

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

Interim     Final

Date of Report    September 20, 2018

## Auditor Information

Name:    David "Will" Weir

Email:    [REDACTED]

Company Name:    [REDACTED]

Mailing Address:    [REDACTED]

City, State, Zip:    [REDACTED]

Telephone:    [REDACTED]

Date of Facility Visit:    January 29-31, 2018

## Agency Information

Name of Agency:

Arizona Department of Corrections

Governing Authority or Parent Agency (If Applicable):

Click or tap here to enter text.

Physical Address:    1601 W. Jefferson

City, State, Zip:    Phoenix, AZ 85007

Mailing Address:    Click or tap here to enter text.

City, State, Zip:    Click or tap here to enter text.

Telephone:    (602) 542-5497

Is Agency accredited by any organization?     Yes     No

The Agency Is:

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

Agency mission:    To serve and protect the people of Arizona by securely incarcerating convicted felons, by providing structured programming designed to support inmate accountability and successful community reintegration, and by providing effective supervision for those offenders conditionally released from prison.

Agency Website with PREA Information:    azcorrections.gov

## Agency Chief Executive Officer

Name:    Charles L. Ryan

Title:    Director

Email:    CRYAN@azcorrections.gov

Telephone:    (602) 542-5225

## Agency-Wide PREA Coordinator

<b>Name:</b> Cammie Burke	<b>Title:</b> Auditor 3, PREA Coordinator
<b>Email:</b> CBURKE@azcorrections.gov	<b>Telephone:</b> (602) 771-5925
<b>PREA Coordinator Reports to:</b> ██████████ Deputy Inspector General	<b>Number of Compliance Managers who report to the PREA Coordinator</b> 10

### Facility Information

<b>Name of Facility:</b> Arizona State Prison Complex - Lewis								
<b>Physical Address:</b> 26700 South Highway 85; Buckeye, AZ 85326								
<b>Mailing Address (if different than above):</b> Click or tap here to enter text.								
<b>Telephone Number:</b> (623) 386-6160								
<table border="1" style="width: 100%;"> <tr> <td><b>The Facility Is:</b></td> <td><input type="checkbox"/> Military</td> <td><input type="checkbox"/> Private for profit</td> <td><input type="checkbox"/> Private not for profit</td> </tr> <tr> <td><input type="checkbox"/> Municipal</td> <td><input type="checkbox"/> County</td> <td><input checked="" type="checkbox"/> State</td> <td><input type="checkbox"/> Federal</td> </tr> </table>	<b>The Facility Is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Private not for profit	<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
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<b>Facility Type:</b> <input type="checkbox"/> Jail <input checked="" type="checkbox"/> Prison								
<b>Facility Mission:</b> Same as agency mission.								
<b>Facility Website with PREA Information:</b> azcorrections.gov								

### Warden/Superintendent

<b>Name:</b> Berry Larson	<b>Title:</b> Warden
<b>Email:</b> ██████████	<b>Telephone:</b> (623) 386-6160

### Facility PREA Compliance Manager

<b>Name:</b> Sarah Repp	<b>Title:</b> CO IV, PREA Compliance Manager
<b>Email:</b> ██████████	<b>Telephone:</b> (623) 386-6160

### Facility Health Service Administrator

<b>Name:</b> Kelli Rogers	<b>Title:</b> Facility Health Administrator
<b>Email:</b> ██████████	<b>Telephone:</b> (623) 386-6160

### Facility Characteristics

<b>Designated Facility Capacity:</b> 6251	<b>Current Population of Facility:</b> 5297
<b>Number of inmates admitted to facility during the past 12 months</b>	9927

Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:		5110	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:		7919	
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:		5147	
Age Range of Population:	Youthful Inmates Under 18: <a href="#">Click or tap here to enter text.</a>	Adults: 18-78	
Are youthful inmates housed separately from the adult population?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input checked="" type="checkbox"/> NA	
Number of youthful inmates housed at this facility during the past 12 months:		0	
Average length of stay or time under supervision:		Being researched	
Facility security level/inmate custody levels:		Minimum, Medium, Close, Maximum, Detention	
Number of staff currently employed by the facility who may have contact with inmates:		1147	
Number of staff hired by the facility during the past 12 months who may have contact with inmates:		24	
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:		9	
<b>Physical Plant</b>			
Number of Buildings: 83		Number of Single Cell Housing Units: 0	
Number of Multiple Occupancy Cell Housing Units:		27	
Number of Open Bay/Dorm Housing Units:		16	
Number of Segregation Cells (Administrative and Disciplinary):		166	
Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):			
There are video cameras throughout much of the prison and yard, but not aimed in areas where inmates are showering or using the toilet. This large complex has ongoing maintenance of their system and seeks additional technology updates and expansions.			
<b>Medical</b>			
Type of Medical Facility:		Prison Medical Clinic	
Forensic sexual assault medical exams are conducted at:		Acute Care Hospital; SANE from Honor Health	
<b>Other</b>			
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:		431	
Number of investigators the agency currently employs to investigate allegations of sexual abuse:		48	

# Audit Findings

## Audit Narrative

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

PREA America LLC was retained February 21, 2017 to conduct the PREA Audit for Arizona State Prison Complex – Lewis. The process was started, and dates were agreed upon soon thereafter. Notices went up at the facility by December 18, 2017. They were posted on official bulletin boards as per Arizona Department of Corrections Policy Chapter 100 Agency Administration/Management (Department Order 103 – Correspondence/Records Control Section 103.08). This was verified through dated digital photos sent to the audit team as well as during the site review. The Pre-Audit Questionnaire, completed digitally, and accompanying documents on a flash drive, completed and collected by PREA Coordinator Cammie Burke and PREA Compliance Manager Sarah Repp, were received by the auditor January 22, 2018. In the weeks leading up to the onsite audit, the audit team and Ms. Burke exchanged emails and phone calls to prepare for the on-site audit.

On January 29, 2018, the onsite audit began as scheduled. The PREA America audit team, consisting of PREA Auditor Will Weir and Project Manager Tom Kovach, arrived at the facility and participated in an introductory meeting. The meeting was attended by Warden Berry Larson, PREA Coordinator Cammie Burke, former agency PREA Coordinator [REDACTED], facility PREA Compliance Manager Sarah Repp, Deputy Warden of Programs [REDACTED], Deputy Warden [REDACTED], Major [REDACTED], Deputy Warden [REDACTED], Deputy Warden [REDACTED], Captain [REDACTED], Assistant Deputy Warden [REDACTED], Deputy Warden [REDACTED], Assistant Deputy Warden [REDACTED], Deputy Warden [REDACTED], and Assistant Deputy Warden [REDACTED]. The audit team had met and worked with Warden Larson (as well as [REDACTED]) in May 2017 when the Arizona State Prison Complex – Winslow was audited and showed compliance with the PREA Standards without having to complete a Corrective Action Plan. During the introductory meeting, this previously established professional relationship was referenced and, although the Lewis complex is much larger than the complex at Winslow, a similar plan for the audit team to tour the facility and interview inmates and staff was implemented. Each deputy warden (or designee) took responsibility for having key personnel in place to facilitate the process of conducting a systematic site review and private interviews when a member of the audit team arrived at housing units under their control. This plan proved to be efficient, and the audit team was able to split up (while maintaining communication) and cover the entire 400 acres in three days.

The audit team was provided with staff and inmate rosters. 14 specialized staff and 4 administrators were privately interviewed, along with an additional 17 random staff, representing all shifts and units. Interviews were selected in accordance with the guidance of the Auditor Handbook, with random selections of inmates to ensure diversity of location (from each housing unit), race, and those with risk factors. Also, additional staff and administrators were interviewed less formally, as they assisted with site reviews and located inmates and staff for interviews. Mr. Kovach typically interviewed staff and Mr. Weir typically interviewed inmates. 60 inmates were interviewed privately. 25 of these inmates were “targeted” or selected from groups of inmates with risk factors, as recognized by the PREA Resource Center. 6 of these inmates had physical, emotional and/or cognitive disabilities or were limited English proficient. 5 were Lesbian, Gay, Bisexual,

Transgender, or Intersex (LGBTI). 8 were identified as inmates who reported sexual abuse. 6 were inmates who have been in segregated housing. The Auditor Handbook suggests this last group be inmates who are in segregated housing for high risk of sexual victimization, but this is impossible at ASPC-Lewis because they had not identified anyone as being high risk.

An exit conference was held at the conclusion of the on-site audit on January 31, and was attended by the audit team and Warden Berry Larson, PREA Coordinator Cammie Burke, former agency PREA Coordinator [REDACTED], facility PREA Compliance Manager Sarah Repp, Deputy Warden of Programs [REDACTED], Deputy Warden [REDACTED], Deputy Warden [REDACTED], Deputy Warden [REDACTED], Assistant Deputy Warden [REDACTED], Assistant Deputy Warden [REDACTED], Deputy Warden [REDACTED], Criminal Investigations Unit Supervisor [REDACTED], Deputy Warden [REDACTED], and Deputy Warden of Programs [REDACTED].

This conference covered the strengths and challenges of the Lewis complex, as indicated at that point in the PREA Audit, understanding that there were still 30 days for the audit team to better understand things and collect additional information before writing a report. Due to the information collected up to that point in the audit, the audit team did not require additional information in most areas. To provide just one example of the pros and cons that were discussed in the exit briefing, and the range of information the audit team processed, we can look at the example of Standard 115.15 (Limits to cross-gender viewing and searches). The interview guides for inmates contain a number of questions about cross-gender supervision and searches. Inmates nearly unanimously answered questions in such a way as to indicate the facility is fully compliant with PREA in most of the sub-standards of Standard 115.15. According to answers inmates gave, they are never searched by female CO's. They are not viewed in showers or on the toilet by female staff, except by mistake. The exception to this was that female staff did not usually announce themselves as required by the standard. Interviews with staff and inmates alike indicated that new staff are trained to announce themselves, but then sometimes quit doing so after they do it for a while and notice that experienced staff are not announcing themselves. So, although the inmates do not seem to believe the female staff are purposely viewing them when they are showering or changing clothes, the inmates often do not know whether female staff are on duty supervising them. Such discussions were held in the exit briefing, and by phone calls and emails, regarding the other standards. The Interim Report was provided to the facility March 4, 2018 and a 180-day Corrective Action Plan (CAP) period was initiated regarding the 12 standards the facility had not shown compliance with. This Final Report indicates lack of compliance with 11 standards. This report contains a summary of corrective action starting approximately on page 7, then the remainder of the report describes compliance standard by standard.

