

# Prison Rape Elimination Act (PREA) Audit Report Juvenile Facilities

Interim       Final

Date of Report    March 8, 2020

## Auditor Information

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Company Name:    PREA Auditors of America	
Mailing Address:    PO Box 110993	City, State, Zip:    Aurora, CO 80042-0993
Telephone:    720-371-2172	Date of Facility Visit:    June 25 & 26, 2019

## Agency Information

Name of Agency	Governing Authority or Parent Agency <i>(If Applicable)</i>		
Doña Ana County Detention Center - Juvenile	Doña Ana County		
Physical Address:    1850 Copper Loop	City, State, Zip:    Las Cruces, NM 88005		
Mailing Address:    1850 Copper Loop	City, State, Zip:    Las Cruces, NM 88005		
Telephone:    575-647-7600	Is Agency accredited by any organization? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
The Agency is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input checked="" type="checkbox"/> County	<input type="checkbox"/> State	<input type="checkbox"/> Federal

Agency mission:    To confine offenders in a controlled environment that is safe, humane, cost effective and appropriately secure and is in compliance with statutory mandates and constitutional requirements.

Agency Website with PREA Information:    <https://www.donaanacounty.org/detention>

## Agency Chief Executive Officer

Name:    Joshua Fleming	Title:    Captain of Operation
Email:    Joshuaf@donaanacounty.org	Telephone:    575-647-7634

## Agency-Wide PREA Coordinator

Name:    Anthony Eberwine	Title:    Lieutenant
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<b>Email:</b> anthonye@donaanacounty.org	<b>Telephone:</b> 575-527-3163
<b>PREA Coordinator Reports to:</b> Captain Ben Mendoza	<b>Number of Compliance Managers who report to the PREA Coordinator</b> 0

**Facility Information**

<b>Name of Facility:</b> Doña Ana County Juvenile Detention Center
<b>Physical Address:</b> 1850 Copper Loop, Las Cruces NM 88005
<b>Mailing Address (if different than above):</b> Click or tap here to enter text.
<b>Telephone Number:</b> 575-647-7600

<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 checked="" type="checkbox"/> County	<input type="checkbox"/> State	<input type="checkbox"/> Federal	
<b>Facility Type:</b>	<input checked="" type="checkbox"/> Detention	<input type="checkbox"/> Correction	<input type="checkbox"/> Intake	<input type="checkbox"/> Other

**Facility Mission:** To confine offenders in a controlled environment that is safe, humane, cost effective and appropriately secure and is in compliance with statutory mandates and constitutional requirements.

**Facility Website with PREA Information:** <https://www.donaanacounty.org/detention>

**Is this facility accredited by any other organization?**  Yes  No

**Facility Administrator/Superintendent**

<b>Name:</b> Daniel Peters	<b>Title:</b> Assistant County Manager
<b>Email:</b> DanielP@donaanacounty.org	<b>Telephone:</b> 575-647-7616

**Facility PREA Compliance Manager**

<b>Name:</b> Brian Baker	<b>Title:</b> Lieutenant
<b>Email:</b> brianb@donaanacounty.org	<b>Telephone:</b> 575-527-3184

**Facility Health Service Administrator**

<b>Name:</b> Jason Duran	<b>Title:</b> Health Services Administrator
<b>Email:</b> Jason.duran@corizonhealth.com	<b>Telephone:</b> 575-647-7642

**Facility Characteristics**

<b>Designated Facility Capacity:</b> 41	<b>Current Population of Facility:</b> 16
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Number of residents admitted to facility during the past 12 months		274
Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 10 days or more:		226
Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:		24
Number of residents on date of audit who were admitted to facility prior to August 20, 2012:		0
Age Range of Population:	12-17	
Average length of stay or time under supervision:		24
Facility Security Level:		Medium
Resident Custody Levels:		Medium
Number of staff currently employed by the facility who may have contact with residents:		30
Number of staff hired by the facility during the past 12 months who may have contact with residents:		10
Number of contracts in the past 12 months for services with contractors who may have contact with residents:		8
<b>Physical Plant</b>		
Number of Buildings:	1	Number of Single Cell Housing Units: 5
Number of Multiple Occupancy Cell Housing Units:	4 cells total (1 per dayroom)	
Number of Open Bay/Dorm Housing Units:	0	
Number of Segregation Cells (Administrative and Disciplinary):	0	
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.):		
Click or tap here to enter text.		
<b>Medical</b>		
Type of Medical Facility:	In House Medical Department	
Forensic sexual assault medical exams are conducted at:	La Piñon Sexual Assault Recovery Service of Southern New Mexico	
<b>Other</b>		
Number of volunteers and individual contractors, who may have contact with residents, currently authorized to enter the facility:	165	
Number of investigators the agency currently employs to investigate allegations of sexual abuse:	11	

