



## JUSTICE AND PUBLIC SAFETY CABINET

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**TO:** C.A. Wilkerson, PREA Coordinator  
Jonathan Hall, Director

**FROM:** Lise VanNostrand, Assistant District Supervisor  
PREA Investigations

**DATE:** August 15, 2017

**RE:** Community Transitional Services (CTS)—PREA Compliance Visit 2017

On June 20, 2017, I conducted a PREA compliance visit at Community Transitional Services (CTS) at 1407 West Jefferson Street, Louisville, KY. The facility houses both male inmates and male paroled offenders under the supervision of the Kentucky Department of Corrections. At the time of the site visit, 237 of the 328 available beds were in use. Assistant Director Julie Simms was present for the visit.

#### **A. Prevention Planning**

##### **115.211 (a)—Compliant**

**§ 115.211 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator.**

**(a) An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct.**

**(b) An agency shall employ or designate an upper-level, agency-wide PREA coordinator, with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its community confinement facilities.**

The agency has a policy in place that mandates zero tolerance toward all forms of sexual harassment and sexual abuse. The policy clearly defines prohibited behaviors and outlines the agency's strategies to prevent and detect sexual harassment and sexual abuse. The policy also specifically states that residents who engage in sexual abuse or sexual harassment are subject to disciplinary action, up to and including termination from the program, and that employees, contractors or volunteers who engage in sexual abuse or sexual harassment will be terminated.

115.213 (a)—Non-Compliant

§ 115.213 Supervision and monitoring.

(a) For each facility, the agency shall develop and document a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, agencies shall take into consideration:

- (1) The physical layout of each facility;
- (2) The composition of the resident population;
- (3) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
- (4) Any other relevant factors.

(b) In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan.

(c) Whenever necessary, but no less frequently than once each year, the facility shall assess, determine, and document whether adjustments are needed to:

- (1) The staffing plan established pursuant to paragraph (a) of this section;
- (2) Prevailing staffing patterns;
- (3) The facility's deployment of video monitoring systems and other monitoring technologies; and
- (4) The resources the facility has available to commit to ensure adequate staffing levels.

The facility did not have a staffing plan in place at the time of the site visit. The Assistant Director advised that management staff do meet with the owner of the facility on a regular basis to discuss staffing plans and equipment needs related to PREA, however there is no documentation of these meetings. It is required that a staffing plan be created for the facility to clearly define staffing patterns and the video surveillance needed for adequate protection of the residents/inmates. The Assistant Director was provided with sample staffing plans to assist her with development of a plan specific to the facility.

Shortly after the site visit, a credible PREA complaint was made by a resident in the facility that involved two facility staff members (one perpetrator, one witness). During the course of the investigation it was reported that the two staff persons often worked the same shift at the facility, and on the evening of the alleged occurrence, the two staff members were the only two staff on duty in the facility. Allegedly, both staff left the facility to escort the victim to a local hospital, thereby leaving the facility completely unmanned. When questioned about this incident, the Assistant Director confirmed that the two parties were the only staff on site and policy dictates that at least one remain at the facility. However, there was no way to confirm that a staff member remained as video in the central monitoring area is not often reviewed for this purpose and is overwritten within a short period of time. Therefore, it is possible that both staff members did in fact leave the facility unmanned.

It is recommended that a third staff member be scheduled during the 2<sup>nd</sup> twelve hour shift in the evening (7pm—7am) in order to guarantee adequate staff coverage of this facility that can house over 300 male inmates/parolees on any given day. The facility's personnel policy states that there is always an administrative staff person on call who is required to complete "unannounced" visits during the evening, night or weekend hours to insure the proper operation of the facility in the absence of administrative staff. These visits are to be documented and forwarded to the Director. After the site visit, I requested and received documentation of four unannounced visits conducted by staff in May 2017, three of which were on weekend shifts. It is suggested that there be more frequent unannounced visits during the evening/night hours, as two were at shift change at 7:00 a.m., one was in the afternoon and only one was conducted at night. Several of the most recent PREA complaints at the facility have alleged inappropriate staff behavior during the late evening hours.