Documentation reviewed includes: Pre-Audit Questionnaire; ADC Chapter 100 Agency Administration Department Order 106 Contract Beds, and Order 108 Americans with Disabilities Act Compliance, and Order 125 Sexual Offense Reporting Policy (with Attachments A & B); Sexual Assault Procedures List; Organizational Charts; Contracts; ADC Chapter 600 Inspector General Department Order 601 Administrative Investigations and Employee Discipline, Order 602 Background Investigations, Order 603 Polygraph Services, Order 606 regarding Internal Inspections Program, and Order 608 Criminal Investigations; Staff and inmate rosters; ADC Director's Office Memorandum dated August 22, 2014: Employee Assignments and Staffing – Revised; Post Charts; Priority Posting Charts; Staff Posting Projections; Weekly Staffing Report; ADC Chapter 500 Administrative/Human Services Department Order 501 Employee Professionalism, Ethics and Conduct, and Order 504 Recruitment and Hiring, Order 508 Criminal Investigations, Order 509 Employee Training and Education, Order 517 Employee Grievances, Order 521 Employee Assistance Program, Order 524 Employee Assignments, Order 526 Victim Services, and Staffing Policy and Order 527 Employment Discrimination and Harassment; Staffing Plan Review Meeting Minutes; ADC Chapter 700 Operational Security: Security/Facility Inspections Policy; Inspections/Tour Report Form; Sample of Unannounced Rounds by Higher-Level Staff; Youthful Inmate Report (showing zero youthful inmates); Searches and Contraband Training Lesson Plan; ADC Chapter 700

Operational Security Department Order 708 Searches Policy, and Order 704 Inmate Regulations, Dress and Clothing Requirements; Arizona State Law 13-1419 regarding unlawful sexual conduct, correctional facilities, classification, and definitions; ADC Chapter 800 Inmate Programs Department Order 801 Classification and Order 802 Inmate Grievance Procedure (English and Spanish), Order 804 Inmate Behavior Control, Order 805 Protective Custody, Order 810 Management of LGBTI Inmates, and Order 811 Individual Inmate Assessments and Reviews; ADC Chapter 1100 Inmate Health Services Department Order 1101 Inmate Access to Health Care; ADC Staff Development Bureau Curriculum and Training Plans; Training and Acknowledgement documentation of staff training; Inmate Handbooks; ADC Chapter 900 Inmate Programs and Services Department Order 906 Inmate Recreation/Arts & Crafts, and Order 910 Inmate Education and Resource Center Services, Order 914 Inmate Mail, Order 915 Inmate Phone Calls, Order 916 Staff-Inmate Communications; PREA Reporting and Advocacy Posters in English and Spanish; examples of background investigations; ADC Director's Office Memorandum Instruction #315: Preliminary Background Checks for Contractors; Verification of 5-year background checks being conducted on all staff; ADC Background Questionnaire for Applicants; Order 601 Attachment C; Arizona Administrative Code Title 2, Chapter 5; documentation of cameras installed since last audit; Sample of Background Information Requests; documented efforts to establish MOU's with sexual victim's advocacy organizations; Investigations; Intervention Checklist; PREA Compliance Training FY2017; 2017 Annual Training Plan; Training Excel Spreadsheets tracking training with employee acknowledgement and verification; PREA Training for Volunteers with curriculum and signature documentation and electronic acknowledgement; Inmate PREA training record documentation and acknowledgement; Inmate Weekly Training Report; Inmate Pamphlet in English and Spanish; other notices; Investigator Training with Certificates of Completion; Medical Staff Training Report and sign-in sheets; SANE Procedures; Significant Incident and Criminal Investigation Reports; Employee Handbook; ADC website; Sexual and Domestic Violence Services lists; Coordinated Response Plan; Retaliation Monitoring policy and examples; General Records Retention Schedule for all Public Bodies Law Enforcement Records; Victim Notifications; Daily Count Sheets; Inmate Screening Report; PREA Risk Screening and Retaliation Review (Training PowerPoint); AIMS sample PREA Screening Instruments with Status Codes for Classification; Samples of ADC Inmate Cell Assignment Screenings; Sample Transgender Actions Detail Screen; Inmate Education and Resource Center Services; Verbal Reports Documentation; Discipline Chart; Covered Employees with Chart of Disciplinary Sanctions; Mental Health Assessment Form; Sample of Shared Medical Information; Consent Forms; Sample of Secondary Mental Health Forms; Sexual Incident Reviews; DOJ Survey of Sexual Violence; Annual Reports; Mission Statement; and Aerial Photograph of facility complex.

## Facility Characteristics

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

Construction of Arizona State Prison Complex - Lewis was started in 1997. The complex houses nearly 6,000 inmates on 400 acres, across two campuses, with multiple housing units on either side of the highway. The East side has Eagle Point and Sunrise, and the West side has Bachman, Barchey, Buckley, Morey, Stiner, and Rast. Cameras have been expanded in Lewis, and it is anticipated that more will be added, as budget allows.

The complex annexed Sunrise in 2010 and Eagle Point in 2013, as the former juvenile facilities were moved. A 500-bed security addition to Rast was finished in December 2014. Bachman has 376 medium general population (GP) beds and 376 medium protective custody (PC) beds, along with an 80-bed detention unit.

Barchey has 1100 Medium PC beds. Buckley has 800 Close PC beds and 16 Transitory PC beds. Eagle Point and Sunrise have just gone through a programing and housing change, to expand work and training opportunities. 300 Medium GP beds are at Eagle Point, and 100 Minimum beds are at Sunrise. Morey has 800 Close GP beds, 16 Transitory GP, and 80 Detention beds. Stiner, the first unit to open, has 1216 Medium GP beds and a 70-bed detention unit. Rast has 404 beds that are Close PC, and 500 beds that are Maximum / Close Mixed PC. All units have their own kitchen and dining areas and yards, and some have towers.

The complex has many additional buildings, including one that hoses its own SWAT unit. Others include Motor Pool Maintenance, Fire Station, K-9, Waste Water Treatment, Visitor Processing Center, Administration buildings, and several buildings which facilitate inmate work, such as the central warehouse, Swift Transport maintenance buildings.

## Summary of Audit Findings

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

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

**Number of Standards Exceeded:** 0

Click or tap here to enter text.

**Number of Standards Met:** 34

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**Number of Standards Not Met:** 11

115.22, 115.34, 115.41, 115.42, 115.61, 115.67, 115.71, 115.72, 115.73, 115.81, and 115.86

## Summary of Corrective Action (if any)

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

This Standard requires staff of the opposite gender to announce themselves when entering an inmate housing unit, but interviews with both residents and staff indicated this was not consistently done.

**Resolved:** This requirement was covered as a briefing topic for all units and all shifts. Verification was provided to the auditor.

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

In reviewing investigative files, the audit team did not find that all allegations were investigated fully.

**Not Resolved:** Investigative files provided during the CAP continued to contain allegations that did not appear to have been fully investigated.

### **Standard 115.33 Inmate education**

Inmates did not receive information at time of intake at ASPC-Lewis about the zero-tolerance policy and how to report incidents or suspicions of sexual abuse or harassment, according to interviews with staff and inmates. Inmates who had been at the facility less than 12 months typically reported that they had not received the required PREA education at ASPC-Lewis in any format.

**Resolved:** The CAP stated: All inmates at ASPC-Lewis must have PREA education provided to them at ASPC-Lewis. Provide documentation/verification that every inmate admitted during the past year has received the required PREA education at ASPC-Lewis as of May 1." The PREA Coordinator provided this documentation to the auditor as agreed.

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

The agency performs its own administrative and criminal investigations. When reviewing investigations, the auditor found investigative documentation completed by investigators not listed among the trained investigators. In addition, interviews conducted, and investigations reviewed indicated a need for additional investigative training.

**Not Resolved:** The audit team was provided with documentation that investigators took investigator training; however, when the auditor reviewed recent investigations, the narratives included in the investigations did not seem to match the investigative findings. It appears the investigators do not use the PREA definitions of "unfounded" and "unsubstantiated." Although investigators may have taken investigator training, they did not demonstrate an understanding of investigative findings, in practice, as required in sub-section "b" of this standard.

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

During the audit, many inmates did not remember being asked the screening questions, and some staff acknowledged that the reassessments are not always being completed. It was clear that whatever screenings were being done were not successfully identifying high-risk inmates, or they were being overruled. The facility reported having zero high-risk inmates, of over 5000 inmates. ASPC-Lewis houses elderly, incapacitated, fearful inmates of small stature, with histories of being sexually abused. Some inmates meet nearly all the risk factors listed in the screening; yet, these inmates are not documented as being of elevated risk.

**Not Resolved:** The Jointly Developed ASPC-Lewis CAP required the agency to "Design and implement a new or significantly improved screening process for risk of victimization or abusiveness. Provide a description of the new process or improvements. . . ." and to provide specific verification spelled out in the CAP. The agency did not show verification, as agreed, that they have made changes to allow them to successfully screen (and reassess as required) and identify high-risk inmates.

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

Since the facility did not complete screenings and reassessments effectively to identify high-risk inmates, at the time of the Interim PREA Audit Report, the facility did not have the information it needed from the risk screening required by § 115.41 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. In addition, inmates alleged that instead of discretely documenting data regarding risk in a way that can be used to protect them, the information was passed

around by indiscreetly by word of mouth putting inmates at increased risk of violence without accountability.

**Not Resolved:** The Jointly Developed ASPC-Lewis CAP depended on compliance with 115.41 for compliance with 115.42. Once the changes made for 115.41 were made, the auditor was, according to the CAP, to conduct phone interviews and review examples (provided by the facility) of the practice of screening and reassessment information being used to protect inmates. However, the agency did not provide verification for review.

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

Although the Interim PREA Audit Report indicated the agency had shown compliance with this standard, additional information obtained and reviewed during the CAP indicated failure to show compliance with sub-section B of this standard. Sub-section B states, "Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions." 5 of the 24 investigations provided for review during the CAP indicated the investigator revealed the identity of the reporting person to the alleged perpetrator, even though there was no investigative need for such disclosure. This disclosure happened regardless of whether the alleged perpetrator was a staff or inmate. Investigators are taught that they can say they are investigating a report regarding this or that without disclosing all their sources. Due to possible retaliation, if the identity of reporting persons is disclosed to alleged perpetrators during investigations, it should only be done carefully and with justification. In cases at ASCP-Lewis, it appears the information was disclosed without restraint, sometimes at the beginning of the interview as if the reporting person was the reason for the investigation and interview.

**Not Resolved.** This standard was listed as "Meets Standard" on the Interim Report. Evidence of lack of compliance, as described above, was found during the CAP process.

#### **Standard 115.67 Agency protection against retaliation**

Interviews of alleged inmate victims, witnesses, and those who cooperated with investigations, indicated no monitoring for retaliation, even when they said they reported retaliation or a fear of it. The Pre-Audit Questionnaire indicated no retaliation out of more than 50 investigations. There were no examples of monitoring beyond 90 days, nor of any acknowledged risk of retaliation in the monitoring documented. Inmates who felt they had been victims reported feeling very unsafe and denied they had ever been monitored for retaliation, even when they acknowledged other services being offered/provided. Although some level of retaliation monitoring was documented in AIMS, based on a review of investigative work, other documentation, and interviews conducted during the audit with both staff and inmates, the facility did not appear to have shown effective retaliation monitoring for all circumstances required by this standard at the time of the writing of the Interim Report.

**Not Resolved:** The CAP stated, "Provide the audit team a narrative report, along with the log (and/or AIMS screen prints), of retaliation monitoring between January 1 and June 30, 2018." The facility provided one print screen showing that retaliation monitoring had been completed regarding one victim. Of the 24 investigations provided for this time period, 5 alleged victims overtly alleged retaliation and others expressed fears regarding safety. One of these alleged victims who expressed a fear of retaliation signed a statement saying he thought he was safe enough to return to his housing unit. Agency policy requires all allegations of retaliation be investigated.

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

ADC has a policy related to criminal and administrative agency investigations that appears to be consistent with PREA standards. However, at the time the Interim Report was written, the facility had not shown full compliance with the policy and standard. Where sexual abuse is alleged, the agency is required to use investigators who have received special training in sexual abuse investigations;

however, documentation had been provided to the audit team in which the named investigator was not found on the list of trained investigators. The audit team reviewed investigations that did not appear to have been conducted promptly, thoroughly, and objectively for all allegations. Investigation files indicated investigators might not always document circumstantial evidence as required, nor collect available electronic monitoring data. They did not appear to always interview all witnesses, nor review prior complaints and reports of sexual abuse involving the suspected perpetrator. Staff or other inmates who may have collaborated in the abuse may not always have been interviewed. Documentation did not show that the credibility of an alleged victim, suspect, or witness was always assessed on an individual basis. Investigations did not appear to always include efforts to determine whether staff actions or failures to act contributed to the abuse; nor efforts to document in a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

**Not Resolved:** The agency turned in additional incomplete investigations.

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

Interviews with investigators, during the audit, and reviews of investigations, indicated that a higher standard of evidence than preponderance of evidence is sometimes imposed. Findings of “unfounded” was entered in cases where evidence and documentation indicated abuse or harassment might have occurred. Inmates were told that an allegation is “unfounded” unless it can be proven in court or beyond a reasonable doubt. PREA definitions require a lower standard, “*Substantiated allegation* means an allegation that was investigated and determined to have occurred. *Unfounded allegation* means an allegation that was investigated and determined not to have occurred. *Unsubstantiated allegation* means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.”

