours or more and that all were appropriately screened for risk of sexual victimization and abusiveness. Agency Policy JSC 8.70; Agency Policy JSC 8.60.

**Interviews:** Staff Responsible for Risk Screening; Random Sample of Residents

**Findings:** Agency Policy JSC 8.70, Section II(A), pg. 1, states, "All detainees will be screened for risk of sexual victimization or sexual abusiveness within 24 hours of admission to the facility." Section II(A)(3), pg. 1, states, "Periodically throughout a detainee's confinement a reassessment will be completed." Agency Policy JSC 8.60, Section II(E), pg. 2, states, "If further relevant information becomes available after the intake screen, a reassessment may be conducted." These policies appear to be contradictory. Staff interviewed reported the initial screening is completed immediately upon intake and that the residents are reassessed every 30 days. There is an indication the 30-day reassessment practice was recently revised to bi-weekly. Residents interviewed reported being screened during intake. There were mixed responses from the residents regarding reassessments. A majority of residents reported being reassessed since their arrival. Although agency policy is not required specific to this provision, it was recommended the agency leadership reviews both policies and makes a formal determination on how often, or under what circumstances, a resident should be reassessed. Based on current practice, the facility would potentially exceed the requirement of this provision. Policy 8.70 is pending final approval and was revised to require the reassessment be done ever 30 days throughout the detainee's confinement.

### **115.341(b)**

**Policy/Document Review:** WSDJSC PREA Intake Assessment Form

**Findings:** The agency used the WSDJSC PREA Intake Assessment Form, which appears to be an objective. The form is completed electronically.

### **115.341(c)**

**Policy/Document Review:** Agency Policy JSC 8.60, Section III(E), Pg. 2. WSDJSC PREA Intake Assessment Form

**Interviews:** Staff Responsible for Risk Screening

**Findings:** The WSDJSC PREA Intake Assessment Form was audited to determine if each element of this provision was addressed. The only element not addressed was Item 1 as it relates to abusiveness. Without this element, staff may not be able to identify residents that may be sexually abusive towards other residents. Staff interviewed was able to recall a majority of the elements listed in the assessment form. It was recommended the agency add the remaining portion of Item 1: sexual abusiveness, to the assessment form. Although this provision does not require policy, Agency Policy JSC 8.60 was revised in response to this provision. The Screening Form (Item 4) was also revised to include this element.

### **115.341(d)**

**Interviews:** Staff Responsible for Risk Screening

**Findings:** Staff interviewed reported getting a majority of the information during the initial interview of the resident during the intake process. The resident is then referred for a follow-up assessment, which is

completed by medical and mental health staff, usually the following day. Staff reported reports are also reviewed. Staff reported information is used for classification and housing assignments.

**115.341(e)**

**Interviews:** PREA Coordinator; PREA Compliance Manager; Staff Responsible for Risk Screening

**Findings:** Staff interviewed reported the information would be disseminated to the appropriate staff on a need to know basis. Information is treated similar to HIPPA. Staff reported correctional officers would not have access to medical or mental health information.

**115.342 Use of screening information**

**Final Determination:**

- 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)

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

**115.342 (a)**

**Policy/Document Review:** Agency Policy 8.70; Documentation of Risk-Based Housing Assignment

**Interviews:** PREA Compliance Manager; Staff Responsible for Risk Screening

**Findings:** Agency Policy 8.70, Section II(A)(1), pg. 1, states, “The screening information will be used to assist in determining housing, bed, work, education and program assignments with the goal of keeping separate those deemed high risk of being victimized from those at high risk of being sexually abusive.” Staff interviewed reported the information is used for housing and program assignments. A review of a juvenile file document reflected the housing assignment process.

**115.342 (b)**

**Policy/Document Review:** Staff reported in the PAQ that policy would be revised specific to this provision in the near future. Agency Policy JSC 9.40. Staff reported in the PAQ there were no residents placed in isolation that were at risk of sexual victimization in the past 12 months.

**Interviews:** Commander; Staff who Supervise Residents in Isolation; Medical and Mental Health Staff; and There were no Residents in Isolation (for risk of sexual victimization/who allege to have suffered sexual abuse) at the facility during the on-site visit.

**On-site Review / Tour Observation:** Isolation rooms are located in the booking area.

**Findings:** Although this provision does not require policy, the auditor noted Agency Policy JSC 9.40 applies to the Special Management Program – juveniles who threaten the secure or orderly management of the facility. Staff interviewed reported that if a resident would need to be isolated under this circumstance, the resident would be moved to another pod. Staff reported, based on contractual agreement, they cannot isolate a resident for more than three (3) hours. Staff reported medical and mental health staff visits residents in isolation on a daily basis and would have access to programs, education/special education programming, and privileges. Staff reported that under this circumstance, decisions to place a resident in isolation would be done on a case-by-case basis and isolation would be explained as not a form of punishment. Staff reported if a detainee were to be isolated, there would be a Behavior Plan created for the detainee.

**115.342 (c)**

**Policy/Document Review:** Staff reported it is practice to review LGBTI detainees on a case-by-case basis, however it is not yet in policy.

**Interviews:** PREA Coordinator; PREA Compliance Manager; Transgender, Intersex, Gay, Lesbian, and Bisexual Residents

**Findings:** Staff and residents reported LGBTI Residents are not housed solely on the basis of such identification. Staff reported the WSDJSC practice is to house detainees in single rooms if possible. If double bunking were necessary, the WSDJSC practice would be to house detainee based on the charges.

**115.342 (d)**

**Interviews:** PREA Compliance Manager; There were no Transgender/Intersex Residents available to interview during the on-site visit.

**Findings:** Staff interviewed reported decisions would be based mostly from communication with the resident, the resident's history and talking with the resident's parents. Staff reported transgender detainees' housing would be determined on a case-by-case basis with input from the detainee about where they would feel most comfortable. A form would be created, and an incident report would be generated.

**115.342 (e)**

**Interviews:** PREA Compliance Manager; Staff Responsible for Risk Screening.

**Findings:** Staff interviewed reported a reassessment would take place every 30 days to ensure residents would remain safe.

**115.342 (f)**

**Interviews:** PREA Compliance Manager; Staff Responsible for Risk Screening. There were no Transgender/Intersex Residents available to interview during the on-site visit.

**Findings:** Staff interviewed reported the resident's views are given serious consideration.

**115.342 (g)**

**Interviews:** PREA Compliance Manager; Staff Responsible for Risk Screening. There were no Transgender/Intersex Residents available to interview during the on-site visit.

**On-site Review / Tour Observation:** The facility's design allows only for single showering.

**Findings:** Staff interviewed reported residents shower one at a time. The facility is designed for single showers.

**115.342(h)**

**Policy/Document Review:** Staff reported in the PAQ there were no residents placed in isolation that were at risk of sexual victimization in the past 12 months.

**Findings:** There was no documentation to review since no resident was isolated per this provision. Staff reported if a detainee needed to be isolated, a Behavior Plan would be created which would document the reason for the isolation.

**115.342(i)**

**Policy/Document Review:** This provision does not require policy in PAQ, but noted in ACT. Agency Policy JSC 9.40

**Interviews:** Staff who Supervise Residents in Isolation. There were no Residents in Isolation for risk of sexual victimization/who alleged to have suffered sexual abuse residing at the facility at the time of the on-site visit.

**On-site Review / Tour Observation:** N/A

**Findings:** Agency Policy JSC 9.40 applies to the Special Management Program – juveniles who threaten the secure or orderly management of the facility. Staff interviewed reported this would not occur since resident would not be in isolation for over 30 days.