#### **115.215 (a)(b)(d)(f)—Compliant**

##### **§ 115.215 Limits to cross-gender viewing and searches.**

**(a) The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.**

**(b) As of August 20, 2015, or August 20, 2017 for a facility whose rated capacity does not exceed 50 residents, the facility shall not permit cross-gender pat-down searches of female residents, absent exigent circumstances. Facilities shall not restrict female residents' access to regularly available programming or other outside opportunities in order to comply with this provision.**

**(d) The facility shall implement policies and procedures that enable residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing.**

**(f) The agency shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.**

The facility does not have a policy in place that prohibits cross-gender strip or visual body cavity searches, however the Assistant Director stated that they do not conduct either. There are no female inmates/residents at this facility and therefore there are no cross gender pat down searches of female residents. The facility policy requires female staff to announce themselves prior to entering a "resident bathroom" and residents are required to remain clothed in the dorm area (under surveillance) and are to change clothing in the restrooms. The policy also states that if a period of time has elapsed with no female staff on duty, a facility wide announcement will be made to inform the residents when a female staff person does report for duty.

The Assistant Director was not aware of special training required of staff to conduct pat down searches of transgender or intersex residents, however all staff are trained by management staff in proper search techniques. A lesson plan and video training program were provided to the Assistant Director after the site visit.

**115.216 (a)(b)—Compliant**

**§ 115.216 Residents with disabilities and residents who are limited English proficient.**

(a) The agency shall take appropriate steps to ensure that residents with disabilities (including, for example, residents who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with residents who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, the agency shall ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities, including residents who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164.

(b) The agency shall 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 residents who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

The facility policy states the no resident interpreters are ever used for residents with limited English proficiency and Spanish PREA educational material is provided to those residents. The policy also notes that CTS has partnered with local AA groups who have Spanish speaking volunteers to assist as needed. The Spanish PREA educational material was available during the site visit and Spanish PREA posters were posted in the facility. During the site visit, the Assistant Supervisor advised that volunteers with Catholic Charities are also used for interpreting other languages if needed. Residents with limited reading abilities will be assisted by staff and any other disabilities are handled on a case by case basis.

**115.217 (c)(d)(e)—Compliant**

**§ 115.217 Hiring and promotion decisions.**

(c) Before hiring new employees who may have contact with residents, the agency shall:

- (1) Perform a criminal background records check; and
- (2) 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.

(d) The agency shall also perform a criminal background records check before enlisting the services of any contractor who may have contact with residents.

(e) The agency shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with residents or have in place a system for otherwise capturing such information for current employees.

A review of random files of new hires at the facility revealed completed criminal record checks prior to their hire dates and those are now being conducted via the Administrative Office of the Courts (AOC). I was also provided with a list of employees who as of 2013 had been at the facility at least five years. All employees at that time had a five year criminal record check conducted by John Collett with the KY DOC in December 2013 (record request was provided).

The facility does contract with Trinity Food Service, and a criminal record check was provided for their most recent hire in November 2016.

**115.218 (a)(b)—Compliant**

**§ 115.218 Upgrades to facilities and technologies.**

(a) When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect residents from sexual abuse.

(b) When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency shall consider how such technology may enhance the agency's ability to protect residents from sexual abuse.

There were no expansions or modification to the existing facility, nor additions to their monitoring technology during the 12 month review period prior to the site visit. During my tour of the facility, I noted that the facility has adequate surveillance in each dorm area, the hallways, the cafeteria and in the central monitoring area. However, the facility basement is not equipped with any monitoring technology. That area of the facility can be accessed via the facility elevator and staff and residents have been permitted to access the basement to obtain supplies without supervision or monitoring.

Prior to the site visit, there had been an unsubstantiated PREA investigation in October 2016 alleging sexual activity between staff and residents in the basement.

After the site visit, a number of PREA complaints were made that again alleged sexual activity was occurring between staff and residents in the basement of the facility. As of the writing of this report, no surveillance equipment has been added to the basement area. However, a change in policy to prohibit staff from taking residents to the basement is in process and recommendations were again made to management staff to add monitoring technology in the basement area as soon as possible.

## **B. Responsive Planning**

### **115.221(c)(d)—Compliant**

#### **§ 115.221 Evidence protocol and forensic medical examinations.**

c) The agency shall offer all victims of sexual abuse access to forensic medical examinations whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The agency shall document its efforts to provide SAFEs or SANEs.

(d) The agency shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the agency shall make available to provide these services a qualified staff member from a community-based organization or a qualified agency staff member. Agencies shall document efforts to secure services from rape crisis centers. For the purpose of this standard, a rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(C), to victims of sexual assault of all ages. The agency may utilize a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services.