**Not resolved:** During the audit and CAP, the facility did not provide investigative materials to show they are utilizing a preponderance of evidence, or lower standard of proof, regarding allegations that may require administrative actions, rather than criminal prosecution, in order to protect staff and inmates.

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

Inmates who reported sexual abuse or harassment indicated they were not informed of the investigative findings regarding all allegations, as required by this standard. A review of investigations indicated that not all investigations had clear findings for all allegations. Some single allegations had two findings, both “unfounded” and “unsubstantiated”. If the inmate was informed of a finding, it is not clear from the documentation that the inmate was informed accurately.

**Not Resolved:** Investigation materials received during the CAP did not show that inmate victims were informed regarding the findings of all allegations that should have been investigated, or that they were provided incomplete information.

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

Since it had not been shown that screenings pursuant to § 115.41 were being completed at Lewis, at the time of the Interim Report, compliance with this standard is tied to § 115.41. Compliance needed to be verified regarding whether this standard and related policies were in actual practice uniformly.

**Not Resolved:** Information was not provided to show how the mental health and medical screening process assures pertinent information gleaned from this process is considered in the screening and reassessment for risk of victimization and abusiveness tools.

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

Some investigation report narratives from ASPC-Lewis reviewed during the audit had a finding of “unfounded”, as well as a finding of “unsubstantiated”, for the same allegation. Each allegation should

have only one finding per alleged victim and alleged perpetrator. These narratives provide statements and/or evidence to indicate the incident might have occurred, but the preponderance of the evidence described in the report clearly does not substantiate that the alleged incident of sexual abuse or harassment occurred. This type of narrative supports a finding of “unsubstantiated”, yet incident reviews are not completed regarding these incidents as required. The auditor was only able to find one incident review in the documents provided of more than 50 investigations, that appeared to be conducted according to agency policy.

**Not Resolved:** During the CAP, the facility did not show it was completing incident reviews as required.

## PREVENTION PLANNING

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

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

#### 115.11 (a)

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

#### 115.11 (b)

- Has the agency employed or designated an agency-wide PREA Coordinator?  Yes  No
- Is the PREA Coordinator position in the upper-level of the agency hierarchy?  Yes  No
- Does the PREA Coordinator have sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities?  Yes  No

#### 115.11 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

A review of ADC Policy Chapter 100 (Department Order 125 Sexual Offense Reporting), agency organizational charts, and the Pre-Audit Questionnaire (PAQ) show compliance with this standard in writing. When looking for compliance in practice, the audit team relied heavily on interviews with the warden and higher-level administrators, who show support and describe an understanding of the magnitude and importance of this work. Some evidence of the abilities of the agency PREA Coordinator and facility PREA Compliance Manager to execute a plan was displayed during the on-site audit, as they were able to command the attention and cooperation sufficient to facilitate an efficient audit process. Every large prison institution has security concerns, as well as competing projects going on at any given time. ASPC-Lewis was no different during the on-site audit. Three housing units were undergoing massive population changes/transfers, yet the process continued without delaying the tasks and interviews of the PREA audit team. Even during interviews with line staff, the audit team did not observe lack of commitment to the zero-tolerance policy or to the authority of the PREA Coordinator and PREA Compliance Manager to oversee a full and successful implementation of all parts of PREA. PREA Coordinator Cammie Burke, Auditor III, answers directly to [REDACTED], Deputy Inspector General. Sarah Repp, Correctional Officer IV, is the on-site PREA Compliance Manager. She answers to [REDACTED], Correctional Administrator IV.

**Analysis:** The policy and organizational charts reviewed showed written conformity with this standard, and interviews with all levels of staff and administration provided verification of compliance of this standard in practice. In addition, observations made during the on-site audit also supported a finding of “Meets Standard.”

**Finding:** The facility has shown compliance in all material ways with this standard for the relevant review period.

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

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

#### 115.12 (a)

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

### 115.12 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The agency (not the facility) contracts with other entities for the confinement of inmates, and all these contractors are required to be PREA-compliant, as verified through a review of Requests for Proposals, Scope of Work, Contracts, Contract Amendments, PREA Audits, ADC Policy Chapter 100 Agency Administration/Management (Department Order 106 Contract Beds), and Policy Chapter 600 Inspector General (Department Order 606 Internal Inspections Program).

**Analysis:** The agency has provided verification regarding compliance with all sub-sections of this standard. The policies match the contract documentation and PREA Audit Reports of contractors. The PREA Coordinator is an auditor for the Inspector General Bureau and indicated compliance with this standard.

**Finding:** The agency complies in all material ways with this standard for the relevant review period.

### Standard 115.13: Supervision and monitoring

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

### 115.13 (a)

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

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

### 115.13 (b)

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

### 115.13 (c)

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

### 115.13 (d)

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

### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

The facility and agency have worked together to develop, document, and comply with staffing plans that provide for adequate levels of staffing and video monitoring to protect inmates against abuse, taking into account all parts of this standard, including an annual review to see if adjustments are needed. Applicable documentation reviewed includes the PAQ; Director's Instruction #286; Modification of Department Order #524 (Employee Assignments and Staffing – Revised); Director's Instruction #349 (12-hour Shift Implementation – Revised); ADC 12-Hour Shift Schedule/Correctional Officer Series Memorandum of Agreement and Overtime Election; ADC Policy Chapter 500 Administrative/Human Services (Department Order #524 Employee Assignments and Staffing); ASPC-Lewis Post Charts; ASPC-Lewis Priority Posting Chart; Staffing Schedules; Weekly Staffing Reports; Staffing Plan and Meeting Minutes; ADC Policy Chapter 700 Operational Security (Department Order 703 Security/Facility Inspections); Rosters; and Inspections/Tour Reports (Unannounced Rounds). Also, according to documentation, as well as to staff and administrative interviews, there have been no deviations from the staffing plan. The facility requires that intermediate-level or higher-level staff conduct unannounced rounds to identify and deter staff sexual abuse and sexual harassment. The facility documents unannounced rounds, which cover all shifts.

**Analysis:** The agency provided policy, as well as staffing plans based on that policy, to show compliance with this standard. Neither the interviews conducted nor the site review revealed violations of this standard in practice.

**Finding:** The facility has shown compliance in all material ways with this standard for the relevant review period.

## Standard 115.14: Youthful inmates

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

#### 115.14 (a)

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

#### 115.14 (b)

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

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

### 115.14 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

Interviews, the PAQ, and computer-generated record counts for inmates under the age of 18 indicate that youthful inmates are not placed at ASPC-Lewis but are sent to other facilities. Nevertheless, the agency policy prohibits placing youthful inmates in a housing unit in which a youthful inmate will have sight, sound, or physical contact with any adult inmate through use of a shared day room or other common space, shower area, or sleeping quarters. Policy also states that the agency will make best efforts to avoid placing juvenile inmates in isolation. Absent exigent circumstances, they will not deny juvenile inmates daily large-muscle exercise and any legally required special education services. Juvenile inmates shall also have access to other programs and work opportunities to the extent possible.

**Analysis:** Since the agency has provided proof that no youthful inmates are at ASPC-Lewis, and that agency policies provide for them at other agency facilities consistent with this standard, there is no evidence contradictory to a finding of “Meets Standard.”

**Finding:** The facility has shown compliance in all material ways with this standard for the relevant review period.

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

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

#### 115.15 (a)

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

#### 115.15 (b)

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

#### 115.15 (c)

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

#### 115.15 (d)

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

#### 115.15 (e)

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

### 115.15 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

Agency policies reviewed conform to this standard. These policies are located in ADC Policy Chapter 700 Operational Security (Department Order 708 Searches); Policy Chapter 100 Agency Administration/Management (Department Order 125 Sexual Offense Reporting); and Chapter 800 Inmate Programs (Department Order 810 Management of LGBTI Inmates). Training is provided in the Correctional Officers Training Academy (COTA) Searches and Contraband Course DCCOT007. These policies and this training curriculum were reviewed by the audit team, along with documentation verifying that all officers have received the training either in the classroom or via an online version. During the on-site audit, inmates and staff were asked whether cross-gender strip or cross-gender visual body cavity searches of inmates are conducted, and no interviews indicated that this standard is violated. The PAQ also indicated that there have been no exceptions known in the past year. Staff understand that if exceptions occur, documentation is required. Also, staff of the opposite gender of the inmates they are supervising are required to announce themselves when entering an inmate housing

unit, but interviews conducted during the on-site audit indicated this is not consistently done. 13 inmate interviews indicated that these announcements are never done, and an additional 5 stated the announcements are only done part of the time. Interviews with staff and administrators also verified that these announcements might not be consistently done. Interviews indicated procedures are being followed that enable inmates to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks (this includes viewing via video camera), with 5 exceptions. 5 inmates indicated that unannounced opposite-gender staff walk in, or look in, when an inmate may be showering, going to the restroom, changing clothes. None of these inmates indicated the officers do this on purpose, but these 5 inmates say this is what happens when cross-gender announcements are not made, or when officers become lax regarding these privacy issues. Observations during the site review also verify that inmates can perform bodily functions without genitals being viewed by staff of the opposite gender. Interviews with transgender inmates indicate the facility has followed the policy prohibiting them from being searched to determine genital status for at least the past 12 months.

**Corrective Action:** The cross-gender announcement policy was made a briefing topic for staff of all units and all shifts. Verification of this training was provided to the audit team. When providing this documentation, PREA Coordinator Burke stated, "To meet this requirement, this briefing topic was covered for the entire month of February 2018 for all units and all shifts."

**Analysis:** During the pre-audit and on-site portions of the audit, the agency showed compliance with all sub-sections of this standard except cross-gender announcements. Compliance with this remaining sub-standard was verified during the CAP.

**Finding:** The agency has shown compliance in all material ways with the standard for the relevant review period.

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

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

#### 115.16 (a)

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

and respond to sexual abuse and sexual harassment, including: inmates who have intellectual disabilities?  Yes  No

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

#### 115.16 (b)

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

#### 115.16 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The agency has established procedures to provide disabled inmates and inmates with limited English proficiency equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Agency policy prohibits use of inmate interpreters, inmate readers, or other types of inmate assistants, except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under §115.64, or the investigation of the inmate's allegations. There have been no exceptions, but if there are, they must be documented. These policies are found in ADC Policy Chapter 700 Operational Security (Department Order 704 Inmate Regulations); Chapter 100 Agency Administration/Management (Department Order 108 Americans with Disabilities Act Compliance, with Attachments A, B, C, & D); and Policy Chapter 900 Inmate Programs and Services. Additional documentation supportive of compliance includes FY17 Staff Training Curriculum Excerpt 1.18; postings and handouts in Spanish; and contracts with interpreters. Staff and administrators interviewed indicated an understanding of both the importance of this standard, and the procedures that are in place to provide inmates who have disabilities and/or limited English proficiency with equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Inmate interpreters are not being used. Inmates with disabilities and limited English proficiency who were interviewed generally indicated they receive information and assistance consistent with this standard.

**Analysis:** Policies shown to be in place, and documentation of practice (provisions of interpreters and services for the disabled) provided by the facility, were consistent with interviews and observations made during the site review.