**115.351 Resident reporting**

**Final Determination:**

- 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)

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

**115.351 (a)**

**Policy/Document Review:** Agency Policy JSC 8.80; Resident Handbook

**Interviews:** Random Sample of Staff; Random Sample of Residents

**On-site Review / Tour Observation:** During the tour, PREA information was posted in the housing units; grievance forms were also available for the residents. The auditor tested accessing the TIP line, and

immediately received confirmation it was operational and available to the residents. In calling the TIP line, a resident needs the zip code information as the TIP line staff will request it. Staff interviewed was able to state the numerous ways residents could make a report. Residents interviewed indicated feeling comfortable making a report directly to staff, dial '777,' using a grievance form or letter, and calling their parents.

**Findings:** Agency Policy JSC 8.80, Section II(A)(1-6) outlines the various ways residents could make a report: letter, grievance, request, verbal report, anonymous report, contacting rape crisis center, third-party, and/or the Tip Line. The agency policy does not include the second or third elements: (1) retaliation by other residents or staff for reporting sexual abuse and sexual harassment; or (2) and staff neglect or violation of responsibilities that may have contributed to such incidents. The resident handbook contains information on accessing the TIP line on page 12. It was recommended the resident handbook and/or the PREA Booking Handout be enhanced to include ways to report and what needs to be reported. It is also recommended the residents are provided the new number. The Detainee Handbook and PREA Handout were enhanced to include the elements of this provision. The 211 and 777 numbers were added to the handbook and handout.

#### **115.351 (b)**

**Policy/Document Review:** Resident Handbook. The agency reported in the PAQ they do not hold residents solely for civil immigration purposes.

**Interviews:** PREA Compliance Manager; Random Sample of Residents

**On-site Review / Tour Observation:** The TIP line phones are available in each housing unit. The auditor tested accessing the TIP line, and immediately received confirmation it was operational and available to the residents. In calling the TIP line, a resident needs the zip code information as the TIP line staff will request it.

**Findings:** The TIP line allows residents access to an outside entity that can then make a report on the behalf of the resident. The resident handbook contains information on accessing the TIP line, including the ability to make a report anonymously, on page 12. Staff interviewed reported the 211 TIP line staff would notify law enforcement and all calls remain anonymous. Residents interviewed reported they could remain anonymous. Staff reported calls are not recorded to the 211 line.

#### **115.351 (c)**

**Policy/Document Review:** Agency Policy JSC 8.60; Agency Policy JSC 8.80; Resident Handbook.

**Interviews:** Random Sample of Staff; Random Sample of Residents

**Findings:** Agency Policy JSC 8.80, Section II(A)(1-6), pg. 1, and JSC 8.60, Section II(H), pg. 2, address this provision. Staff interviewed reported they would accept verbal reports and document this. The resident handbook addresses anonymous calls to the TIP line.

#### **115.351(d)**

**Interviews:** PREA Compliance Manager; There were no Residents who Reported a Sexual Abuse to interview during the on-site audit.

**Findings:** Staff interviewed reported residents are provided with writing utensils to make a report.

#### **115.351 (e)**

**Policy/Document Review:** Agency Policy JSC 8.60

**Interviews:** Random Sample of Staff

**Findings:** Agency Policy JSC 8.60, Section II(G) addresses this provision. Staff interviewed reported the various ways they would privately make a report. Staff indicated feeling very comfortable making a report directly to the PREA Compliance Manager, their supervisors and the Commander.

**115.352 Exhaustion of administrative remedies**

**Final Determination:**

- 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)

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

**115.352 (a)**

**Findings:** Agency Policy JSC 8.50 addresses grievance procedures therefore this standard applies.

**115.352 (b)**

**Policy/Document Review:** Agency Policy JSC 8.50; Agency Policy JSC 8.60; Agency Policy JSC 8.80; Resident Handbook

**Findings:** Agency Policy JSC 8.60, Section II(F), pg. 2, allows for residents to use the grievance process as on way to make a report. Agency Policy JSC 8.80, Section II(F), pg. 2, addresses the no time limit for reporting sexual abuse/harassment/misconduct. The resident handbook, pg. 3, and Agency Policy JSC 8.50, Section II(A)(1) encourages residents to resolve the complaint informally with staff. It was recommended the agency revise the resident handbook and residents not be encouraged to resolve any alleged incidents of sexual abuse informally with staff. Although agency policy is not required specific to this provision, Agency Policy JSC 8.50, Section IV(A)(1)(a), Pg. 2, was revised in response to this provision. The policy was in draft form, pending final approval. The resident handbook (Pg. 5) was revised to address this provision.

**115.352 (c)**

**Policy/Document Review:** Resident Handbook

**Findings:** The resident handbook informs residents PREA grievances should be given directly to a supervisor for immediate action, but may also be placed in the locked confidential communication box located in each housing unit.

**115.352 (d)**

**Policy/Document Review:** The agency reported in the PAQ there were three (3) grievances alleging sexual abuse (two of the grievances were filed by the same detainee in the same day) that reached a final decision within 90 days after being filed in the past 12 month. Agency Policy JSC 8.50

**Interviews:** There were no Residents who Reported a Sexual Abuse at the facility during the on-site audit.

**Findings:** Documentation reviewed reflected there were three grievances for sexual abuse and one for sexual harassment with a final decision within one day. The grievance is in triplicate form with instructions that the ‘yellow’ copy of the form is: “returned to the Detainee w/ Answer”. The documentation indicates the resident was provided with the response.

**115.352 (e)**

**Policy/Document Review:** Agency Policy JSC 8.80

**Findings:** Agency Policy JSC 8.80, Section II(A)(5), pg. 1, addresses the requirement that staff accept third party reports. Agency Policy JSC 8.80, Section III(C)(2), pg. 3, addresses this provision. Staff reported a resident’s verbal refusal to have the request processed on his or her behalf would be documented in an Incident Report.

**115.352 (f)**

**Policy/Document Review:** The agency reported in the PAQ it does not have a policy or procedure established for filing emergency grievances.

**Findings:** The agency revised Agency Policy JSC 8.50, Section IV(D), Pg. 2 in response to this provision. Staff reported the agency’s determination of a detainee being at risk of imminent sexual abuse would be documented in an Incident Report.

**115.352 (g)**

**Policy/Document Review:** Agency Policy JSC 8.60; Resident Handbook

**Findings:** Agency Policy JSC 8.60, Section III(J)(3), pg. 1, addresses this provision. The resident handbook, Section 6.3 MAJOR RULES, #1.15, pg. 12, addresses this provision.

**115.353 Resident access to outside confidential support services and legal representation.**

**Final Determination:**

- 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)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These**



**recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

**115.353 (a)**

**Policy/Document Review:** Agency Policy JSC 8.90; Resident Handbook; PREA Booking Handout. PREA Education Housing Unit Logs

**Interviews:** Random Sample of Residents; There were no Residents who Reported a Sexual Abuse at the facility during the on-site audit.

**Findings:** Although agency policy is not required, the policy provided for review (Agency Policy JSC 8.90) does not address access to outside victim advocates. The resident handbook and PREA booking handout included information for reporting but not accessing outside victim advocates. Residents interviewed reported not being aware of outside victim advocacy resources. It was recommended the agency implement practice in response to this provision. It is recommended resident education be conducted and documented. It was recommended PREA informational materials get updated to include the contact information (phone number and address) of the outside victim advocacy center. Staff reported WSDJSC current practice is that the Mental Health Professional provides the W.A.V.I. contact information to detainees. The Detainee Handbook also provides the mailing address to W.A.V.I. A review of completed PREA Education Housing Unit Log entries reflected residents were provided with this information.

**115.353 (b)**

**Policy/Document Review:** Resident Handbook

**Interviews:** Random Sample of Residents; There were no Residents who Reported a Sexual Abuse at the facility during the on-site audit.

**Findings:** The resident handbook does not address access to outside victim advocates. Residents interviewed reported not being aware of outside victim advocacy resources. It was recommended the agency revise the resident handbook to include victim advocacy information. The agency updated the Detainee Handbook and PREA Handout, which now include the W.A.V.I. information.

**115.353 (c)**

**Policy/Document Review:** The agency reported in the PAQ they do not maintain an MOU with a community service provider.