The facility policy specifies that resident victims of sexual abuse or assault will be transported to the University of Louisville Hospital and offered SANE exams at no cost. Victim advocacy services are offered through the Center for Women and Families, and the facility was in possession of the most recent MOU with KASAP. There were no cases requiring a SANE exam during the 12 month review period prior to the site visit.

### **115.222 (b)—Non-Compliant**

#### **§ 115.222 Policies to ensure referrals of allegations for investigations.**

(b) The agency shall have in place a policy 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. The agency shall publish such policy on its

website or, if it does not have one, make the policy available through other means. The agency shall document all such referrals.

✓ The facility policy specifies that all sexual abuse and sexual assault cases will be referred to the Kentucky State Police for criminal investigation. Subsequent to the site visit, a PREA allegation was made on 6/20/17 alleging staff sexual abuse. According to the witness making the complaint, and corroborated by a CTS staff member, the allegations against that staff suspect were reported to management in May 2017. That staff member was then in fact terminated on May 16, 2017 for "ethics violations", but no report was made to law enforcement or KY DOC at that time. Per an interview with Assistant Director Julie Simms, she could not confirm or deny that the staff member reported the sexual abuse complaint to her in May as there was no documentation. Upon inquiry, the "ethics violation" that the staff suspect was terminated for was for returning to the facility a few moments after clocking out to bid a resident "goodbye." No additional written documentation was provided.

A 2014 memo is posted on the agency website, referring to their policy and noting the number and outcome of PREA investigations during that year. Their audit results from 2015 are posted on the site as well. The agency must add their actual PREA policy to the site and add an updated annual report. It is also suggested that the PREA reporting hotline be more visible on the site for reporting as it presently is included in the bottom of the 2014 memo titled "PREA Report Cover Letter" that a reader must open to find.

### C. Training and Education

#### 115.231 (a)—Compliant

##### § 115.231 Employee training.

(a) The agency shall train all employees who may have contact with residents on:

- (1) Its zero-tolerance policy for sexual abuse and sexual harassment;
- (2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
- (3) Residents' right to be free from sexual abuse and sexual harassment;
- (4) The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
- (5) The dynamics of sexual abuse and sexual harassment in confinement;
- (6) The common reactions of sexual abuse and sexual harassment victims;
- (7) How to detect and respond to signs of threatened and actual sexual abuse;
- (8) How to avoid inappropriate relationships with residents;
- (9) How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents; and
- (10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

The employee training material utilized is from the NIC and addresses all items in the standard. A random review a staff hired during the 12 month review period prior to the site visit revealed PREA training documentation on the date of hire. I was also provided

with annual PREA training documents for the entire staff as well as initial training documentation for contract staff. CTS exceeds the standard in this area.

**115.232 (a)(b)(c)—Compliant**

**§ 115.232 Volunteer and contractor training.**

(a) The agency shall ensure that all volunteers and contractors who have contact with residents have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures.

(b) 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 residents, but all volunteers and contractors who have contact with residents shall be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

(c) The agency shall maintain documentation confirming that volunteers and contractors understand the training they have received.

The contract staff are provided with the same initial PREA training as is provided for facility staff. A random selection of contract staff revealed documentation of that training. The Assistant Director advised that contract staff receive the same annual training as facility staff, however to date, it has not been well documented. Going forward, the contract staff will sign the same acknowledgement form for the annual training as do CTS employees.

**115.233 (a)(c)(d)(e)—Compliant**

**§ 115.233 Resident education.**

(a) During the intake process, residents shall receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment, how to report incidents or suspicions of sexual abuse or sexual harassment, their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.

(c) The agency shall provide resident education in formats accessible to all residents, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled as well as residents who have limited reading skills.

(d) The agency shall maintain documentation of resident participation in these education sessions.

(e) In addition to providing such education, the agency shall ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats.



The facility ensures that all residents receive PREA educational information regarding the facility's zero tolerance policy for sexual harassment and sexual abuse, their rights as residents and how to report such incidents. A review of four randomly selected resident files revealed that all four had signed acknowledgements confirming receipt of the information the date they arrived at the facility.

The facility has PREA information in both English and Spanish. Posters and pamphlets are available in areas where the residents congregate as well as in each individual open dorm area. Catholic Charities can provide assistance for residents who speak languages other than Spanish, and facility staff will assist other disabled residents on a case by case basis.