**Finding:** The agency has shown compliance in all material ways with this standard for the relevant review period.

## Standard 115.17: Hiring and promotion decisions

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

#### 115.17 (a)

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

#### 115.17 (b)

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

#### 115.17 (c)

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

#### 115.17 (d)

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

#### 115.17 (e)

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

#### 115.17 (f)

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

#### 115.17 (g)

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

#### 115.17 (h)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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ADC Policy Chapter 100 Agency Administration/Management (Department Order #125 Sexual Offense Reporting); Chapter 600 Inspector General (Department Order 602 Background Investigations); Chapter 500 (Department Order 501 Employee Professionalism, Ethics, and Conduct, and Department Order 504 Recruitment and Hiring); Excerpt from Arizona Administrative Code, Title 2, Chapter 5; Director's Instruction #315 Preliminary Background Check for Contractors; Applications for Employment with Background Questionnaires; and the ADC Code of Ethics were reviewed, and they provide for compliance with all sub-sections of this standard. Random employee and contractor files were reviewed. The PREA Coordinator is responsible for responding to requests for information from other agencies that are considering a former ADC employee for employment, and examples of these requests were reviewed as well. [REDACTED], Auditor 3, of the Inspector General Bureau, provided a computer-generated printout which he attests shows that all ASPC-Lewis employees have received their 5-year background checks, "with NO PREA issues found."

**Analysis:** The audit team was provided with policies, as well as evidence of practice from several sources, showing compliance with this standard. Interviews conducted indicated that administrators within the facility, as well as at the agency level (including at the Inspector General Bureau), believe the agency complies with this standard.

**Finding:** The agency has shown compliance in all material ways with this standard for the relevant review period.

## Standard 115.18: Upgrades to facilities and technologies

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

#### 115.18 (a)

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

#### 115.18 (b)

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

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

Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

ASPC-Lewis has not acquired a new facility, nor made a substantial expansion or modification to existing facilities since the last audit, but it has updated a video monitoring system since the last PREA audit. Policy requires the sexual safety of inmates to be considered when making modifications and expansions. The auditor was provided with a description of the changes.

**Analysis:** The information available to the auditor at the time of the PREA Audit Interim Report indicated that the facility had shown compliance with this standard. No corrective action was required. No information obtained since the time that report was completed has contradicted the finding of "Meets Standard."

**Finding:** The facility has shown compliance with this standard in all material ways for the relevant review period.

## RESPONSIVE PLANNING

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

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

#### 115.21 (a)

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

### 115.21 (b)

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

### 115.21 (c)

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

### 115.21 (d)

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

### 115.21 (e)

- As requested by the victim, does the victim advocate, qualified agency staff member, or qualified community-based organization staff member accompany and support the victim through the forensic medical examination process and investigatory interviews?  Yes  No

- As requested by the victim, does this person provide emotional support, crisis intervention, information, and referrals?  Yes  No

#### 115.21 (f)

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

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The audit team verified that medical services available for ASPC-Lewis through Honor Health. [REDACTED] of Honor Health was interviewed. She verified that Honor Health does have agreements with ADC, and that SANE/SAFE services are available at all times, without exception. They also agree to attempt to provide advocates. The Warden and PREA Coordinator verify that Honor Health is contacted immediately when a sexual assault is reported. All these sources indicate that efforts will be made to make a victim advocate available to the victim as well. Documentation reviewed includes efforts to enter into Memoranda of Understanding (MOU's) with advocacy providers. The auditor was provided with Certificates of Completion for PREA Training: Providing Sexual Assault Advocacy, for 3 Lewis staff. The training was provided by the ACESDV. Also reviewed were lists of local, state, and national

organizations for inmates, ADC Policy Chapter 100 Agency Administration/Management (Department Order 125 Sexual Offense Reporting); Sexual Assault Procedures Checklist; Policy Chapter 600 Inspector General (Department Order 608 Criminal Investigations); and Criminal Investigation Reports, to verify compliance with this standard. The agency/facility is responsible for conducting administrative and criminal sexual abuse investigations (including inmate-on-inmate sexual abuse or staff sexual misconduct).

**Analysis:** The audit team was provided policies consistent with this standard, as well as documented evidence of compliance with those policies. Then interviews with investigators and alleged inmate victims of sexual assault confirmed that forensic medical examinations are available to victims at ASPC-Lewis.

**Finding:** The agency has shown compliance in all material ways with this standard for the relevant review period.

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

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

### 115.22 (a)

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

### 115.22 (b)

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

### 115.22 (c)

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

### 115.22 (d)

- Auditor is not required to audit this provision.

### 115.22 (e)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

The audit team reviewed ADC Policy Chapter 600 Inspections/Investigations (Department Order 601 Administrative Investigations and Employee Discipline, and Department Order 608 Criminal Investigations); and reviewed Chapter 100 Agency Administration/Management; policies provided on the agency website; and investigations conducted. At the time of the Interim Report, the auditor did not find that all allegations were being investigated fully as required by ADC policies and PREA standards. The PAQ indicated 54 investigations had been completed, and these were provided to the auditor for review. Allegations contained in reports and investigative narratives did not all match to an investigative finding, which indicates not all allegations were fully investigated. In addition, allegations that did not appear to be criminal in nature did not receive proper administrative investigation or follow-up.

**Corrective Action:** The CAP required verification of additional investigative training, as well as of any new investigations being provided to the audit team for review. The agency provided documentation of 38 investigators at ASPC-Lewis completing the online NIC training: PREA Investigating Sexual Abuse in a Confinement Setting. They also provided 24 investigations for review. The following investigations were included:

- Although initiated by one reporting person, two separate allegations were received from different reporting persons regarding two alleged inmate victims being sexually harassed by two different alleged staff perpetrators. Both alleged victims expressed a fear of retaliation separately in writing. One investigation was conducted, and one finding of "unfounded" was entered in the case regarding "Other" "Staff Misconduct Allegations." Within case findings nothing was entered about sexual harassment, and there was no mention of investigating or monitoring for retaliation.
- One reporting person alleged one inmate was sexually harassed by two officers. The report described different sexually harassing behavior by each officer, although it was part of one event. Allegations of retaliation for trying to make a PREA report were also made. The investigation was opened as "Disorderly Conduct" by staff and one finding of "unfounded"

was made regarding disorderly conduct. Findings specifically regarding the alleged sexually harassing behavior of either officer, or alleged retaliatory actions, were not found in the report.

**Analysis:** The Interim PREA Audit Report indicated the agency had shown compliance with sub-standards (b) and (c) by providing policies that were consistent with the standard and by posting these policies publicly on the website as required. Also, they complied with the standard by documenting allegations and referring them for investigation. They did not, however, show compliance with sub-section (a), which requires that every allegation be appropriately investigated. Allegations were found that lacked investigative findings. Although additional training was provided to investigators, another set of investigations was provided for review during the CAP, and that second set also did not show that all allegations were fully investigated.

**Finding:** Since the agency did not show full compliance in all material ways with all parts of the standard, the finding is: Does Not Meet Standard.

## TRAINING AND EDUCATION

### Standard 115.31: Employee training

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

#### 115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures?  Yes  No
- Does the agency train all employees who may have contact with inmates on inmates' right to be free from sexual abuse and sexual harassment  Yes  No
- Does the agency train all employees who may have contact with inmates on the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment?  Yes  No
- Does the agency train all employees who may have contact with inmates on the dynamics of sexual abuse and sexual harassment in confinement?  Yes  No
- Does the agency train all employees who may have contact with inmates on the common reactions of sexual abuse and sexual harassment victims?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to detect and respond to signs of threatened and actual sexual abuse?  Yes  No

- Does the agency train all employees who may have contact with inmates on how to avoid inappropriate relationships with inmates?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities?  Yes  No

#### 115.31 (b)

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

#### 115.31 (c)

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

#### 115.31 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

Documentation provided to the audit team includes the Staff PREA Training Curriculum; ADC Policy Chapter 800 Inmate Programs (Department Order 810 Management of LGBTI Inmates); Chapter 100 Agency Administration/Management (Department Order 128 Sexual Offense Reporting); Chapter 500 Personnel/Human Services (Department Order 509 Employee Training and Education); FY 2017 Annual Training Plan; and Staff Training Acknowledgments, which include all parts of this standard. Employees interviewed usually remembered receiving each portion of the training.

**Analysis:** The facility provided policies consistent with this standard and training curriculum which included all requirements of this standard. Documented training acknowledgements, as well as staff interviews, verified that they received the training.

**Finding:** The facility complies in all material ways with this standard for the relevant review period.

## Standard 115.32: Volunteer and contractor training

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

#### 115.32 (a)

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

#### 115.32 (b)

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

#### 115.32 (c)

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

### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

Volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency's policies and procedures regarding sexual abuse/harassment prevention, detection, and response. The level and type of training provided to volunteers and contractors is based on the services they provide and the level of contact they have with inmates. All volunteers and contractors who have contact with inmates have been notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment, and they have been informed how to report such incidents, according to documentation provided to the audit team. Documentation reviewed includes Volunteer Training: "Volunteer Narratives-What Went Wrong?"; FY17 & FY18 Training Curriculum; ADC Chapter 100 – Agency Administration/Management (DO 125 Sexual Offense Reporting); FY17 & FY 18 Contractor Training Excel Spreadsheet that documents training acknowledgements and whether the training was online or in classroom; random samples of online acknowledgement screenshots; and one year's worth of classroom acknowledgement signature sheets.

**Analysis:** The facility provided policies consistent with this standard and training curriculum which included all requirements of this standard. Documented training acknowledgements, as well as interviews with trainers, verified that volunteers have received the training.

**Finding:** The facility complies in all material ways with this standard for the relevant review period.

## Standard 115.33: Inmate education

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

#### 115.33 (a)

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

#### 115.33 (b)

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from sexual abuse and sexual harassment?  Yes  No

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

### 115.33 (c)

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

### 115.33 (d)

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

### 115.33 (e)

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

### 115.33 (f)

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

### Auditor Overall Compliance Determination

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

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

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

### Instructions for Overall Compliance Determination Narrative

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

Documentation reviewed regarding inmate PREA education includes ADC Policy Chapter 100 Agency Administration/Management (DO 125 Sexual Offense Reporting, including Attachment C; DO 108 Americans With Disabilities Act Compliance, with Attachments A through D); and Chapter 700 Operational Security (DO 704 Inmate Regulations); along with inmate acknowledgements and weekly Inmate Education Reports. During the audit, interviews with staff and inmates revealed that somehow, during the past 12 months or so, the required PREA education programming ceased to be provided to inmates. Inmates who have been at the facility less than 12 months typically reported that they had not received the PREA education at ASPC-Lewis, required by this standard and by ADC policy. This represented 14 of the inmates interviewed. This standard was added to the CAP.

**Corrective Action:** The CAP stated: All inmates at ASPC-Lewis must have PREA education provided to them at ASPC-Lewis. Provide documentation/verification that every inmate admitted during the past year has received the required PREA education at ASPC-Lewis as of May 1." The PREA Coordinator provided this documentation to the auditor as agreed.

**Analysis:** The Interim Report found that, although the PREA education provided by the agency meets minimum standards, it has not been consistently provided in practice at ASPC-Lewis during the past year. These affected inmates were educated during the CAP, with verification provided to the auditor.

**Finding:** The facility has shown compliance with this standard.

## Standard 115.34: Specialized training: Investigations

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

### 115.34 (a)

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

### 115.34 (b)

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

#### 115.34 (c)

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

#### 115.34 (d)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

The agency performs its own administrative and criminal investigations. When reviewing investigations during the audit, prior to the Interim Report, the auditor found investigations completed by investigators not listed among the trained investigators, so this standard was included in the CAP.