# 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.*

### Introduction

The Prison Rape Elimination Act (PREA) onsite audit of the Doña Ana County Detention Center (DACDC) was conducted on June 25-26, 2019. The DACDC is located at 1850 Copper Loop, Las Cruces, NM 88005. The audit was conducted by Natasha Mitchell from Henderson, Colorado who is a U.S. Department of Justice Certified PREA Auditor for juvenile and adult facilities. The auditor conducted the audit as a single auditor with no additional support staff. The auditor subcontracted with the PREA Auditors of America, LLC to conduct the audit. The contract was signed between the Auditor and the PREA Auditors of America, LLC on February 5, 2019, and began communicating with the DACDC PREA Coordinator soon after. This is DACDC's first PREA audit since the implementation of the PREA standards.

### Audit Methodology Pre-Onsite Audit Phase

Prior to the onsite audit, the auditor-initiated discussions concerning the logistics for preparing for the onsite audit as well as the presence of the auditor onsite. Additional communication involved both the PREA Coordinator and the designated PREA Compliance Manager.

### Notice of Audit Posting

The audit notice was forwarded to DACDC on April 7, 2019. The audit was posted throughout the facility on May 14, 2019, and pictures via email were provided to the auditor to verify the postings on May 22, 2019. The audit notices were posted throughout the facility, in places visible to all residents and staff, including on housing units. Further verification of the notice's placement was made through observation during the onsite tour. The audit notices include a statement regarding confidentiality of resident and staff correspondence with the auditor. No correspondence was received during any phase of the audit.

The Pre-Audit Questionnaire and supporting documentation was received on June 3, 2019. The Pre-Audit Questionnaire has a completion date of May 31, 2019. The documentation was provided to the auditor through a secure upload. The auditor reviewed the Pre-Audit Questionnaire, policy, procedures, and supporting documentation on June 19, 2019. Using the Auditor Compliance Tool and Checklist of Documentation, the auditor's initial analysis and review of the information determined there was a need for additional information. The following juvenile standards required additional information: 115.313, 115.317, 115.321, 115.322, 115.331, 115.342, 115.351, 115.352, 115.354, 115.363, 115.365, 115.367, 115.368, 115.373 and 115.386. The auditor received responses for the majority of the standards from DACDC on June 24, 2019.

### Requests of Facility Lists

DACDC provided the following information for interview selections and document sampling:

Complete resident roster	A resident roster for all residents at DACDC was provided for June 25, 2019.
Residents with disabilities	None were identified.
Residents who are Limited English Proficient (LEP)	None were identified.
LGBTQI residents	Two were interviewed.
Residents in segregated housing	N/A
Residents in isolation	N/A
Residents who reported sexual abuse	None were identified.
Residents who reported sexual victimization during risk screening	One was interviewed.
<b>DACDC Staff Rosters</b>	
Complete Staff roster	The roster was provided to the auditor via email from the DACDC on June 19, 2019.
Specialized Staff	Specialized staff were identified on the roster
Contractors who have contact with residents	Corizon, Aramark, Keefe, and Trinity Services Group rosters were provided to the auditor via email from the DACDC on June 19, 2019.
All volunteers who have contact with residents	DACDC provided a list of volunteers, which included contact information.
All grievances/allegations made in the previous 12 months	The facility reported there were 6 allegations reported through the DACDC grievance procedures.
All allegations of sexual abuse and sexual harassment reported for investigation in the previous 12 months	The facility reported there were 6 sexual abuse and sexual harassment allegations reported in the previous 12 months.
<b>External Contacts</b>	
The following external contacts were made:	
Advocacy and SAFE/SANE Programs	La Piñon Sexual Assault Recovery Service of Southern New Mexico
New Mexico Children, Youth & Families Department	The auditor contacted the Statewide Central Intake at 1-855-333-SAFE (7233).