**115.234 (a)(b)(c)—Compliant**

**§ 115.234 Specialized training: Investigations.**

(a) In addition to the general training provided to all employees pursuant to § 115.231, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.

b) Specialized training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

(c) The agency shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations

The facility has three, trained PREA Investigators including the Director, Assistant Director and one Administrative staff person. All were trained by the KY DOC.

**115.235 (a)(c)(d)—Compliant**

**§ 115.235 Specialized training: Medical and mental health care.**

(a) The agency shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in:

(c) The agency shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere.

(d) Medical and mental health care practitioners shall also receive the training mandated for employees under § 115.231 or for contractors and volunteers under § 115.232, depending upon the practitioner's status at the agency.

The facility does not contract with any full or part-time medical or mental health staff and those services are sought in the community. Staff at times are required to transport

offenders to sites in the community to receive such services and generally there are only two staff on duty at the facility after regular working hours. The Assistant Director reported that at times there is a third staff member present on weekend shifts. It is recommended that a third staff member be regularly assigned to each shift to ensure that staff are not tasked with transporting an offender after hours alone and the facility is not left unmanned if two staff members provide an escort.

#### **D. Screening For Risk of Sexual Victimization and Abusiveness**

##### **115.241 (a)(b)(c)(e)—Compliant**

##### **§ 115.241 Screening for risk of victimization and abusiveness.**

(a) All residents shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other residents or sexually abusive toward other residents.

(b) Intake screening shall ordinarily take place within 72 hours of arrival at the facility.

(c) Such assessments shall be conducted using an objective screening instrument.

The facility utilizes the KY DOC PREA risk screening tool and has been entering those assessments into KOMS. Of the random resident files reviewed, all contained a risk assessment completed within 72 hours or less and all were entered into KOMS.

##### **115.241 (f)—Non-Compliant**

(f) Within a set time period, not to exceed 30 days from the resident's arrival at the facility, the facility will reassess the resident's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.

A review of those same cases revealed that only one of the four cases reviewed had a documented 30 day risk screening review. Per the Assistant Director, the facility had not been aware of the necessity of that review until recently advised by KY DOC. The facility is required to document that 30 day review on the inmate case notes screen in KOMS. It should be noted that PREA Compliance Manager Harley Allen discussed the importance of the 30 day risk screening review during his compliance visit on July 28, 2016 and included it in his final report.

##### **115.242 (a)(b)—Non-Compliant**

##### **§ 115.242 Use of screening information.**

(a) The agency shall use information from the risk screening required by § 115.241 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive.

**(b) The agency shall make individualized determinations about how to ensure the safety of each resident.**

The Assistant Director advised that the facility uses the information gleaned from the risk assessment to determine appropriate housing and work assignments for the residents. In the event that the facility has a resident at high risk of victimization, that resident is placed on the third floor for monitoring. Residents at high risk of abusiveness are housed on the second floor in general population. However, there is no method in place to notify staff on Duty after normal work hours that a resident is at high risk of either victimization or abusiveness. The Assistant Director advised that a method of documentation will be developed to increase staff awareness of those residents at risk.

Two resident cases reviewed had risk levels on the paper assessment that did not match the risk level in KOMS. One case was assessed at high risk of victimization in KOMS and the second case at high risk of abusiveness. Neither of those residents were housed according to those risk levels. The Assistant Director reported no knowledge that there were residents assessed at either risk level currently at the facility and reported that the data entry must have been incorrect. She was advised that those cases need to be reviewed and corrected if appropriate as the current risk levels require the facility to determine appropriate bed, work and program assignments. As of the writing of this report, one assessment has been corrected and one assessment reflects the resident still as at high risk of victimization. It is suggested that staff completing the paper assessments be reminded of the importance of accurately assessing a resident as well as the importance of entering accurate data into the case management system.

#### **115.242 (d)(e)—Compliant**

**(d) A transgender or intersex resident's own views with respect to his or her own safety shall be given serious consideration.**

**(e) Transgender and intersex residents shall be given the opportunity to shower separately from other residents.**

The Assistant Director advised that the facility has not had any known transgender or intersex residents to date. Were they to house such residents, the open restrooms have individual, curtained shower stalls to provide privacy for all residents showering.