**Corrective Action:** The agency agreed to train additional investigators and provided a spreadsheet showing that online training from the National Institutes of Corrections (NIC) had been completed and was understood by investigators. This NIC training has been reviewed and includes information regarding Sexual Abuse and Sexual Harassment investigative findings consistent with PREA definitions. According to sub-section “b” of this standard, investigators are supposed to know “the criteria and evidence required to substantiate a case for administrative action or prosecution referral.” From the definitions in the PREA Standards, the three possible findings for investigations are defined as follows:

***Substantiated allegation*** means an allegation that was investigated and determined to have occurred.

***Unfounded allegation*** means an allegation that was investigated and determined not to have occurred.

***Unsubstantiated allegation*** means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.”

These are the exact definitions provided in the NIC training. There is a separate slide for each. Investigations completed during the CAP were provided to the auditor for review. None of the investigations had a finding of unsubstantiated because investigators seem to believe that if they cannot prove the allegation happened, it is completely unfounded. Most investigative narratives read as if the investigator will make a finding of unsubstantiated, because there are statements supporting the validity of the allegation as well statements that deny wrongdoing. But the investigators, instead, say the allegation is unfounded, despite their training. Again, if an allegation can neither be proven nor disproven, it is typically granted a finding of unsubstantiated, if investigators follow PREA guidelines. The investigative finding of unfounded is reserved for cases where it is determined that abuse or harassment did not occur. Quotes showing this misunderstanding, from recent investigations, are provided here:

- Therefore, this case will be closed unfounded due to insufficient evidence to prove or disprove the allegation . . .
- The matter relating to the reported PREA allegation will be closed unfounded due to insufficient independent corroborative evidence to prove the allegation.
- Based upon review of this investigation, this case will be closed unfounded due to insufficient evidence to establish an incident of sexual abuse or sexual harassment . . .

**Analysis:** Although investigators may have taken investigator training, they do not demonstrate an understanding of investigative findings, in practice, as required in sub-section “b” of this standard.

**Finding:** The facility does not meet this standard because it does not comply in all material ways with the standard for the relevant review period.

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

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

### 115.35 (a)

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

### 115.35 (b)

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

### 115.35 (c)

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

### 115.35 (d)

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

### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

The agency has a policy related to the training of medical and mental health practitioners who work regularly in its facility. All medical and mental health care practitioners who work regularly at this facility received the training required by agency policy, and it is documented, but they do not conduct forensic medical exams.

**Analysis:** The facility provided policies consistent with this standard and training curriculum which included all requirements of this standard. Documented training acknowledgements, as well as interviews with trainers, verified that medical and mental health professionals have received the training.

**Finding:** The facility complies in all material ways with this standard for the relevant review period.

## SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

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

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

##### 115.41 (a)

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

##### 115.41 (b)

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

##### 115.41 (c)

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

##### 115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes?  Yes  No

#### 115.41 (e)

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

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

#### 115.41 (f)

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

#### 115.41 (g)

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

#### 115.41 (h)

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

#### 115.41 (i)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

The agency has a policy that seems to agree with the PREA Standards, but in practice, risk of sexual victimization or abusiveness is not identified. Screenings are required (upon admission to a facility or transfer to another facility) for risk of sexual abuse victimization or sexual abusiveness toward other inmates. The policy requires that inmates be screened for risk of sexual victimization or risk of sexually abusing other inmates within 72 hours of their intake. Risk assessment is to be conducted using an objective screening instrument. The policy requires that the facility reassess each inmate's risk of victimization or abusiveness within a set time period, not to exceed 30 days after the inmate's arrival at the facility, based upon any additional, relevant information received by the facility since the intake screening. The facility is to reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information. However, 24 of the inmates interviewed stated they did not remember being asked the screening questions at ASPC-Lewis, and some administrative staff acknowledge that the reassessments are not always being completed. It is clear that high-risk inmates are not being successfully identified. The facility reports having zero high-risk inmates, of their 5,200 inmates. ASPC-Lewis has elderly, incapacitated, fearful inmates of small stature, with histories of being sexually abused, meeting nearly all the risk factors listed above; yet, even those do not score as being high-risk. The Interim Report found that the facility is not fully compliant with this standard, saying, "It may be that someone is not entering the data into the computer in a way that causes the level of risk to be flagged, or it may be that a high-level ADC official is overriding the screening results. Department Order 811 Individual Inmate Assessments and Reviews states, in subsection 1.10.5.3.1, 'The Offender Services Bureau Administrator or designee shall be the final authority for those cases the Deputy Warden approves as High Risk and shall complete such reviews within one workday following the Deputy Warden's review.' Although administrative review is appropriate, it should not be about whether some DW or Offender Services Bureau Administrator approves an inmate as being high risk, but whether the inmate is indeed high risk according to a reliable method of determination, and that appropriate measures are taken based on the risks."

**Corrective Action:** The Jointly Developed ASPC-Lewis CAP required the agency to "Design and implement a new or significantly improved screening process for risk of victimization or abusiveness. Provide a description of the new process or improvements. Provide verification and detailed description of all screenings and reassessments completed during the first week of June (assuming there are admissions and reassessments during that week). Provide logs of all ASPC Lewis inmates identified as being high risk of being sexually abusive and high risk of being victimized." The agency did not show verification, as agreed, that they have made changes to allow them to successfully screen (and reassess as required) and identify high-risk inmates. At one point in the CAP process an agency representative alleged to the auditor that the screening system is functioning adequately and updating risk scores in real time. The auditor asked for verification and examples. If the system updates the risk score based on the inmate's age, for example, then the agency should be able to show real instances of the risk score changing after an inmate's birthday. If the system updates based on an inmate being coded as an alleged victim of rape, then the agency should be able to show that the system for tracking sexual abuse allegations cross references with the screening tool. If the tool can take into account, in real time, when an inmate is diagnosed with major medical or mental health conditions that affect

vulnerability, then it would be easy to provide examples of this change in risk score to the auditor, since many inmates have major health problems. The auditor did not receive any examples as requested.

**Analysis:** The facility has not shown that the screening system works at ASPC-Lewis to identify inmates at high risk of victimization or abusiveness. In addition, the agency has not completed the requirements of the CAP.

**Finding:** The facility has not shown compliance with this standard.

## Standard 115.42: Use of screening information

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

#### 115.42 (a)

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

#### 115.42 (b)

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

#### 115.42 (c)

- When deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems (NOTE: if an agency by policy or practice assigns inmates to a male or

female facility on the basis of anatomy alone, that agency is not in compliance with this standard)?  Yes  No

- When making housing or other program assignments for transgender or intersex inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems?  Yes  No

#### 115.42 (d)

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

#### 115.42 (e)

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

#### 115.42 (f)

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

#### 115.42 (g)

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

#### Auditor Overall Compliance Determination

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

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

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

### Instructions for Overall Compliance Determination Narrative

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

Since the facility does not compete screenings and reassessments effectively to identify high-risk inmates, the facility does not have the information it needs from the risk screening required by § 115.41 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

**Corrective Action:** The Jointly Developed ASPC-Lewis CAP depended on compliance with 115.41 for compliance with 115.42. Once the changes made for 115.41 were made, the auditor was, according to the CAP, to conduct phone interviews and review examples (provided by the facility) of the practice of screening and reassessment information being used to protect inmates. However, the agency did not provide verification for review.

**Analysis:** Since the facility did not provide verification during the CAP of compliance with this standard, the status of compliance remains as it was during the audit.

**Finding:** The facility has not shown compliance with this standard.

## Standard 115.43: Protective Custody

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

### 115.43 (a)

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

### 115.43 (b)

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible?  Yes  No

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

#### 115.43 (c)

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

#### 115.43 (d)

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

#### 115.43 (e)

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

#### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

ADC has a policy prohibiting the placement of inmates at high risk for sexual victimization in involuntary segregated housing, unless an assessment of all available alternatives has been made and a determination has been made that there is no available alternative means of separation from likely abusers. There have been no inmates at risk of sexual victimization who were held in involuntary segregated housing in the past 12 months, according to the PAQ. Policy and procedure assure that inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility will document: (1) The opportunities that have been limited; (2) The duration of the limitation; and (3) The reasons for such limitations. However, there have been no instances of programs being limited in this circumstance, according to the PAQ. If an involuntary segregated housing assignment is made, the facility affords each such inmate a review every 30 days to determine whether there is a continuing need for separation from the general population and will document this review. Information received during interviews conducted by the auditor team verify that these policies are known, in place, and being followed at the facility. Policy verification can be found in ADC Chapter 100 Agency Administration/Management (DO 125 Sexual Offense Reporting); ADC Policy Chapter 800 Inmate Management (DO 804 Inmate Behavior Control and DO 805 Protective Custody, with Attachments A & B); and ADC Policy Chapter 900 Inmate Programs and Services (DO 910 Inmate Education and Resource Center Services). The agency provides documentation of practice by showing the inmate's signature accepting segregated housing voluntarily, thus making much of this standard inapplicable. However, sexual abuse investigators also documented compliance with this standard in their investigative materials.

**Analysis:** The facility has provided policy and documentation of practice that match what the audit team learned in interviews with inmates and staff.

**Finding:** The facility has shown compliance in all material ways with the standard for the relevant review period.

## REPORTING

### Standard 115.51: Inmate reporting

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

#### 115.51 (a)

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

#### 115.51 (b)

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

#### 115.51 (c)

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

#### 115.51 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

The agency has established procedures allowing for multiple internal ways for inmates to report privately to agency officials about: sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. The agency provides at least one way for inmates to report abuse or harassment to a public or private entity or office that is not part of the agency. The agency has a policy mandating that staff promptly accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties, and to give these reports promptly to their supervisor, who will notify statewide PREA Investigators, and to appropriate official(s) for investigation. Staff and inmates are informed of these procedures in writing, in training, verbally, and through signs posted in the facility observed during the site review. Inmates interviewed indicated they remember their options for reporting, and that they can get help reporting. Staff indicate an understanding of their obligation to take reports. A recorded message with such information comes on the phone when they make calls. The inmate handbook, postings, and brochures, also provide options for making reports, including talking to staff, dialing 7732 from inmate phones, and calling the Southern Arizona Center Against Sexual Abuse (SACASA) at 520-327-7273.

**Analysis:** Policies were provided that cover the requirements of this standard, and the facility has shown that inmates and staff are notified about how to report through training, handbooks, and postings. Interviews with people who have made reports also help verify facility compliance with this standard.

**Finding:** The facility complies in all material ways with this standard for the relevant review period.

## Standard 115.52: Exhaustion of administrative remedies

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

#### 115.52 (a)

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

#### 115.52 (b)

- Does the agency permit inmates to submit a grievance regarding an allegation of sexual abuse without any type of time limits? (The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.) (N/A if agency is exempt from this standard.)  Yes  No  NA

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

#### 115.52 (c)

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

#### 115.52 (d)

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

#### 115.52 (e)

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

### 115.52 (f)

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

### 115.52 (g)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

The agency has an administrative procedure for dealing with inmate grievances regarding sexual abuse. Agency policy or procedure allows an inmate to submit a grievance regarding an allegation of sexual abuse at any time, regardless of when the incident is alleged to have occurred. Agency policy does not require an inmate to use an informal grievance process regarding, or otherwise to attempt to resolve with staff, an alleged incident of sexual abuse. Agency policy and procedure allow an inmate to submit a grievance alleging sexual abuse without submitting it to the staff member who is the subject of the complaint. Agency policy and procedure require that an inmate grievance alleging sexual abuse not be referred to the staff member who is the subject of the complaint. The agency has a written policy that limits its ability to discipline an inmate for filing a grievance alleging sexual abuse to occasions where the agency demonstrates that the inmate filed the grievance in bad faith. Department Order 802.09 states: "Staff receiving an Informal Complaint or Formal Grievance at any level that describes activity which may be in violation of the Prison Rape Elimination Act (PREA) . . . shall immediately initiate Department Order #125, Sexual Offense Reporting and notify the shift commander who shall notify the unit Deputy Warden or institution Warden." Review of policy indicates ADC policy reflects all parts of this PREA standard, and interviews indicate administrators understand these policies. According to documentation reviewed and interviews conducted, no inmate grievances at ASPC - Lewis alleged sexual abuse during the 12 months leading up to the on-site audit.

**Analysis:** The audit team had reviewed policies, procedures, forms, and documentation consistent with this standard, and conducted interviews verifying compliance with this standard, prior to writing the Interim Report. No corrective action was indicated. No information was received during the corrective action period undermined the finding.