**Findings:** Recent efforts indicate outreach has been made to a local rape crisis center. Staff interviewed reported the agency uses Working Against Violence, Inc. (WAVI) as a local victim advocacy resource. This is a newly identified resource for the facility. Staff also reported one of the staff, a Mental Health Caseworker, is available to provide emotional support. Additionally, the Sheriff's Office employs two victims' specialists who, in cases of sexual abuse or assault, would provide services to the detainee. An MOU, dated September 2015, was entered into between law enforcement, W.A.V.I., Sexual Assault Nurse Examiners, and the Pennington County State Attorney's Office and addresses this provision. In the event law enforcement would conduct a sexual abuse allegation, they would activate the MOU. This MOU applies to adult victims.

**115.353(d)**

**Policy/Document Review:** Agency Policy JSC 8.10; Resident Handbook

**Interviews:** Commander; PREA Compliance Manager; Random Sample of Residents. There were no Residents who Reported a Sexual Abuse at the facility during the on-site audit.

**Findings:** Agency Policy JSC 8.10 and the resident handbook (pgs. 3-4) address this provision. Staff and residents interviewed reported residents do have access to their attorneys and parents/legal guardians.

### **115.354 Third-party reporting**

**Final Determination:**

- 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)

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

### **115.354 (a)**

**Policy/Document Review:** Agency Policy JSC 8.10

**Findings:** Agency Policy JSC 8.60, Section II(F)(5) lists third party reports as one of the methods detainees have for reporting, but does not define the term “Third Party,” not does it address how these types of reports can be made. There was no documentation provided that indicated this information was publicly available. It was recommended the agency develop and establish a method to receive third party reports and publicly distribute this information. The agency posted the third party reporting information on the agency’s website:

[http://www.pennco.org/index.asp?SEC=3B8EF5F9-8FDA-4C86-829C-81D461FD687B&Type=B\\_BASIC](http://www.pennco.org/index.asp?SEC=3B8EF5F9-8FDA-4C86-829C-81D461FD687B&Type=B_BASIC)

### **115.361 Staff and agency reporting duties**

**Final Determination:**

- 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)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These**

**recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

**115.361 (a)**

**Policy/Document Review:** Agency Policy JSC 8.80

**Interviews:** Random Sample of Staff

**Findings:** Agency Policy JSC 8.80, Section II(B), pg. 2, addresses this provision. Staff responses indicated staff is aware of the all the elements in this provision that require reporting. All reported any incidents involving staff would be reported to their supervisors or administration.

**115.361(b)**

**Policy/Document Review:** Agency Policy JSC 8.30

**Interviews:** Random Sample of Staff

**Findings:** Agency Policy JSC 8.30, Section I, pg. 1, addresses this provision. Staff interviewed reported they are trained and are aware of the state's mandatory reporting laws.

**115.361 (c)**

**Policy/Document Review:** Agency Policy JSC 8.80

**Interviews:** Random Sample of Staff

**Findings:** Agency Policy JSC 8.80, Section II(C), pg. 2, addresses this provision. Staff is familiar with the confidentiality of sexual abuse information requirements.

**115.361 (d)**

**Interviews:** Medical and Mental Health Staff

**Findings:** Staff interviewed reported they are mandatory reporters.

**115.361 (e)**

**Interviews:** Commander; PREA Compliance Manager

**Findings:** Staff interviewed reported there has been no incident under this provision that required reporting and that the Commander is the individual responsible for making the notifications.

**115.361 (f)**

**Interviews:** Commander

**Findings:** Staff interviewed all allegations are reported to staff designated as investigators.

**115.362 Agency protection duties**

**Final Determination:**

- 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)

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

**115.362 (a)**

**Policy/Document Review:** Agency Policy JSC 8.90; The agency reported on the PAQ there had been no reported incidents of a resident subject to substantial risk of imminent sexual abuse.

**Interviews:** Agency Head; Commander; Random Sample of Staff

**Findings:** Agency Policy JSC 8.90 addresses the response and not immediate action the agency needs to take when it learns a resident is subject to a substantial risk of imminent sexual abuse. Staff interviewed reported immediate action would be taken to protect the alleged victim ...move, secure, place in protective custody if necessary and alert supervisory staff. It was recommended the agency develop a policy to ensure immediate protective measures are used when it learns that a resident is subject to a substantial risk of imminent sexual abuse. Agency Policy JSC 8.90, Section III(A), Pg. 2, was revised in response to this provision.

**115.363 Reporting to other confinement facilities**

**Final Determination:**

- 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)

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

**115.363 (a)**

**Policy/Document Review:** Agency Policy JSC 8.80; The agency reported in the PAQ there had been no allegations that the facility received that a resident was abused while confined at another facility.

**Findings:** Agency Policy JSC 8.80, Section III(A), pg. 2, addresses this provision, but allows the Commander “or designee” to make the notification. The policy does not address the requirement that the appropriate investigative agency is also notified.

**Corrective Action:** It was recommended the policy be modified so that only the head of the facility (Commander) makes this notification and that the appropriate investigative agency is also notified. Although agency policy is not required specific to this provision, Agency Policy JSC 8.80, Section III(A)(1), was modified in response to this provision.

**115.363 (b)**

**Policy/Document Review:** Agency Policy JSC 8.80

**Findings:** Agency Policy JSC 8.80, Section III(A)(1)(a), pg. 2, addresses this provision.

**115.363 (c)**

**Policy/Document Review:** Agency Policy JSC 8.80

**Findings:** Agency Policy JSC 8.80, Section III(A)(1)(a)(1-3), pg. 2, addresses this provision. Staff reported all documentation would be done via the Incident Report.

**115.363 (d)**

**Policy/Document Review:** Agency Policy JSC 8.80; The agency reported in the PAQ there had been no allegations of sexual abuse the facility had received from other facilities.

**Interviews:** Agency Head; Commander

**Findings:** Agency Policy JSC 8.80, Section III(B), pg. 2, addresses this provision. Staff interviewed reported law enforcement would be notified.

**115.364 Staff first responder duties**

**Final Determination:**

- 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)

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

**115.364 (a)**

**Policy/Document Review:** Agency Policy JSC 8.80. The agency reported in the PAQ there had been no allegations of a resident being sexually abused in the past 12 months.

**Interviews:** Security Staff and Non-Security Staff First Responders; There were no Residents who Reported a Sexual Abuse at the facility during the on-site audit.

**Findings:** Agency Policy JSC 8.80, Section III(A), pg. 2, states, “Immediately upon receiving a report of sexual assault of a detainee, the person receiving the report will immediately contact the Shift Supervisor.” Section B addresses the response of the Shift Supervisor. This provision requires the first staff member to respond to the report take specific actions and not only report the incident to the Shift Supervisor. Staff interviewed indicated familiarity with first responder duties.

#### **115.364 (b)**

**Policy/Document Review:** Agency Policy JSC 8.80. Training documentation for non-security staff.

**Interviews:** Security Staff and Non-Security Staff First Responders; There were no Residents who Reported a Sexual Abuse at the facility during the on-site audit.

**Findings:** Although policy is not required specific to this provision, the policy (Agency Policy JSC 8.80) provided for review does not address how non-security staff (medical, mental health, contract staff and as well as volunteers) is to respond if they are the first staff responders. Staff reported all staff is trained the same in handling PREA related reports. Training documentation included non-security staff had completed the same PREA training as security staff.

#### **115.365 Coordinated response**

##### **Final Determination:**

- 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)

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

#### **115.365 (a)**

**Policy/Document Review:** The agency reported in the PAQ an institutional plan would be created.

**Interviews:** Commander

**Findings:** The agency reported there was no institutional. Staff interviewed reported law enforcement would be contacted and mental health services would be secured for the alleged victim and alleged perpetrator. It was recommended the agency develop an institutional plan to coordinate actions taken in response to an incident of sexual abuse. Although agency policy is not required specific to this provision, Agency Policy JSC 8.90 was enhanced and the facility’s Institutional Plan was incorporated into policy.