#### **Reporting**

#### **115.251(a)(c)—Compliant**

#### **§ 115.251 Resident reporting.**

**(a) The agency shall provide multiple internal ways for residents to privately report sexual abuse and sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.**

**(c) Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.**

The facility permits residents to make PREA complaints in multiple ways. According to the facility policy, residents can report verbally to any staff member, in writing, via phone (Telmate system used to call PREA hotline or can make a written complaint). Residents are given that information during intake and can also access the Resident Handbook with instructions via the Telmate phone/electronic reporting system.

**115.251(b)—Non-Compliant**

(b) The agency shall also inform residents of at least one way to report abuse or harassment to a public or private entity or office that is not part of the agency and that is able to receive and immediately forward resident reports of sexual abuse and sexual harassment to agency officials, allowing the resident to remain anonymous upon request.

The Assistant Director advised that when residents use the Telmate system to phone the internal PREA reporting hotline, she and the director are sent an "alert" that the call was made, however the call itself is not recorded. As the resident must enter a personal PIN number which identifies them when they make a call, the residents do not truly have the ability to make a confidential and/or anonymous report when calling the PREA reporting hotline. The facility should alter the notification system to remove the notification when a call is made to the PREA hotline.

**115.252(a)(b)—Compliant**

**§ 115.252 Exhaustion of administrative remedies.**

(a) An agency shall be exempt from this standard if it does not have administrative procedures to address resident grievances regarding sexual abuse.

(b)(1) The agency shall not impose a time limit on when a resident may submit a grievance regarding an allegation of sexual abuse.

The facility has a grievance policy in place that specifies that there is no timeline to file a PREA complaint.

**115.253(a)(b)—Non-Compliant**

**§ 115.253 Resident access to outside confidential support services.**

(a) The facility shall provide residents with access to outside victim advocates for emotional support services related to sexual abuse by giving residents mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and by enabling reasonable communication between residents and these organizations, in as confidential a manner as possible.

(b) The facility shall inform residents, 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.

✓ According to the Assistant Director, the facility will provide residents access to victim advocacy support services via the Center for Women and Families. However, there was no contact information of that nature posted in the facility nor any pamphlets or flyers in resident dorms or where residents congregate. The Assistant Director was advised that those resources need to be readily available to residents. She advised that they will add that information into the Telemate system that residents can regularly access.

#### **115.254—Non-Compliant**

##### **§ 115.254 Third-Party Reporting.**

✓ The agency shall establish a method to receive third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of a resident.

The agency has a website that references a PREA policy, however there is no link to the policy itself. There is a 2014 memo one can access from a link, and at the bottom of the memo, the PREA reporting hotline is listed. As mentioned previously, it is recommended that an updated annual report be placed on the site, the PREA policy itself and the hotline number be posted in a very visible location on the site in order for readers to easily discern how to make a third party PREA report.

##### **Official Response Following A Resident Report**

#### **115.261(a)—Non-Compliant**

##### **115.261 Staff and agency reporting duties.**

✓ (a) The agency shall 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; retaliation against residents or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

The facility has a policy in place that requires staff to immediately report any knowledge, suspicion or information "of an incident of a sexual offense" as well as retaliatory behavior.

Subsequent to the site visit, there were several PREA allegations that were made with offense dates spanning a period of several months. Of those allegations, several had been reported by residents to line staff prior, and line staff then allegedly reported the complaints to management staff as required by policy. However, they were permitted to make "verbal" reports of this type to management staff and did not submit the reports in writing, thus the Assistant Director acknowledged that some of these complaints may not have been addressed according to their policy or KY DOC policy and could not

confirm or deny that line staff had verbally reported the complaints. All of the complaints involved staff on resident incidents that were not reported to KY DOC by facility staff, but became known at a later date when the residents reported the incidents to Probation and Parole staff. At least one of those complaints involved allegations of criminal activity by staff, that was not reported to KY DOC or law enforcement as required.

During a follow-up visit with the Assistant Director on July 20, 2017, following the PREA complaints, management staff were advised that there needed to be a very specific, written method for staff reporting and documentation of PREA complaints made by residents. The Director and Assistant Director advised that they would create a written reporting form for staff and require them to submit all PREA allegations in written form to the Director or Assistant Director. While reviewing documents provided by the Assistant Director after the site visit, it was discovered that a form already exists titled "PREA Allegation Checklist/Staff First Responder Duties" that staff are to utilize when making a PREA report for management staff. It is unclear why staff have not been utilizing this document to date.