**Finding:** The facility has shown compliance in all material ways with this standard for the relevant review period.

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

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

### 115.53 (a)

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

### 115.53 (b)

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

### 115.53 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The audit team verified that medical services available for ASPC-Lewis through Honor Health. Forensic exams are conducted at ASPC-Lewis as facilitated by SANE from Honor Health. To verify the availability of victim advocates outside the facility, the auditor communicated with the Phoenix Family Advocacy Center (FAC) and the Arizona Coalition to End Sexual & Domestic Violence (ACESDV). [REDACTED], the Victim Advocacy Coordinator at FAC states ADC has made a "good faith effort" to enter into a Memorandum of Understanding (MOU) with FAC; but at this time, FAC just can't meet the need for advocacy at ASPC-Lewis. For example, FAC is open Monday through Friday 8 to 5, so does not provide some services after hours. FAC works with Phoenix crisis teams, mainly responding to referrals and providing follow up services within one month after a crisis team has provided on-scene crisis response and stabilization. The FAC programming is closely connected with crisis teams different from the ones utilized in the prison. Not only is the FAC very busy with referrals, but is operated by the City of Phoenix, with emphasis on providing care within the City boundaries. ASPC-Lewis is in Buckeye, AZ. [REDACTED] of Honor Health was also interviewed. She verified that Honor Health does have agreements with ADC, and that SANE/SAFE services are available at all times, without exception. They agree to attempt to provide advocates. The Warden and PREA Coordinator verify that Honor Health is contacted immediately when a sexual assault is reported. All these sources indicate that

efforts will be made to make a victim advocate available to the victim as well. Documentation reviewed includes efforts to enter into Memoranda of Understanding (MOU's) with advocacy providers. The auditor was provided with Certificates of Completion for PREA Training: Providing Sexual Assault Advocacy, for 3 Lewis staff. The training was provided by the ACESDV. Also reviewed were lists of local, state, and national organizations for inmates, ADC Policy Chapter 100 Agency Administration/Management (Department Order 125 Sexual Offense Reporting); Sexual Assault Procedures Checklist; Policy Chapter 600 Inspector General (Department Order 608 Criminal Investigations); and Criminal Investigation Reports, to verify compliance with this standard. The audit team also review documentation to verify that the facility provides inmates with access to outside and facility staff victim advocates for emotional support services related to sexual abuse. Investigative materials verify inmate victims are offered these services.

**Analysis:** The audit team had reviewed policies, checklists, investigations, and other documentation consistent with this standard, and conducted interviews verifying compliance with this standard, prior to writing the Interim Report. No corrective action was indicated. No information received during the corrective action period undermined the finding.

**Finding:** The facility has shown compliance in all material ways with this standard for the relevant review period.

## Standard 115.54: Third-party reporting

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

#### 115.54 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The agency provides a method to receive third-party reports of inmate sexual abuse or sexual harassment. Information about reporting is publicly distributed in the lobbies and visitation areas, and on the agency website. The auditor has verified that information is publicly available regarding how to report sexual abuse and sexual harassment on behalf of an inmate. Inmates interviewed were usually aware that relatives and others can make reports on their behalf. Staff interviewed generally knew their obligations regarding third party reporting. The auditor reviewed allegations that came in through third-party reporters.

**Analysis:** The audit team had reviewed policies, procedures, postings, the website, and other documentation consistent with this standard, and conducted interviews verifying compliance with this standard, prior to writing the Interim Report. No corrective action was indicated. No information received during the corrective action period undermined the finding.

**Finding:** The facility has shown compliance in all material ways with this standard for the relevant review period.

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

### Standard 115.61: Staff and agency reporting duties

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

#### 115.61 (a)

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

#### 115.61 (b)

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

#### 115.61 (c)

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

#### 115.61 (d)

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

#### 115.61 (e)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

To assess whether policy conforms to this standard, the auditor reviewed ADC Policy Chapter 100 Agency Administration/Management (Department Order 125 Sexual Offense Reporting) and Chapter 600 Inspections/Investigations (Department Order 601 Administrative Investigations and Employee Discipline). It does require all staff to report any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment and any retaliation against inmates or staff who reported such an incident. They must report any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Apart from reporting to designated supervisors or officials and to designated state or local service agencies, agency policy prohibits staff 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. When employees are investigated for misconduct, policy requires they be informed of the allegations against them, but not "any fact to the employee or the employee's representative that would impede the investigation." There is no requirement for them to know the names of everyone who has made statements against them, but

on the contrary, policy protects sensitive information and the confidentiality of alleged victims and reporting persons.

**Analysis:** Although the Interim PREA Audit Report indicated the agency had shown compliance with this standard, additional information obtained and reviewed during the CAP indicated failure to show compliance with sub-section B of this standard. Sub-section B states, “Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions.” 5 of the 24 investigations provided for review during the CAP indicated the investigator revealed the identity of the reporting person to the alleged perpetrator, even though there was no investigative need for such disclosure. This disclosure happened regardless of whether the alleged perpetrator was a staff or inmate. Investigators are taught that they can say they are investigating a report regarding this or that without disclosing all their sources. Due to possible retaliation, if the identity of reporting persons is disclosed to alleged perpetrators during investigations, it should only be done carefully and with justification. In cases at ASCP-Lewis, it appears the information was disclosed without restraint, sometimes at the beginning of the interview as if the reporting person was the reason for the investigation and interview. There was an additional case where the reporting person was not disclosed until the alleged perpetrator asked; but upon request, the information was disclosed immediately and without justification. This represents 25% of investigations. In many of the other 75% of recent investigations reviewed, the witnesses and alleged perpetrators clearly knew who the reporting person(s) were, but the narratives did not make it clear where they obtained the information, or whether it was obvious to them or assumed. The Interim Report stated that “a significant number of inmates believe staff will not protect confidentiality. This includes inmates who made no other complaints about staff and did not report other PREA violations. There is a belief among a number of inmates (about 1/3 of those interviewed) that staff will share information inappropriately, rather than following up appropriately to protect inmates.” Here are more specific numbers: 4 randomly selected inmates stated they have not witnessed sexual abuse or harassment to be a problem, but they believe the facility probably does not handle such reports well. 10 additional inmates who state they have not reported sexual abuse or harassment indicate staff definitely share information and engage in coverups. 3 inmates (one-third of those who provided information) who have been alleged victims state their confidentiality is not protected by the investigators. 3 (one-third) also state the investigation is not conducted with privacy. 8 alleged victims (100%) are not satisfied that the facility followed up with them or kept them safe after reports were made, including 2 who stated they were retaliated against. 3 of the 5 LGBTI inmates who provided information stated their confidentiality and privacy is not protected.

**Finding:** ASPC-Lewis does not show compliance in all material ways with this standard.

## Standard 115.62: Agency protection duties

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

#### 115.62 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

When the agency or facility learns that an inmate is subject to a substantial risk of imminent sexual abuse, it takes immediate action to protect the inmate. In the 12 months prior to the onsite audit, the facility has not determined that any of the inmates has been subject to substantial risk of imminent sexual abuse. Interviews with staff indicate a commitment to take immediate action when there are indications of risk of imminent abuse. Inmates interviewed gave mixed responses regarding whether they feel staff would take steps to protect them. Written policies require actions be made to protect inmates.

**Analysis:** The audit team had reviewed policies, procedures, forms, and documentation consistent with this standard, and conducted interviews verifying compliance with this standard, prior to writing the Interim Report. No corrective action was indicated. No information received during the corrective action period undermined the finding.

**Finding:** The facility has shown compliance in all material ways with this standard for the relevant review period.

## Standard 115.63: Reporting to other confinement facilities

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

#### 115.63 (a)

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

#### 115.63 (b)

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

#### 115.63 (c)

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

#### 115.63 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

The agency has a policy requiring that, upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the given facility must notify the head of the other facility or appropriate office of the agency or facility where sexual abuse is alleged to have occurred. This happened once in the 12 months prior to the onsite PREA audit. Agency policy requires the facility head to provide such notification as soon as possible, but no later than 72 hours after receiving the allegation. The facility documents that it has provided such notification within 72 hours of receiving the allegation. The agency or facility policy requires that allegations received from other facilities/agencies are investigated in accordance with the PREA standards. No allegations had been received in the 12 months prior to the on-site audit from other facilities. Verification of compliance with this standard was supported by a review of policy, investigations, and documentation of practice in the one case to which this standard applied in the past 12 months. Also, interviews indicated regular communication between wardens and agency officials to assure compliance with this standard.

**Analysis:** The audit team had reviewed policies, procedures, forms, and documentation consistent with this standard, and conducted interviews verifying compliance with this standard, prior to writing the Interim Report. No corrective action was indicated. No information received during the corrective action period undermined the finding.

**Finding:** The facility has shown compliance in all material ways with this standard for the relevant review period.

#### Standard 115.64: Staff first responder duties

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

### 115.64 (a)

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

### 115.64 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The agency has a first responder policy for allegations of sexual abuse. The agency policy requires that, upon learning of an allegation that an inmate was sexually abused, the first security staff member to respond to the report is required to: (1) Separate the alleged victim and abuser; (2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence; (3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and (4) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. Agency policy requires that if the first staff responder is not a security staff member, that responder shall be required to: request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff. Staff interviews indicated that staff have a basic understanding of the first responder protocol. Some new staff do not know it as well, but they know to check with their supervisors. Supervisors demonstrated a solid grasp of the information during interviews. Also, investigative files indicate these protocols are followed and documented.

**Analysis:** The audit team had reviewed policies, procedures, forms, and documentation consistent with this standard, and conducted interviews verifying compliance with this standard, prior to writing the Interim Report. No corrective action was indicated. 24 additional investigations were reviewed during the CAP, and no information received during the corrective action period undermined the finding.

**Finding:** The facility has shown compliance in all material ways with this standard for the relevant review period.

## Standard 115.65: Coordinated response

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

#### 115.65 (a)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

The facility has developed a written institutional plan, to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership. This plan was reviewed and verified by the auditor.

**Analysis:** The audit team had reviewed policies, procedures, forms, and documentation consistent with this standard, and conducted interviews verifying compliance with this standard, prior to writing the Interim Report. No corrective action was indicated. No information received during the corrective action period undermined the finding.

**Finding:** The facility has shown compliance in all material ways with this standard for the relevant review period.

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

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

#### 115.66 (a)

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

#### 115.66 (b)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The agency has not entered into or renewed any collective bargaining agreement. This agency maintains the ability to protect inmates from contact with abusers.

**Analysis:** The PAQ and interviews conducted indicate compliance with this standard.

**Finding:** The facility has shown compliance in all material ways with this standard.

## **Standard 115.67: Agency protection against retaliation**

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

### **115.67 (a)**

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

### **115.67 (b)**

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

### **115.67 (c)**

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

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

#### 115.67 (d)

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

#### 115.67 (e)

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

#### 115.67 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

The auditor reviewed ADC Policy Chapter 800 Inmate Management (Department Order 811 Individual Inmate Assessments and Reviews). Sub-section 1.10.6.1 states, "For a minimum of 90 calendar days following a report of sexual abuse, the Special Review team shall monitor the conduct and treatment of inmates or staff who reported the sexual abuse and of inmates who were reported to have suffered sexual abuse. If there are changes that suggest possible retaliation by inmates or staff, the Special Review team shall act promptly to remedy any such retaliation." It goes on to specify what monitoring entails and that it "shall continue beyond 90 calendar days if the initial monitoring indicates a continuing need." The auditor also reviewed Policy Chapter 100 Agency Administration/Management (Department Order 125 Sexual Offense Reporting) which orders, in sub-section 1.4, that "All acts of retaliation shall be investigated." It is important to note that although the PREA Standards allow an agency to develop policies that do not require retaliation monitoring in cases where there has been a finding of unfounded, no such exception was found in the ADC policies provided to the auditor. PREA Standards require that the agency policies be followed. The PREA Standards are a floor, not a ceiling. During the audit all the alleged victims who provided information reported very little or no follow-up during or after the investigation, not indicating that the minimum requirements of this standard, or the associated policies, are being followed. 2 of the alleged victims stated they had been retaliated against and that they had reported it. The Interim PREA Audit Report stated, "There are no examples of monitoring past 90 days or monitoring someone who feared retaliation. There are upper level staff officially tasked with monitoring for retaliation in the complex, and documentation has been provided that shows some monitoring for retaliation has been completed. However, based on a review of investigative work, other documentation, and interviews conducted during the audit, the facility has not shown retaliation monitoring for all circumstances required by this standard."