**115.366 Preservation of ability to protect residents from contact with abusers**

**Final Determination:**

- 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)
- Not Applicable

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

**115.366 (a)**

**Findings:** The Agency Head, Commander, and PREA Coordinator were interviewed and reported the facility, nor any other governmental entity, has not participated in any form of collective bargaining or other agreements. Staff reported the State of South Dakota is an at-will Employment State. This standard is non-applicable.

**115.367 Agency protection against retaliation**

**Final Determination:**

- 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)

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

**115.367 (a)**

**Policy/Document Review:** Agency Policy JSC 8.80

**Findings:** Agency Policy JSC 8.80, Section II(D), pg. 2, states, “All reasonable efforts will be made to protect detainees and staff from retaliation for reporting sexual abuse/harassment/misconduct.” The

policy does not specifically address all the elements of this provision. The PREA Coordinator is the designated staff member. It was recommended the agency develop and implement agency policy to protect staff and residents from retaliation. Agency Policy JSC 8.60, Section III(H)(2), Pg. 2-3, was modified in response to this provision.

#### **115.367 (b)**

**Interviews:** Agency Head; Commander; Designated Staff Member Charged with Monitoring Retaliation; There were no Residents in Isolation for risk of sexual victimization at the facility during the on-site tour. There were no Residents who Reported a Sexual Abuse at the facility during the on-site audit.

**Findings:** Staff interviewed addressed some protective measures for residents but not for staff. Agency Policy JSC 8.60, Section III(H)(2), Pgs. 2-3, was modified in response to this provision.

#### **115.367 (c)**

**Policy/Document Review:** The agency reported there was no agency policy and that there had been no incidents of retaliation in the past 12 months. Agency Policy JSC 8.80

**Interviews:** Commander; Designated Staff Member Charged with Retaliation

**Findings:** Agency Policy JSC 8.80, Section II(D), pg. 2, states, "All reasonable efforts will be made to protect detainees and staff from retaliation for reporting sexual abuse/harassment/ misconduct." Agency policy does not specifically address this provision. Staff interviewed reported any retaliation would be investigated. Staff reported the Behavior Observation Instrument would be used to monitor residents. Staff reported residents would be monitored bi-weekly and would be monitored beyond 90 days if needed. It was recommended agency policy be developed and implemented in response to this provision. Agency Policy JSC 8.60, Section III(H)(2), Pgs. 2-3, was modified in response to this provision.

#### **115.367 (d)**

**Interviews:** Designated Staff Member Charged with Monitoring Retaliation

**Findings:** Agency policy does not specifically address this provision. Staff reported the Behavior Observation Instrument would be used to monitor residents. Staff reported residents would be monitored bi-weekly and would be monitored beyond 90 days if needed. The monitoring efforts are documented in the resident's electronic WSDCSC PREA Investigation file

#### **115.367 (e)**

**Interviews:** Agency Head; Commander

**Findings:** Staff interviewed addressed some protective measures for residents.

**Corrective Action:** It is recommended the agency determine what appropriate measures shall be taken when retaliation is against a person that is not a resident or staff member. Staff reported retaliation against someone who is not a resident or staff member would be handled on a case-by-case basis.

#### **115.367(f)**

**This provision need not be assessed as part of the facility audit.**

#### **115.368 Post allegation protection custody**

**Final Determination:**



- 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)

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

**115.368 (a)**

**Policy/Document Review:** Agency Policy JSC 8.90; Agency Policy JSC 9.40. Staff reported in the PAQ there were no residents placed in isolation that alleged they suffered sexual abuse in the past 12 months.

**Interviews:** Commander; Staff who Supervise Residents in Isolation; Medical and Mental Health Staff; There were no Residents in Isolation (for risk of sexual victimization/who allege to have suffered sexual abuse) at the facility during the on-site visit

**On-site Review / Tour Observation:** The isolation rooms are located in the booking area.

**Findings:** Agency Policy JSC 8.90 does not specifically address this provision. Agency Policy JSC 9.40 applies to the Special Management Program – juveniles who threaten the secure or orderly management of the facility. Staff interviewed reported that if a resident would need to be isolated under this circumstance, the resident would be moved to another pod. Staff reported, based on contractual agreement, they cannot isolate a resident for more than three (3) hours. Staff reported medical and mental health staff visits residents in isolation on a daily basis and would have access to programs, education/special education programming, and privileges. Staff reported that under this circumstance, decisions to place a resident in isolation would be done on a case-by-case basis and isolation would be explained as not a form of punishment. Although this provision does not require policy, Agency Policy JSC 9.40, Section IV(C), Pgs. 3-4, addresses this provision.

**115.371 Criminal and administrative agency investigations**

**Final Determination:**

- 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)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These**

**recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

**115.371(a)**

**Policy/Document Review:** Agency Policy JSC 8.100. The agency reported in the PAQ that the WSDJSC does not conduct criminal investigations.

**Interviews:** Investigative Staff

**Findings:** Although policy is not required specific to this provision, Agency Policy JSC 8.100, Section I, pg. 1, states, The Western South Dakota Juvenile Services Center will investigate any allegation of sexual abuse/harassment/misconduct in support of Prison Rape Elimination Act of 2003, National PREA Standards, 28 C.F.R. Part 115.” Section II(A), pg. 1, states, “The Western South Dakota Juvenile Services Center will conduct administrative investigations of all allegation of sexual abuse/harassment/misconduct. 1. Any allegation determined criminal in nature will be immediately referred to law enforcement.” Section II(C), pg. 1, states, “All administrative investigations are completed in a prompt, thorough, and objective manner.” Staff interviewed reported investigations for all allegations are initiated immediately. Allegations received during the weekend have the investigation initiated the next business day. Investigators from the Law Enforcement Division in the Sheriff’s Office investigate all criminal cases.

**115.371(b)**

**Policy/Document Review:** Agency Policy JSC 8.100. Training Certificates for Facility and Law Enforcement Division Investigative Staff; PowerPoint Presentation titled, “Investigating Sexual Abuse in Confinement Settings: Training for Correctional Investigators” secured from the PRC. Employee Training Logs from 2016 and 2015.

**Interviews:** Investigative Staff

**Findings:** Although policy is not required specific to this provision, Agency Policy JSC 8.100, Section II(B)(1), Pg. 1, addresses this provision specifically for staff conducting administrative investigations (facility staff). The training PowerPoint presentation’s source is the PRC. The investigative staff provided certificates of completion. The facility’s investigative staff interviewed reported receiving training in all the required topics. The agency’s investigative staff (Law Enforcement Division) reported not receiving training specifically for in-custody. The staff for which the WSDJSC have control over received the required training. It was recommended the agency leadership ensure investigative staff assigned to conduct criminal investigations at the WSDJSC is trained in accordance with the PREA standards. Subsequently, training certificates for the law enforcement investigators were submitted as supporting documentation to demonstrate the training requirements were met.

**115.371(c)**

**Policy/Document Review:** Agency Policy JSC 8.100

**Interviews:** Investigative Staff

**Findings:** Although policy is not required specific to this provision, Agency Policy JSC 8.100, Section III(A)(2), Pg. 1, addresses this provision. Facility investigative staff interviewed reported the following is gathered during investigations: reports; surveillance videos; and interviews of alleged victims, alleged perpetrators, and witnesses are conducted and documented. In cases related to a criminal investigation the location where the alleged incident occurred is secured, law enforcement is contacted and is offered

any assistance requested. It was recommended prior reports and complaints of sexual abuse involving the suspected perpetrator are reviewed as part of the investigation. Staff reported the practice will follow the PREA standards when completing investigations.