#### **115.262—Compliant**

##### **§ 115.262 Agency protection duties.**

**When an agency learns that a resident is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the resident.**

The Assistant Director advised that there have been no cases during the 12 month review period prior to the site visit in which residents were found to be at substantial risk of victimization. However, were there to be such a case, she advised that the resident would be placed in a private holding area if needed to keep him safe, staff would be immediately notified and then the resident could be placed in a different location in the facility or moved to another facility as a last resort to assure his safety.

#### **115.263(a)(b)(c)—Compliant**

##### **§ 115.263 Reporting to other confinement facilities.**

**(a) Upon receiving an allegation that a resident was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.**

**(b) Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.**

**(c) The agency shall document that it has provided such notification.**

The facility staff did not receive any reports that a resident was abused at another facility during the 12 month review period prior to the site visit. The Assistant Director was in possession of the KY DOC Reporting Protocol for Community Confinement Facilities and indicated an awareness of to whom those reports should go to in the event they receive one.

## 115.265—Compliant

### § 115.265 Coordinated response.

The facility shall develop 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

The facility has a written First Responder Plan that clearly describes how to coordinate action among all facility staff in the event of a sexual assault.

## ~~115.267 (a)(b)(c)(d)~~—Non-Compliant

### § 115.267 Agency protection against retaliation.

(a) The agency shall establish a policy to protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff and shall designate which staff members or departments are charged with monitoring retaliation.

(b) The agency shall employ multiple protection measures, such as housing changes or transfers for resident victims or abusers, removal of alleged staff or resident abusers from contact with victims, and emotional support services for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

(c) For at least 90 days following a report of sexual abuse, the agency shall monitor the conduct and treatment of residents or staff who reported the sexual abuse and of residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff, and shall act promptly to remedy any such retaliation. Items the agency should monitor include any resident disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.

(d) In the case of residents, such monitoring shall also include periodic status checks.

The facility has a policy that specifies that the Director is charged with monitoring for retaliation for a period of 90 days. They refer to "status checks" that are to be conducted periodically by counselors as an additional method to monitor for retaliation. The facility had three cases that required monitoring for retaliation during the 12 month review period prior to the site visit. The Assistant Director reported that one resident was transferred to another facility shortly after the complete (thereby the monitoring requirement transferred with him) and one resident made the report after absconding from the facility. Verification was provided of retaliation monitoring on the third case, however the incident report date was incorrect on all documentation and a year was incorrect on one of the four documents. In addition, it appears that the Assistant Director

was completing periodic "status checks" with the resident, although the facility policy states the resident's counselor is to complete those checks. It is recommended the facility modify their monitoring form to allow for a signature from the individual completing the form. In addition, it is recommended that they modify their policy to either remove the language that a counselor is responsible for status checks or change the monitoring form to reflect that counselors are in fact conducting the status checks.

## Investigations

### 115.273-(a)(c)(d)(e)—Non-Compliant

#### § 115.273 Reporting to residents.

(a) Following an investigation into a resident's allegation of sexual abuse suffered in an agency facility, the agency shall inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

(c) Following a resident's allegation that a staff member has committed sexual abuse against the resident, the agency shall subsequently inform the resident (unless the agency has determined that the allegation is unfounded) whenever:

- (1) The staff member is no longer posted within the resident's unit;
- (2) The staff member is no longer employed at the facility;
- (3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
- (4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

(d) Following a resident's allegation that he or she has been sexually abused by another resident, the agency shall subsequently inform the alleged

- (1) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
- (2) The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

(e) All such notifications or attempted notifications shall be documented

There were three sexual abuse investigations conducted during the 12 month review period prior to the site visit. The facility policy states that the "Department of Corrections...will be responsible for notification for allegations that involve staff". That policy should be modified to state that the "agency" is responsible for that notification, not KY DOC. As of the writing of this report, no documentation of resident notification in the relevant cases has been provided.

Subsequent to the site visit, several PREA complaints were made that lead to lengthy investigations involving current or former staff members at the facility. During the course of those investigations, it was discovered that several of the complaints had been reported by line staff to upper level management staff, however the complaints were not then reported to KY DOC or law enforcement when appropriate. It was not until interviews were being conducted months later that KY DOC became aware of the PREA allegations and initiated investigations. It is required that the facility staff notify



law enforcement officials when there is a criminal PREA complaint and KY DOC staff immediately upon receipt of both criminal and non-criminal PREA complaints.