**Corrective Action:** The CAP stated, "Provide the audit team a narrative report, along with the log (and/or AIMS screen prints), of retaliation monitoring between January 1 and June 30, 2018." The facility provided one print screen showing that retaliation monitoring had been completed regarding one victim. Of the 24 investigations provided for this time period, 5 alleged victims overtly alleged retaliation and others expressed fears regarding safety. One of these alleged victims who expressed a fear of retaliation signed a statement saying he thought he was safe enough to return to his housing unit. Agency policy requires all allegations of retaliation be investigated.

**Analysis:** The facility had not shown full compliance with this standard, or with agency policies regarding retaliation investigation and monitoring at the time of the PREA Audit Interim Report. The facility provided documentation during the CAP that showed retaliation has been alleged by at least 5 inmates, but only showed monitoring for one.

**Finding:** The facility has not shown compliance in all material ways with this standard for the relevant review period.

## Standard 115.68: Post-allegation protective custody

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

### 115.68 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The agency has a policy prohibiting the placement of inmates who allege to have suffered sexual abuse in involuntary segregated housing unless an assessment of all available alternatives has been made and a determination has been made that there is no available alternative means of separation from likely abusers. If an involuntary segregated housing assignment is made, the facility affords each such inmate a review every 30 days to determine whether there is a continuing need for separation from the general population, and it documents these reviews. Documentation reviewed, and interviews conducted, indicate victims have not been placed in involuntary segregated housing for their protection in the 12 months prior to the PAQ. Policy verification can be found in ADC Chapter 100 Agency Administration/Management (DO 125 Sexual Offense Reporting) and ADC Policy Chapter 800 Inmate Management (DO 804 Inmate Behavior Control and DO 805 Protective Custody, with Attachments A & B). In addition, ADC Policy Chapter 500 Personnel/Human Resources (DO 501 Employee Professionalism, Ethics and Conduct) spells out clear duties and obligations applicable to this standard.

**Analysis:** The facility has provided policy and documentation that verifies practices that also are verified in interviews with inmates and staff.

**Finding:** The facility shows compliance in all material ways with the standard for the relevant review period.

# INVESTIGATIONS

## Standard 115.71: Criminal and administrative agency investigations

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

### 115.71 (a)

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

### 115.71 (b)

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

### 115.71 (c)

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

### 115.71 (d)

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

### 115.71 (e)

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

#### 115.71 (f)

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

#### 115.71 (g)

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

#### 115.71 (h)

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

#### 115.71 (i)

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

#### 115.71 (j)

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

#### 115.71 (k)

- Auditor is not required to audit this provision.

#### 115.71 (l)

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

#### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

Policy reviews for this standard include: ADC Policy Chapter 500 Personnel/Human Services (Department Order 501 Employee Professionalism, Ethics and Conduct); Policy Chapter 600 Inspections/Investigations (Department Order 601 Administrative Investigations and Employee Discipline, with Attachments A through G; Department Order 603 Polygraph Services; and, Department Order 608 Criminal Investigations); and Policy Chapter 100 Agency Administration/Management (Department Order 125 Sexual Offense Reporting). The Purpose of Department Order 501: "This Department Order ensures that the optimal level of professionalism is maintained by Department employees and that qualified persons are recruited, selected and employed based on bona fide occupational qualifications. The Department expects the highest ethical standards of honesty, integrity, impartiality and conduct of its employees in their interaction with inmates, offenders, former inmates/offenders, other employees and the general public..." ADC policies related to criminal and administrative agency investigations appear to be consistent with PREA standards. However, the facility had not shown full compliance with the policy and standard after the pre-audit work and on-site audit, so the Interim Report indicated that the facility "Does Not Meet Standard". Where sexual abuse is alleged, the agency is required to use investigators who have received special training in sexual abuse investigations; however, documentation had been provided to the audit team in which the named investigator did not appear on the list of trained investigators. The audit team reviewed investigations that did not appear to have been conducted promptly, thoroughly, and objectively for all allegations. Investigation files indicated investigators might not always document circumstantial evidence as required or collect available electronic monitoring data. They did not appear to always interview all witnesses or review prior complaints and reports of sexual abuse involving the suspected perpetrator. Staff or other inmates who may have collaborated may not have always be interviewed. Documentation did not show that the credibility of an alleged victim, suspect, or witness was always assessed on an individual basis. Investigations did not appear to always include efforts to determine whether staff actions or failures to act contributed to the abuse; and to document in a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. Department Order 601, Sub-section 1.7.3 states an Investigation Report, "Contains a narrative that includes each allegation and the interviews of involved employees and witnesses." Then 1.7.4 adds that it also "Summarizes the findings of fact on each allegation."

**Corrective Action:** The CAP required the facility to "Provide the auditor with all investigations closed between January 1 and June 30, 2018." 24 investigations were provided to the audit team. The following two investigations were among them:

- Although initiated by one reporting person, one investigation contained two separate allegations that were received from different reporting persons regarding two alleged inmate victims being sexually harassed by two different alleged staff perpetrators. Both alleged victims expressed a fear of retaliation separately, and did so in writing. Despite the complexity of the case, with multiple sources of information, just one finding can be found in the entire case. The finding was regarding "Other" "Staff Misconduct Allegations", not for any of the sexual

harassment allegations. There was no mention of investigating or monitoring for the clear written allegations of retaliation. Just regarding the sexual harassment alone, four findings should have been made: 1) Whether the first staff harassed the first inmate; 2) Whether the first staff harassed the second inmate; 3) Whether the second staff harassed the first inmate; and, 4) Whether the second staff harassed the second inmate.

- In another investigation, one reporting person alleged one inmate was sexually harassed by two officers. The report described different sexually harassing behavior by each officer, although it was part of one event. Allegations of retaliation for trying to make a PREA report were also made. The investigation was opened as "Disorderly Conduct" by staff, and one finding was made regarding disorderly conduct. Findings specifically regarding the alleged sexually harassing behavior of either officer, or alleged retaliatory actions, were not found in the report.

**Analysis:** The facility did not show full compliance during the CAP by conducting investigations thoroughly and objectively, in practice, as required by policy and standard.

**Finding:** The facility does not meet this standard.

## Standard 115.72: Evidentiary standard for administrative investigations

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

#### 115.72 (a)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

Department Order 125, Sub-section 1.12.1 contains language consistent with this standard. However, at the time of the Interim Report, interviews with investigators, and reviews of investigations, indicated that a higher standard of evidence than preponderance of evidence was often imposed.

**Corrective Action:** The CAP required the facility to “Provide the auditor with all administrative investigations closed between January 1 and June 30, 2018.” The facility provided 24 “criminal” investigations and one administrative. The investigations labeled as criminal investigations contained allegations that were not criminal in nature; yet, there was only one investigation that was acknowledged as an administrative investigation regarding one of those allegations. The administrative investigation found the allegation to be substantiated. Some administrative investigative work is found within the narratives and other investigative documentation that is labeled as a criminal, yet proof of the level required for court action is still being repeatedly required on these non-criminal allegations, before an allegation is permitted to be substantiated. None of these allegations were declared substantiated or unsubstantiated. All were declared to be unfounded, even though the narratives acknowledge that some of the abuse and harassment might have actually occurred. Proof that is required for court (such as beyond a reasonable doubt) is higher than preponderance of evidence and is not to be applied to non-criminal violations that may require administrative actions in order to protect victims. Victims must be protected regardless of whether the perpetrators will ever go to court. To refuse to protect inmate victims of harassment just because they cannot prove their allegations to a level that would stand up in criminal court is to violate this standard.

**Analysis:** During the audit and CAP, the facility did not provide investigative materials to show they are utilizing a preponderance of evidence, or lower standard of proof, regarding allegations that may require administrative actions, rather than criminal prosecution, in order to protect staff and inmates.

**Finding:** The facility has not shown compliance with this standard.

## Standard 115.73: Reporting to inmates

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

#### 115.73 (a)

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

#### 115.73 (b)

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

#### 115.73 (c)

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

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

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

#### 115.73 (d)

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

#### 115.73 (e)

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

#### 115.73 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

At the time of the Interim Report, inmates who reported sexual abuse or harassment had indicated they were not informed of the investigative findings regarding all allegations, as required by this standard. A review of investigations indicated that not all investigations had clear findings for all allegations, and some single allegations had two findings listed. Therefore, the Interim PREA Audit Report found that the facility had not shown compliance with this standard.

**Corrective Action:** Investigation materials received during the CAP did not show that inmate victims were informed regarding the findings of all allegations that should have been investigated, or that they were provided incomplete information.

**Analysis:** The facility was not in compliance at the time of the audit and did not show correction of the lack of compliance.

**Finding:** The facility has not shown compliance with this standard.

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

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

#### 115.76 (a)

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

#### 115.76 (b)

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

#### 115.76 (c)

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

#### 115.76 (d)

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

- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Relevant licensing bodies?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

As verified by policy review and interviews with the warden, PREA Coordinator, and HR, staff is subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Termination is the presumptive disciplinary sanction for staff who have engaged in sexual abuse. Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) are commensurate with the nature and circumstances of the acts committed, the staff member’s disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, are reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

**Analysis:** The facility had shown compliance with this standard at the time of the audit, and no corrective action was required. Moreover, during the CAP, an allegation regarding a staff “neglect of duty” was substantiated after being uncovered during a PREA investigation, and the offending employee was provided disciplinary sanction as per policy.

**Finding:** The facility has shown compliance with this standard.

## Standard 115.77: Corrective action for contractors and volunteers

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

#### 115.77 (a)

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with inmates?  Yes  No

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

### 115.77 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

ADC agency policy requires that any contractor or volunteer who engages in sexual abuse be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. Agency policy requires that any contractor or volunteer who engages in sexual abuse be prohibited from contact with inmates. The Warden, PREA Coordinator, and PREA Compliance Manager verify that the facility takes appropriate remedial measures and considers whether to prohibit further contact with inmates in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

**Analysis:** The audit team had reviewed policies, procedures, forms, and documentation consistent with this standard, and conducted interviews verifying compliance with this standard, prior to writing the Interim Report. No corrective action was indicated. No information was received during the corrective action period that undermined the favorable finding.

**Finding:** The facility has shown compliance in all material ways with this standard for the relevant review period.

### Standard 115.78: Disciplinary sanctions for inmates

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

**115.78 (a)**

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

**115.78 (b)**

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

**115.78 (c)**

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

**115.78 (d)**

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

**115.78 (e)**

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

**115.78 (f)**

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

**115.78 (g)**

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

**Auditor Overall Compliance Determination**

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

### Instructions for Overall Compliance Determination Narrative

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

Inmates at ASPC - Lewis are subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding, or criminal finding, that the inmate engaged in inmate-on-inmate sexual abuse. According to policies reviewed, interviews conducted, and documentation regarding substantiated findings, sanctions are commensurate with the nature and circumstances of the abuse committed, the inmate’s disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories. The disciplinary process considers whether an inmate’s mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. The facility offers therapy, counseling, or other interventions designed to address and correct the underlying reasons or motivations for abuse, and the agency considers whether to require the offending inmate to participate in such interventions as a condition of access to programming or other benefits. The agency would only discipline inmates for sexual conduct with staff upon finding that the staff member did not consent to such contact. The agency prohibits disciplinary action for a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred, even if an investigation does not establish evidence sufficient to substantiate the allegation. The agency prohibits all sexual activity between inmates but does not deem such activity to constitute sexual abuse unless it determines that the activity is coerced.