**115.371(d)**

**Policy/Document Review:** Agency Policy JSC 8.100. Staff reported in the PAQ policy will be revised.

**Interviews:** Investigative Staff

**Findings:** Staff reported in the PAQ policy will be revised. It was recommended the agency develop and implement policy in response to this provision. Although policy is not required specific to this provision, Agency Policy JSC 8.100, Section II(C)(1), Pg. 1, was revised and addresses this provision. The policy is pending final approval.

**115.371(e)**

**Interviews:** Investigative Staff

**Findings:** The agency's (law enforcement division) and the facility's investigative staff reported this does not occur. Staff reported the facility can not dictate what the prosecutor's office will do as they have their policy and procedures. Interviews of the law enforcement criminal investigative staff conducted by the co-auditor reflected they do not consult with the prosecutor's office. The co-auditor reported the investigators follow the Garrity Rule.

**115.371(f)**

**Interviews:** Investigative Staff

**Findings:** Staff interviewed reported cases are handled based on all the evidence before making a decision and that residents are not subjected to polygraphs.

**115.371(g)**

**Policy/Document Review:** Agency Policy JSC 8.100

**Interviews:** Investigative Staff

**Findings:** Although policy is not required specific to this provision, Agency Policy JSC 8.100, Section II(E), Pg. 2, addresses this provision. Staff interviewed reported this would be investigated, surveillance videos would be reviewed, and witnesses would be interviewed. Staff reported much of the information is now maintained electronically: reports, interviews are recorded; outcome of the investigation. The auditor viewed a sample of the electronic documentation maintained.

**115.371(h)**

**Interviews:** Investigative Staff

**Findings:** Staff reported the law enforcement agency would be responsible for maintaining documentation related to criminal investigations.

**115.371(i)**

**Policy/Document Review:** Staff reported in the PAQ there had been no substantiated allegations that were referred for prosecution.

**Interviews:** Investigative Staff

**Findings:** Staff interviewed reported one case was referred to law enforcement for external review, but the case was not referred to the prosecutor's office as law enforcement investigators determined no charges would be filed.

**115.371(j)**

**Policy/Document Review:** Agency Policy JSC 8.100

**Findings:** Agency Policy JSC 8.100, Section II(F), pg. 2, addresses this provision. The auditor reviewed electronic investigative files. The electronic database was pending finalization.

**115.371(k)**

**Interviews:** Investigative Staff

**Findings:** Staff interviewed reported law enforcement would still investigate.

**115.371(l)**

**This provision need not be assessed as part of the facility audit.**

**115.371(m)**

**Interviews:** Commander; PREA Coordinator; PREA Compliance Manager; Investigative Staff

**Findings:** Staff interviewed reported law enforcement is provided with staff they need and are offered assistance. Staff reported law enforcement would keep in contact with the PREA Compliance Manager on the status of the investigation.

**115.372 Evidentiary standard for administrative investigations**

**Final Determination:**

- 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)

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

**115.372(a)**

**Policy/Document Review:** Agency Policy JSC 8.100

**Interviews:** Investigative Staff

**Findings:** Agency Policy JSC 8.100, Section II(D), pg. 2, addresses this provision. Facility and agency staff interviewed reported all investigation use the standard of preponderance of the evidence.

### **115.373 Reporting to residents**

#### **Final Determination:**

- 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)

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

#### **115.373(a)**

**Policy/Document Review:** Agency Policy JSC 8.100; Investigative Reports

**Interviews:** Commander; Investigative Staff

**Findings:** Although policy is not required specific to this provision, Agency Policy JSC 8.100, Section III(A)(6), Pg. 2, addresses this provision. Staff interviewed this process was implemented a couple of months ago. It is recommended the agency continue with implementation. Staff reported it is the WSDJSC’s practice to report to detainees the outcome of the investigation. A review of subsequent administrative investigations reflected the practice continued to be implemented.

#### **115.373(b)**

**Findings:** This provision is n/a as the agency/facility is responsible for conducting administrative and criminal investigations.

#### **115.373(c)**

**Policy/Document Review:** Agency Policy JSC 8.100.

**Interviews:** There were no Residents who Reported a Sexual Abuse at the facility during the on-site audit.

**Findings:** Although policy is not required specific to this provision, Agency Policy JSC 8.100 addresses only the outcome of the investigation and does not address each element of this provision. It was recommended the agency enhance the policy and address each element in this provision. Agency Policy, Section III(A)(6)(a) was revised to include, “...the notification will include whether the staff member has been fired and/or conviction status.” The PREA Incident Administrative Investigation Report includes the “Action Taken” section where the investigator records the action(s) taken and reporting the results of the PREA investigation to the residents.

#### **115.373(d)**

**Policy/Document Review:** Agency Policy JSC 8.100.

**Interviews:** There were no Residents who Reported a Sexual Abuse at the facility during the on-site audit.

**Findings:** Although policy is not required specific to this provision, Agency Policy JSC 8.100 addresses informing the victim of the outcome of the investigation and does not specifically address each element of this provision. The PREA Incident Administrative Investigation Report includes the “Action Taken” section where the investigator records the action(s) taken and reporting the results of the PREA investigation to the residents. Staff reported South Dakota State Law has recently changed to require all victims of criminal offenses to be kept apprised of change in custody status.

#### **115.373(e)**

**Policy/Document Review:** Agency Policy JSC 8.100. The agency reported in the FAQ there have been no notifications pursuant to this standard in the past 12 months.

**Findings:** Agency Policy JSC 8.100, Section IV(A)(6)(a), pg. 3, states, “The notification is documented.” The auditor reviewed two incidents pertaining to sexual harassment that indicated the resident’s were notified of the outcome of the investigation. The PREA Incident Administrative Investigation Report includes the “Action Taken” section where the investigator records the action(s) taken and reporting the results of the PREA investigation to the residents. Staff also reported, notifications made as required by Marsy’s Law will be documented in the Victim’s Field in the records management system.

#### **115.373(f)**

**This provision need not be assessed as part of the facility audit.**

#### **115.376 Disciplinary sanctions for staff**

##### **Final Determination:**

- 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)

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

#### **115.376(a)**

**Policy/Document Review:** Agency Policy 8.60

**Findings:** Although policy is not required specific to this provision, Agency Policy 8.60, Section II(K), pg. 3, states, “Detainees and/or staff who are found guilty of violating this policy will be subject to disciplinary sanctions and criminal prosecution, if determined criminal in nature.” During the pre-audit phase, the policy did not include, “up to and including termination”. It is recommended agency policy be modified

and include: “up to and including termination”. Agency Policy 8.60, Section III(L), pg. 3, was revised and addresses this provision.

**115.376(b)**

**Policy/Document Review:** The agency reported in the PAQ there has been no staff that has violated agency sexual abuse or sexual harassment policies in the past 12 months. Agency Policy 8.60

**Findings:** Although policy is not required specific to this provision, Agency Policy 8.60, Section II(K), pg. 3, states, “Detainees and/or staff who are found guilty of violating this policy will be subject to disciplinary sanctions and criminal prosecution, if determined criminal in nature.” During the pre-audit phase, the policy did not include, “up to and including termination”. It was recommended agency policy be modified and include: “up to and including termination.” Agency Policy 8.60, Section III(L), pg. 3, was revised and addresses this provision.

**115.376(c)**

**Policy/Document Review:** Agency Policy 8.60. The agency reported in the PAQ there has been no staff disciplined for violating agency sexual abuse or sexual harassment policies in the past 12 months.

**Findings:** During the pre-audit phase, the policy did not address this provision. It is recommended agency policy be modified. Although policy is not required specific to this provision, Agency Policy 8.60, Section III(L), pg. 3, was revised and addresses this provision.

**115.376(d)**

**Policy/Document Review:** Agency Policy JSC 8.100

**Findings:** During the pre-audit phase, Agency Policy JSC 8.100 did not address this provision. It was recommended agency policy be modified. Although policy is not required specific to this provision, Agency Policy 8.60, Section III(L), pg. 3, was revised and addresses this provision.