## **Discipline**

### **115.276(a)(b)— Non-Compliant**

The Assistant Director reported that no staff violated sexual abuse or sexual harassment policies during the 12 month review period, nor were any staff noted as being terminated for violating those policies. The facility policy does specify that termination is the presumptive outcome for staff who engage in sexual abuse.

Subsequent to the site visit, several PREA investigations were initiated in July 2017 that involved alleged staff sexual abuse. Several of the staff members that were alleged perpetrators in these incidents, had already been terminated from the facility for reasons other than for violating facility sexual abuse or harassment policies. The staff termination documents provided often list a one word explanation for the termination, without detail as to what the alleged policy infraction was. In addition, during the investigations, current staff under investigation were fired due to reasons other than violation of agency sexual abuse or sexual harassment policies. Due in part to the delayed reporting to KY DOC by CTS of some alleged incidences of sexual abuse, it is believed that the investigations were hampered by a lack cooperation from current and former staff members.

It is recommended that there be more detail given in staff termination documents. In one case, the termination was for "ethics violations", however there was no detail given and this same staff person was alleged to have engaged in sexual activity with residents at the facility. This particular case was also one that line staff allegedly reported the sexual activity to management staff, but no report was made to KY DOC or law enforcement at the time. That staff member however, was fired for undefined "ethics violations" almost immediately after the report was made.

It is also recommended that when plausible, staff members under investigation be placed on administrative leave if necessary, versus being terminated in the middle of an investigation. Four staff under investigation were terminated during the investigative process for reasons unrelated to the PREA investigation.

## **Medical and Mental Health Care**

### **115.282(a)(c)(d)—Compliant**

§ 115.282 Access to emergency medical and mental health services.

(a) Resident victims of sexual abuse shall 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.

(c) Resident victims of sexual abuse while incarcerated shall be 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.

(d) Treatment services shall be 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 policies specifies that emergent medical treatment and crisis intervention services will be provided to residents who are victims of sexual abuse. The facility has a first responder plan that directs staff to take victims to the University of Louisville Hospital for a SANE exam, however there the policy does not specify that this exam will be at no cost to the resident/inmate. The facility has not had to provide these services during the 12 month review period prior to the site visit.

#### 115.283(a)(b)(h)—Compliant

§ 115.283 Ongoing medical and mental health care for sexual abuse victims and abusers.

(a) The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.

(b) The evaluation and treatment of such victims shall 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.

(h) The facility shall attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

The Assistant Director reported that there were no residents during the review period who reported prior abuse while in confinement, nor were there any known resident on resident abusers in the facility. In either case, the facility would use the Center for Women and Families for victim advocacy services or other counseling services through the University of Louisville Hospital.

#### Data Collection and Review

#### 115.286(a)(b)(c) (e)—Non-Compliant

§ 115.286 Sexual abuse incident reviews.

(a) The facility shall 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.

(b) Such review shall ordinarily occur within 30 days of the conclusion of the investigation.

(c) The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners

(e) The facility shall implement the recommendations for improvements or shall document its reasons for not doing so.

Of the cases during the review period that required a sexual abuse incident review, the Assistant Director advised that there was no documentation confirming that the review had been conducted. Subsequent to the site visit, the Director advised that the reviews were in fact conducted by upper level management and I was provided with the documentation. On one review, notes indicate a policy/procedure change that staff were no longer to take residents to the basement alone, and that a "camera needs installed" in the area where the alleged incident occurred (basement). This review was based upon the investigation of a complaint filed in October 2016. However, as of June 2017, the Assistant Director reported that staff were permitted to escort residents alone to the basement to help carry supplies, and there were additional PREA complaints in this location that followed. In addition, at the time of the site visit, no camera's were installed in that basement. Therefore, the approved recommendations of the sexual abuse incident review were not followed and no additional documentation was provided.

The reviews were noted to have been conducted by the Vice President of the agency and the facility Director. It is recommended that additional line staff be added to the review team as required by the standard. In addition, if not following the approved recommendations resulting from a sexual abuse incident review, the facility must provide documentation as to why the recommendations were not followed.

#### **Audits**

This facility was audited by Tina Sallee in June of 2015 and was found compliant in all standards. The facility is due to be audited in or around June of 2018.