**Analysis:** The audit team had reviewed policies, procedures, forms, and documentation consistent with this standard, and conducted interviews verifying compliance with this standard, prior to writing the Interim Report. No corrective action was indicated. No information was received during the corrective action period that undermined the finding.

**Finding:** The facility has shown compliance in all material ways with this standard for the relevant review period.

## MEDICAL AND MENTAL CARE

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

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

**115.81 (a)**

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

**115.81 (b)**

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

**115.81 (c)**

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

**115.81 (d)**

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

**115.81 (e)**

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

**Auditor Overall Compliance Determination**

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

**Instructions for Overall Compliance Determination Narrative**

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

Since it had not been shown at the time of the Interim Report that screenings pursuant to § 115.41 were being completed at Lewis, full compliance with this standard was tied to § 115.41. Also, compliance with this standard was assessed based on documentation and policies provided to the audit team. AIMS computer screen shots were provided documenting that 4 inmates had acknowledged being sexually victimized as children. 3 of these narratives were identical: "I/M STATED AT INTAKE, HE WAS SEXUALLY VICTIMIZED AS A CHILD, WAS OFFERED MENTAL HEALTH INTV. AND DID NOT RQST M/H INTV. AT THIS TIME". The 4th inmate asked to speak to mental health, but verification was not provided that it occurred. Also, the facility provided policy 125.05 (Mental Health Services) which states that inmates identified that have experienced prior sexual victimization or perpetrated sexual abuse, "shall be scheduled to meet with a mental health practitioner within 14 workdays of the assessment being completed." 9 screen prints were provided showing specific examples (via AIMS computer codes) of inmates who had received medical screenings. ADC Policy Chapter 1100 Inmate Health Services (DO 1104 Inmate Medical Records) specifies the confidentiality of records. The Purpose of the DO is: "This Department Order establishes guidelines for medical record services. Inmates have access to records of their own medical care and treatment, and to continuity of health services when transferred from one place to another. The Director and other authorized recipients have access to inmate medical history information that has an impact on the administration of the prison system or on the welfare of the inmate population. Although the law requires that authorized recipients of the information keep this information confidential, they may use it to establish precautionary procedures and guidelines for the care, transportation and housing of inmates whose medical histories indicate a need for special management." The DO goes on to provide details. The facility attached a number of blank forms that can be used to facilitate these policies but provided no examples of the forms being filled in or used for an actual inmate.

**Corrective Action:** The CAP stated, "Compliance needs to be verified regarding whether this standard and related policies are in actual practice uniformly. Provide documentation regarding how the mental health and medical screening process assures pertinent information gleaned from this process is considered in the screening and reassessment for risk of victimization and abusiveness tools. Provide detailed examples and logs, including information about what the screening recommendations were, and whether recommendations have been followed. Use the month of May 2018 for the time frame for this reporting."

**Analysis:** Information was not provided to show how the mental health and medical screening process assures pertinent information gleaned from this process is considered in the screening and reassessment for risk of victimization and abusiveness tools.

**Finding:** The facility has not shown compliance with this standard.

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

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

### 115.82 (a)

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

### 115.82 (b)

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

### 115.82 (c)

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

### 115.82 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

According to reports reviewed by the audit team, ASPC-Lewis inmate victims of sexual abuse appear to receive timely, unimpeded access to emergency medical treatment and crisis intervention services. The nature and scope of such services are determined by medical and mental health practitioners according

to their professional judgment. Treatment services are provided to every victim without financial cost, and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. ASPC-Lewis inmates have access to a number of medical services on site, and also have access to services in the regional area. The audit team verified these services in several ways, including a telephone interview with SANE nurse manager [REDACTED] of Honor Health, which serves ASPC-Lewis. At ASPC-Lewis, the Honor Health procedure is to respond to the facility and to try to do the forensic exam at the medical facility located on the ASPC-Lewis grounds, unless there is a reason to transport the victim to a regional hospital.

**Analysis:** The audit team had reviewed policies, procedures, forms, and documentation consistent with this standard, and conducted interviews verifying compliance with this standard, prior to writing the Interim Report. No corrective action was indicated. No information was received during the corrective action period that undermined the finding.

**Finding:** The facility has shown compliance in all material ways with this standard for the relevant review period.

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

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

#### 115.83 (a)

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

#### 115.83 (b)

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

#### 115.83 (c)

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

#### 115.83 (d)

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

#### 115.83 (e)

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

#### 115.83 (f)

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

#### 115.83 (g)

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

#### 115.83 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

From a review of investigations and related documentation, agency policy, and interviews with administrators, the auditor has verified that the facility offers medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility as required by this PREA Standard. The evaluation and treatment of such victims includes, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. The facility provides such victims with medical and mental health services consistent with the community level of care. This is an all-male facility, so the portions of this standard relating to female

inmates do not apply. Treatment services are provided to the victim without financial cost, and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. The facility documents attempts to conduct mental health evaluations of all known inmate-on-inmate abusers within 60 days of learning of such abuse history, and it offers treatment when deemed appropriate by mental health practitioners.

**Analysis:** The audit team had reviewed policies, procedures, forms, and documentation consistent with this standard, and conducted interviews verifying compliance with this standard, prior to writing the Interim Report. No corrective action was indicated. No information was received during the corrective action period that undermined the finding.

**Finding:** The facility has shown compliance in all material ways with this standard for the relevant review period.

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

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

#### 115.86 (a)

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

#### 115.86 (b)

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

#### 115.86 (c)

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

#### 115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse?  Yes  No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility?  Yes  No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse?  Yes  No

- Does the review team: Assess the adequacy of staffing levels in that area during different shifts?  Yes  No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff?  Yes  No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager?  Yes  No

### 115.86 (e)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The Interim PREA Audit Report stated that some investigation report narratives from ASPC-Lewis had a finding of “unfounded”, as well as a finding of “unsubstantiated”, for the same allegation. Each allegation should have only one finding per alleged victim and alleged perpetrator. These narratives provided statements and/or evidence to indicate the incident might have occurred, but the preponderance of the evidence described in the report clearly did not substantiate that the alleged incident of sexual abuse or harassment occurred. This type of narrative supports a finding of “unsubstantiated”, yet incident reviews were not completed regarding these incidents as required. The auditor was only able to find one incident review in the documents provided that appeared to be conducted according to agency policy.

**Corrective Action:** The CAP required the facility to “Provide the auditor with all administrative investigations closed between January 1 and June 30, 2018.” The facility provided 24 “criminal” investigations and one administrative. The investigations labeled as criminal investigations contained allegations that were not criminal in nature and were all found to be “unfounded” since they could not

be proven in court. There was only one investigation that was acknowledged as an administrative investigation regarding one of those allegations. The administrative investigation found the allegation to be substantiated, but even in this case, no Incident Review was completed.

**Analysis:** The facility did not conduct any incident reviews or follow the terms of the CAP.

**Finding:** The facility has not shown compliance with this standard.

## Standard 115.87: Data collection

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

#### 115.87 (a)

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

#### 115.87 (b)

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

#### 115.87 (c)

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

#### 115.87 (d)

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

#### 115.87 (e)

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

#### 115.87 (f)

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

### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

ADC collects accurate, uniform data for every allegation of sexual abuse using a standardized instrument and set of definitions. The standardized instrument includes the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice. The agency aggregates the incident-based sexual abuse data at least annually. The agency maintains, reviews, and collects data in reports. The agency reports to the Department of Justice as requested. Interviews with investigators, the PREA Coordinator, the PREA Compliance Manager, the Warden, and the Director’s designee indicate all information is available for compilation and review.

**Analysis:** Compliance with this standard was established through a review of the website, materials provided with the Pre-Audit Questionnaire, and interviews with administrators conducted during the audit.

**Finding:** Evidence made available by the agency has shown compliance in material ways with this standard.:

## Standard 115.88: Data review for corrective action

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

#### 115.88 (a)

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

practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole?  Yes  No

#### 115.88 (b)

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

#### 115.88 (c)

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

#### 115.88 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

ADC reviews data collected and aggregated pursuant to §115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, and training, including: (1) Identifying problem areas; (2) Taking corrective action on an ongoing basis; and (3) Preparing an annual report of its findings and corrective actions for the facility. The annual report includes a comparison of the current year's data and corrective actions with those from prior years. The annual report provides an assessment of the agency's progress in addressing sexual abuse. The agency makes its annual report readily available to the public at least annually through the ADC website. The reports are approved by the agency head. When the agency redacts material from an annual report for publication, the redactions are limited to specific materials where publication would present a clear and specific threat to the safety and security of the facility. The agency indicates the nature of material redacted. Compliance with this standard was verified through a review of annual reports and

documentation provided during the audit process. Naturally, the full implementation of Incident Reviews, Screenings, Reassessments, and Investigations will add to the quality of these data reviews over time because better more reliable data will be presented for review.

**Analysis:** Compliance with this standard was established through a review of the website, materials provided with the Pre-Audit Questionnaire, and interviews with administrators conducted during the audit.

**Finding:** Evidence made available by the agency has shown compliance in material ways with this standard.

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

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

#### 115.89 (a)

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

#### 115.89 (b)

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

#### 115.89 (c)

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

#### 115.89 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

Arizona Department of Corrections policy and procedure ensure that incident-based and aggregate data are securely retained, requiring that aggregated sexual abuse data be made readily available to the public, at least annually; and this is done through their website, which the audit team found to be user-friendly. They have published their policies, as well as a variety of reports and statistics, readily available at [azcorrections.gov](http://azcorrections.gov). Before making aggregated sexual abuse data publicly available, the agency removes all personal identifiers. The protection and securing of information, as well as when and how to redact confidential information, and how to describe the redacted information, are found in policy Chapter 200 Public/Public Access (Department Order 201- Legal Services – Information Release 201.01 and 201.02). Policy Chapter 100 Agency Administration/Management (Department Order 103 Correspondence/Records Control) 103.04 1.1 states, “Staff shall ensure that all personal identifying information is secure and inaccessible to unauthorized persons.” The agency maintains crime reports and investigation records regarding sex offenses for 109 years, and all other crime records (excluding petty offenses and traffic reports) for 25 years, according to the Arizona State Library, Archives and Public Records; General Records Retention Schedule for All Public Bodies – Law Enforcement Records Schedule number 000-12-30.

**Analysis:** Compliance with this standard was established through a review of the website, materials provided with the Pre-Audit Questionnaire, and interviews with administrators conducted during the audit.

**Finding:** Evidence made available by the agency has shown compliance in material ways with this standard.

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

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

#### 115.401 (a)

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

#### 115.401 (b)

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

#### 115.401 (h)

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

#### 115.401 (i)

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

#### 115.401 (m)

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

#### 115.401 (n)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

Interviews conducted, and documents reviewed, indicate the agency has been working and scheduling for a number of years to comply in material ways with this standard. One planned facility audit was missed this year due to an inmate disturbance, but it is being rescheduled.

**Analysis:** Agency audit schedules, the DOC FY 2018-2022 Strategic Plan, and interviews conducted with PREA administrators (and the former PREA Coordinator) and other upper-level administrators, are consistent with a finding indicating the agency is practicing compliance with this standard.

**Finding:** Documentation made available by the agency has shown compliance in material ways with this standard.

## Standard 115.403: Audit contents and findings

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

### 115.403 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The audit team has verified that Final Audit Reports are made publicly available on the agency website and are required by policy.

**Analysis:** Reports for the past three years are available on the website. Interviews conducted with PREA administrators, as well as requirements in agency written policies, are consistent with continued compliance with this standard.

**Finding:** Evidence made available by the agency has shown compliance in material ways with this standard.



## AUDITOR CERTIFICATION

I certify that:

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

### Auditor Instructions:

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

D. Will Weir

September 20, 2018

**Auditor Signature**

**Date**

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

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