**115.377 Corrective action for contractors and volunteers**

**Final Determination:**

- 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)

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

**115.377(a)**

**Policy/Document Review:** The agency reported in the PAQ there have been no incidents of contractors/volunteers reported to law enforcement for engaging in sexual abuse of residents. Agency Policy JSC 8.60; Agency Policy JSC 13.10

**Findings:** During the pre-audit phase, Agency Policy JSC 8.60 addresses only volunteer and contractor training and does not address this specific provision. Agency Policy JSC 13.10 does not address this specific provision. It was recommended the agency develop and implement policy in response to this provision. Although policy is not required specific to this provision, Agency Policy 8.60, Section III(L)(2), pg. 3, was revised and addresses this provision.

**115.377(b)**

**Interviews:** Commander

**Findings:** Staff interviewed reported no incidents reported involving contractors or volunteers, but that appropriate measures would be taken and would not allow the individual back into the facility.

**115.378 Interventions and disciplinary sanctions for residents**

**Final Determination:**

- 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)

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

**115.378(a)**

**Policy/Document Review:** Agency Policy JSC 8.60; Resident Handbook

**Findings:** Agency Policy JSC 8.60, Section III(K), pg. 3, states, “Detainees and/or staff who are found guilty of violating this policy will be subject to disciplinary sanctions and criminal prosecution, if determined criminal in nature.” The policy does not address the formal disciplinary process. The resident handbook addresses the major rules violations (pg. 11) and range of sanctions for major rule violations (pg. 12) but does not address the formal disciplinary process. It was recommended the agency include the formal disciplinary process in policy and the resident handbook in response to this provision. Subsequently, the Resident Handbook was revised in response to this provision.

**115.378(b)**

**Policy/Document Review:** The agency reported in the PAQ there have been no residents placed in isolation as a disciplinary sanction for resident-on-resident sexual abuse. Agency Policy JSC 9.40; Resident Handbook

**Interviews:** Commander



**Findings:** Agency Policy JSC 9.40, Section IV(D)(1) addresses recreation/exercise. The standard calls for daily large muscle exercise therefore there is a potential for a resident to participate in a recreational activity (watch TV, play cards) and not get the required large muscle exercise. Section IV(D)(9) addresses medication and continued medical services, (10) addresses access to educational services, (12) addresses access to mental health services. This provision calls for access to any legally required educational programming and special education services and access to other programs. Other programs listed in the same subsection include: (5) visitation, (7) reading materials, and (11) religious counseling. The resident handbook addresses the major rules violations (pg. 11) and range of sanctions for major rule violations (pg. 12). Staff interviewed reported residents are not isolated for more than three (3) hours.

**115.378(c)**

**Policy/Document Review:** Policy not required in PAQ but is in ACT

**Interviews:** Commander

**Findings:** Staff interviewed reported this would definitely be considered. It was recommended the agency ensure this element is included in the disciplinary process. Although policy is not required specific to this provision, Agency Policy JSC 9.30, Section IV(A)(7)(a)(1), Pg. 3, addresses this provision. The policy was pending final approval.

**115.378(d)**

**Findings:** The agency reported in the PAQ this service is not provided. This provision is not applicable.

**115.378(e)**

**Policy/Document Review:** Agency Policy JSC 8.60

**Findings:** Agency Policy JSC 8.60, Section III(K), pg. 3, states, "Detainees and/or staff who are found guilty of violating this policy will be subject to disciplinary sanctions and criminal prosecution, if determined criminal in nature."

**115.378(f)**

**Policy/Document Review:** Agency Policy JSC 8.60

**Findings:** Agency Policy JSC 8.60, Section III(J)(1), pg. 3, states, "Reports made in good faith will not be subject or disciplinary or criminal action." The Detainee Handbook, Pg. 4, addresses this provision.

**115.378(g)**

**Policy/Document Review:** Agency Policy JSC 8.60; Detainee Handbook

**Findings:** Although policy is not required specific to this provision, Agency Policy JSC 8.60, Section III(D), Pg. 2, addresses this provision. The Detainee Handbook, pg. 12, states, "Any sexual harassment or sexual activity with or without your consent, with another is not allowed and will be fully investigated."

**115.381 Medical and mental health screenings; history of sexual abuse**

**Final Determination:**

- 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)

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

**115.381(a)**

**Policy/Document Review:** The agency reported in the PAQ 79% of the residents admitted in the past 12 months who disclosed prior victimization were offered a follow-up meeting with a medical or mental health practitioner. Agency Policy JSC 8.70

**Interviews:** Staff Responsible for Risk Screening; Residents who Disclose Sexual Victimization at Risk Screening

**Findings:** Agency Policy JSC 8.70, Section II(A)(2), pg. 1, states, “Detainees identified as risk for victimization or abusiveness will be assessed by mental health or other qualified professional.” The Initial Mental Health Assessment Form has been modified to include asking the residents if they would like information on counseling therapy. Staff interviewed reported residents are referred to mental health when the information is disclosed. Residents interviewed reported being asked this screening question at intake. Medical and mental health staff documents their contact with detainees in the COREmr medical records system. It was recommended the agency continue with implementation. A subsequent review of detainee files reflected the implementation of the practice was ongoing.

**115.381(b)**

**Policy/Document Review:**

The agency reported in the PAQ, 9% of the residents admitted in the past 12 months who disclosed previously perpetrated abuse were offered a follow-up meeting with a mental health practitioner. Agency Policy JSC 8.70

**Interviews:** Staff Responsible for Risk Screening

**Findings:** Agency Policy JSC 8.70, Section II(A)(2), pg. 1, states, “Detainees identified as risk for victimization or abusiveness will be assessed by mental health or other qualified professional.” The Initial Mental Health Assessment Form has been modified to include asking the residents if they would like information on counseling therapy. Staff interviewed reported residents are referred to mental health when the information is disclosed. Mental health staff documents all contacts with detainees in the COREmr medical records system. It was recommended the agency continue with implementation. A subsequent review of detainee files reflected the implementation of the practice was ongoing.

**115.381(c)**

**Policy/Document Review:** Agency Policy JSC 8.80

**On-site Review / Tour Observation:** During the tour, the auditor noted medical records are maintained and secured by medical staff in the medical area. Access to any electronic data is password protected. Correctional officers do not have access to medical or mental health records.

**Findings:** Agency Policy JSC 8.80, Section II(B), pg. 2, states, “Staff is prohibited from revealing any 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.”

**115.381(d)**

**Policy/Document Review:** Agency Policy JSC 8.30

**Interviews:** Medical and Mental Health Staff

**Findings:** Agency Policy JSC 8.30 addresses the State of South Dakota’s child abuse and neglect reporting requirements. The agency policy does not specifically address the informed consent process for residents over the age of 18. The resident’s age of range is up to 20. Staff reported there is not a written consent form. Subsequently, staff reported detainees held at WSDJSC fall under the ‘mandatory reporting’ per SDCL definition 26-7-1(3), which states, “Adult,” a person eighteen years of age or over, except any person under twenty-one years of age who is under the continuing jurisdiction of the court or who is before the court for an alleged delinquent act committed before the person’s eighteenth birthday”

**115.382 Access to emergency medical and mental health services**

**Final Determination:**

- 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)

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

**115.382(a)**

**Policy/Document Review:** Agency Policy JSC 8.90

**Interviews:** Medical and Mental Health Staff; There were no Residents who Reported a Sexual Abuse at the facility during the on-site audit.

**Findings:** Agency Policy JSC 8.90 addresses access to medical treatment and counseling, including medical treatment prior to the detainee being transferred to the hospital. Staff interviewed reported emergency care would be provided and they determine the nature and scope of the services.

**115.382(b)**

**Interviews:** There were no incidents requiring Security Staff and Non-Security Staff to act as First Responders

**Findings:** Staff interviewed reported they would immediately secure the alleged victim and notify medical and supervisory. Mental health staff reported they are on 24-hour call.

**115.382(c)**

**Interviews:** Medical and Mental Health Staff; There were no Residents who Reported a Sexual Abuse at the facility during the on-site audit.

**Findings:** Staff interviewed reported emergency care would be provided and that parental notification is required for emergency contraception. Staff reported parental notification would be made unless the detainee is over 18 years of age, but their permission is not required.

**115.382(d)**

**Policy/Document Review:** Agency Policy JSC 8.90

**Findings:** During the pre-audit phase, Agency Policy JSC 8.90 did not address treatment service being provided to the victim without financial cost or regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. It was recommended the agency develop and implement policy in response to this provision. Although policy is not required specific to this provision, Agency Policy JSC 8.60, Section III(I)(1), Pg. 3, was revised in response to this provision.

**115.383 Ongoing medical and mental health care for sexual abuse victims and abusers**

**Final Determination:**

- 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)

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

**115.383(a)**

**Policy/Document Review:** Agency Policy JSC 8.70

**On-site Review / Tour Observation:** During the tour, the auditor visited the medical services area, which includes an exam room.

**Findings:** Agency Policy JSC 8.70 addresses the admission process and not ongoing medical and mental health care for victims of sexual abuse according to this provision. The Initial Mental Health Assessment Form has been modified to include asking the residents if they would like information on counseling therapy. It was recommended the agency develop and implement policy in response to this provision. Although policy is not required specific to this provision, Agency Policy JSC 8.90, Section II(F), Pg. 2, addresses this provision.

**115.383(b)**

**Interviews:** Medical and Mental Health Staff; There were no Residents who Reported a Sexual Abuse at the facility during the on-site audit.

**Findings:** Staff interviewed reported they would continue medical care as prescribed, and would develop a treatment plan to help the victim with the recovery process and coping with trauma.

**115.383(c)**

**Interviews:** Medical and Mental Health Staff

**Findings:** Staff interviewed reported the care the residents are provided is consistent with the community level of care.

**115.383(d)**

**Policy/Document Review:** Agency Policy JSC 8.90

**Interviews:** There were no Residents who Reported a Sexual Abuse at the facility during the on-site audit.

**Findings:** Agency Policy JSC 8.90 does not address victims of sexually abusive vaginal penetration while incarcerated being offered pregnancy tests. It was recommended the agency develop and implement policy in response to this provision. Although policy is not required specific to this provision, Agency Policy JSC 8.90, Section III(E)(1), was revised in response to this provision.

**115.383(e)**

**Interviews:** Medical and Mental Health Staff; There were no Residents who Reported a Sexual Abuse at the facility during the on-site audit.

**Findings:** Staff interviewed reported emergency care would be provided and that parental notification is required for emergency contraception.

**115.383(f)**

**Policy/Document Review:** Agency Policy JSC 8.90

**Interviews:** There were no Residents who Reported a Sexual Abuse at the facility during the on-site audit.

**Findings:** During the pre-audit phase, Agency Policy JSC 8.90 did not address victims of sexual while incarcerated being offered tests for sexually transmitted infections as medically appropriate. It was recommended the agency develop and implement policy in response to this provision. Although policy is not required specific to this provision, Agency Policy JSC 8.90, Section III(E)(1), was revised in response to this provision.

**115.383(g)**

**Policy/Document Review:** Agency Policy JSC 8.90

**Interviews:** There were no Residents who Reported a Sexual Abuse at the facility during the on-site audit.

**Findings:** Agency Policy JSC 8.90 does not address treatment service being provided to the victim without financial cost or regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. It was recommended the agency develop and implement policy in response to this provision. Although policy is not required specific to this provision, Agency Policy JSC 8.60, Section III(I)(1), Pg. 3, was revised in response to this provision.

### **115.383(h)**

**Policy/Document Review:** Agency Policy JSC 8.70

**Interviews:** Medical and Mental Health Staff

**Findings:** Agency Policy JSC 8.70 addresses the Admission Assessment process. This provision pertains to ongoing medical and mental health care. Staff interviewed reported mental health assessments are done on all detainees and treatment would be offered as deemed necessary.

### **115.386 Sexual abuse incident reviews**

**Final Determination:**

- 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)

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

### **115.386(a)**

**Policy/Document Review:** Agency Policy JSC 8.60

**Findings:** Agency Policy JSC 8.60, Section III(L), states, “The PREA Investigator will conduct an incident review at the conclusion of every sexual abuse investigation unless the incident is determined to be unfounded.” This provision requires the facility perform this function and not the investigator. It was recommended the agency modify and implement policy in response to this provision. Although policy is not required specific to this provision, Agency Policy JSC 8.60, Section III(M), Pg. 3-4, was modified in response to this provision.

### **115.386(b)**

**Findings:** Current policy calls for the PREA investigator conducting the incident review. This responsibility is a facility responsibility and not the investigator’s responsibility. It was recommended the agency implement policy in response to this provision. Although policy is not required specific to this provision, Agency Policy JSC 8.60, Section III(M), Pg. 3-4, was modified in response to this provision.

### **115.386(c)**

**Policy/Document Review:** Agency Policy JSC 8.60

**Interviews:** Commander

**Findings:** Agency Policy JSC 8.60, Section III(L), states, “The PREA Investigator will conduct an incident review at the conclusion of every sexual abuse investigation unless the incident is determined to be unfounded.” This provision requires the facility perform this function and not the investigator. Staff interviewed reported the team includes the Commander, Lieutenant, Sergeant, PREA Compliance

Manager, Mental Health, Medical, Supervisors and Case Managers. It was recommended the agency modify policy in response to this provision. Although policy is not required specific to this provision, Agency Policy JSC 8.60, Section III(M), Pg. 3-4, was modified in response to this provision.

#### **115.386(d)**

**Policy/Document Review:** Incident Review Form

**Interviews:** Commander; PREA Compliance Manager; Incident Review Team

**Findings:** The agency uses an electronic form, which reflects all the elements. Staff interviewed reported the team was implemented last year, information is used to identify recommendations for improvement and the team is also activated for incidents involving sexual harassment.

#### **115.386(e)**

**Policy/Document Review:** Incident Review Form

**Findings:** The Incident Review Form appears to also be used as one of the tools to monitor residents.

#### **115.387 Data collection**

**Final Determination:**

- 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)

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

#### **115.387(a)**

**Policy/Document Review:** Agency Policy JSC 8.60 The agency reported the following in the PAQ: “WSDJSC completes the Survey of Sexual Violence yearly.” The agency provided a blank “DOJ Survey of Sexual Victimization, 2015 Incident Form (Juvenile)” as supporting documentation for the type of information collected.

**Findings:** Although policy is not required for this provision, Agency Policy JSC 8.60, Section III(N), Pg. 4 requires the agency to keep, review and securely retain sexual abuse data. The WSDJSC has built a module in the records management system that collects data based on the DOJ Survey of Sexual violence. The PREA Compliance Manager provided a review of the proposed electronic data system still being worked on in collaboration with IT staff. The Agency PREA Policy JSC 8.100 does include a set of definitions consistent with the PREA definitions.

#### **115.387(b)**

**Policy/Document Review:** Policy review was not required. The agency reported the following in the PAQ: “The SSV is completed yearly.” The agency provided a copy of the 2014 SSV survey submitted to the DOJ.

**Findings:** There were no incidents of sexual abuse and two incidents of sexual harassment reported in 2014. The agency reported there were no incidents of sexual abuse in 2015. Although no incidents were reported in CY 2015, there was no annual report provided reflecting this. It was recommended the agency provide reports on an annual basis to demonstrate the agency aggregates the incident-based sexual abuse data at least annually. If there were no incidents in any given year, this should also be reported. It is recommended the agency continue with its plan of action and provide the CY 2015 activity (i.e. no sexual abuse incidents reported). This would demonstrate the maintenance of sexual abuse data collection has been initiated. Subsequently, the report was posted on the agency’s website:

[http://www.pennco.org/index.asp?SEC=3B8EF5F9-8FDA-4C86-829C-81D461FD687B&Type=B\\_BASIC](http://www.pennco.org/index.asp?SEC=3B8EF5F9-8FDA-4C86-829C-81D461FD687B&Type=B_BASIC)

#### **115.387(c)**

**Policy/Document Review:** Agency Policy JSC 8.60, Section III(N), Pg. 4, states, “Sexual abuse data will be kept, reviewed, and securely retained.”

**Findings:** Agency policy is not required specific to this provision. The PREA Compliance Manager provided a review of the proposed electronic data system still being worked on in collaboration with IT staff.

#### **115.387(d)**

**Policy/Document Review:** Agency Policy 8.60, Section II, pg. 3, states, “Sexual abuse data will be kept, reviewed, and securely retained.”

**Findings:** The PREA Compliance Manager provided a review of the proposed electronic data system still being worked on in collaboration with IT staff.

#### **115.387(e)**

**Findings:** The agency marked “No” on the PAQ and noted it submits an SSV each year. During the onsite-review, the agency reported it does not contract for the confinement of its residents with other facilities. This provision is not applicable, as the agency does not contract for the confinement of its residents.

#### **115.387(f)**

**Policy/Document Review:** The agency provided a copy of the 2014 SSV survey submitted to the DOJ. The DOJ made the request on July 31, 2015. Additional documentation submitted to the DOJ with the Survey of Sexual Victimization, 2014 Summary Form were two completed Survey of Sexual Victimization, 2014 Incident Forms.

**Findings:** The agency provided a copy of the 2014 SSV survey submitted to the DOJ. The DOJ made the request on July 31, 2015. The DOJ letter reflected the web-based survey was not operational at the time, and provided for an extension.

#### **115.388 Data review for corrective action**

#### **Final Determination:**



- 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)

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

**115.388(a)**

**Policy/Document Review:** The agency self-reported it does not meet this standard in the PAQ.

**Interviews:** Agency Head, PREA Coordinator, and PREA Compliance Manager

**Findings:** Staff reported the data collection process, as required by this provision, started a couple of months ago. It is recommended the agency continue to review the data collected and aggregated and assess and improve its effectiveness of its sexual abuse prevention, detection and response policies and address each element of this provision. Subsequently, the agency posted an annual report; additionally, staff reported the review of data would continue on an on-going bases to provide protection, detection and response to detainee needs.

**115.388(b)**

**Policy/Document Review:** Although the agency reported it met this provision, it also reported, “This will be done going forward.”

**Findings:** The agency has begun this process very recently. There was no data available to review that would allow for the comparison between the current year’s data and prior years. It was recommended that agency continue with the data collection process that would allow for the comparison between years and an assessment of the agency’s progress in addressing sexual abuse. Staff reported the WSDJSC will compare each year’s sexual abuse data to the previous year going forward.

**115.388(c)**

**Policy/Document Review:** Although the agency reported it met this provision, it also reported, “This will be done going forward.”

**Interviews:** Agency Head

**Findings:** The agency is aware of this process and reported this has been recently implemented. There was no report available to review that would indicate the agency’s head had approved and made the report available to the public. The agency does provide a report on its website, but it does not include information specific to PREA. It is recommended the agency continue with its plan of action and secure the agency head’s approval of the agency’s report, in response to this provision, and make it readily available to the public as it does its current report. Subsequently, the report was posted on the agency’s website:

[http://www.pennco.org/index.asp?SEC=3B8EF5F9-8FDA-4C86-829C-81D461FD687B&Type=B\\_BASIC](http://www.pennco.org/index.asp?SEC=3B8EF5F9-8FDA-4C86-829C-81D461FD687B&Type=B_BASIC)

### **115.388(d)**

**Policy/Document Review:** Although the agency reported it met this provision, it also reported, “Going forward, all personal identifiers will be removed.”

**Interviews:** PREA Coordinator

**Findings:** Staff reported she is aware of this provision and it will be implemented going forward. There was no public report available to review specific to this provision. The agency does provide a report on its website, but it does not include information specific to PREA. It was recommended the agency continue with its plan of action and redact information in response to this provision, indicate the nature of the material redacted, and make it readily available to the public as it does its current report. The report posted on the website reflects all identifying characteristics have been redacted.

### **115.389 Data storage, publication, and destruction**

#### **Final Determination:**

- 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)

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

### **115.389(a)**

**Policy/Document Review:** Agency Policy JSC 4.10 addresses confidentiality, security and access to juvenile records, files, and electronic data. Section III(E), pg. 1, states, “Retention, storage and destruction of records will be done in accordance with Chapter 1-27 of SCL, SDCL 7-7-29, and the South Dakota Records Retention and Destruction Schedule.”

**Interviews:** PREA Coordinator

**Findings:** The agency policy addresses the security and access to juvenile information in general. The agency staff interviewed reported that data collected, pursuant to Standard 115.387, would be securely retained in the future. She also reported the SSV has been downloaded therefore the agency is aware of the type of data needed. It was recommended the agency continue with its plan of action and enhance its agency policy to ensure data collected pursuant to 115.387 is also securely retained. It is important for agency staff to be aware of the sensitive nature of sexual abuse data, and key staff having access to this data on a need-to-know basis. Staff reported the data is kept in a custom module in the records management system. The module is permissions based, therefore only those given specific permissions have access to the data. The auditor observed access to the system required the staff to enter their password.

**115.389(b)**

**Policy/Document Review:** Agency Policy 8.60, Section II, pg. 3, states, “Sexual abuse data will be kept, reviewed, and securely retained.”

**Findings:** Policy is not required specific to this provision. Although the agency does provide an annual report to the public via the agency’s website, no posted annual report includes all aggregated sexual abuse data pertaining to any of the agency’s facilities under its control. The agency does not contract with other private facilities for the confinement of its residents. It was recommended the agency provide reports on an annual basis to demonstrate the agency aggregates the sexual abuse data at least annually. If there are no sexual abuse incidents reported in any given year, this should also be reflected in the report. Subsequently, the report was posted on the agency’s website:

[http://www.pennco.org/index.asp?SEC=3B8EF5F9-8FDA-4C86-829C-81D461FD687B&Type=B\\_BASIC](http://www.pennco.org/index.asp?SEC=3B8EF5F9-8FDA-4C86-829C-81D461FD687B&Type=B_BASIC)

**115.389(c)**

**Policy/Document Review:** Although the agency reported in the PAQ that it met this provision, it also reported, “Going forward, all personal identifiers will be removed.” There was no sexual abuse data available for review on the agency’s website or indicating it is otherwise publicly available.

**Findings:** The facility reported this provision has been recently implemented. There was no public report available to review specific to this provision. The agency does provide a report on its website, but it does not include information specific to PREA. It was recommended the agency continue with its plan of action and ensure all personal identifiers are removed before making aggregated sexual abuse data publicly available. The report posted on the website reflects all identifying characteristics have been redacted.

**115.389(d)**

**Policy/Document Review:** Although the agency reported in the PAQ that it met this provision, it also reported, “This will be done going forward.” There was some sexual abuse data, pursuant to 115.387, available for review for CY 2014 in response to the DOJ Survey request. There was no CY 2015 data available for review.

**Findings:** There was some sexual abuse data available for CY 2014, in response to the DOJ Survey requested. The auditor reviewed the electronic data base system, currently in the process of being finalized, and designed to collect this data. There were no incidents of sexual abuse reported in 2015. Subsequently, a copy of the SSV 2015 was provided.

**115.401 Frequency and scope of audits**

**115.401 (h)**

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

**115.401 (i)**

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

**115.401 (m)**

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

**115.401 (n)**

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

**AUDITOR CERTIFICATION**

I certify that

- The contents of this report area 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 personal identifying information (PII) about any resident or staff member, except where the names of administrative personnel are specifically requested in the report template.

Ana T. Aguirre, ATA3 Consulting, LLC (electronic signature)

3-27-17

Auditor's Signature

Date