### Research

- A google search for news articles shows there were no reports regarding the DACDC juvenile facility during the previous 12 months.
- **32A-4-3. Duty to report child abuse and child neglect; responsibility to investigate child abuse or neglect; penalty.**

A. Every person, including a licensed physician; a resident or an intern examining, attending or treating a child; a law enforcement officer; a judge presiding during a proceeding; a registered nurse; a visiting nurse; a schoolteacher; a school official; a social worker acting in an official capacity; or a member of the clergy who has information that is not privileged as a matter of law, who knows or has a reasonable suspicion that a child is an abused or a neglected child shall report the matter immediately to:

- (1) a local law enforcement agency;

(2) the department; or

(3) a tribal law enforcement or social services agency for any Indian child residing in Indian country.

B. A law enforcement agency receiving the report shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to the department and shall transmit the same information in writing within forty-eight hours. The department shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to a local law enforcement agency and shall transmit the same information in writing within forty-eight hours. The written report shall contain the names and addresses of the child and the child's parents, guardian or custodian, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person responsible for the injuries. The written report shall be submitted upon a standardized form agreed to by the law enforcement agency and the department.

C. The recipient of a report under Subsection A of this section shall take immediate steps to ensure prompt investigation of the report. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect. A local law enforcement officer trained in the investigation of child abuse and neglect is responsible for investigating reports of alleged child abuse or neglect at schools, daycare facilities or childcare facilities.

D. If the child alleged to be abused or neglected is in the care or control of or in a facility administratively connected to the department, the report shall be investigated by a local law enforcement officer trained in the investigation of child abuse and neglect. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect.

E. A law enforcement agency or the department shall have access to any of the records pertaining to a child abuse or neglect case maintained by any of the persons enumerated in Subsection A of this section, except as otherwise provided in the Abuse and Neglect Act [ [32A-4-1](#)NMSA 1978].

F. A person who violates the provisions of Subsection A of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section [31-19-1](#) NMSA 1978.

### **Onsite Audit Phase**

#### **Entrance Briefing**

An entrance briefing was held with the Captain of Support, PREA Coordinator and PREA Compliance Manager. Introductions were made, the agenda for the onsite audit was discussed and the auditor began the site review accompanied by the PREA Coordinator and the PREA Compliance Manager.

#### **Site Review**

The auditor accessed and observed all areas of the facility. The auditor was provided with the facility physical layout prior to the onsite audit, which allowed the auditor to become familiar with the facility. The DACDC juvenile center has one building with five residential units. One of the five housing units are currently offline and is not being utilized to house or program residents. All housing units are multiple occupancy cell housing units. In addition to the housing units, there is an intake area, laundry

room, classrooms, recreation yard, master control, and visitor main entrance. The resident population count on the first day of the onsite audit was ten (10).

### Processes and areas observed

No residents were admitted to the facility during the onsite phase of the audit. The auditor gathered information about the intake process through specialized staff and resident interviews. PREA audit notices and zero tolerance posters were posted and visible for the resident's review, and the placement of cameras were observed. The auditor was able to access the facility kiosk, that allows the residents to submit grievances and make reports of sexual abuse and sexual harassment.

During the site review the staff explained the shower procedures and the auditor observed cross gender announcements.

### Specific area observations

There are five residential housing units that serve as living units, which are all multiple occupancy cell housing units. The housing cells are equipped with a toilet that is accessible to the resident as needed. The units are equipped with single showers, which only allow one resident to shower at a time. The auditor observed prior to a male staff member entering the female housing unit and vice versa for male residents, the staff member will ensure no one is in the shower and will advise everyone to be appropriately dressed. This all takes place prior to the opposite gender staff member walking completely on to the unit. This practice seemed to be a normal routine and ingrained into the system.

The intake area for new admissions is completed in a separate area from the living units. The intake room, search and shower area provide adequate privacy to allow the residents to disclose as much personal information that they feel comfortable disclosing.

The auditor observed staff presence in every area the residents were present. Adequate staff supervision and camera placements seem to mitigate blind spots.

### Interviews

Staff and resident interviews were conducted in the facility multipurpose room. The location provided privacy and was centrally located to minimize disruption to programming. Specialized staff were selected based on their respective duties in the facility. Five randomly selected staff from every shift and unit was interviewed using the random staff interview protocol. The resident population was ten on the first day of the audit. The auditor interviewed all ten residents. There were two residents interviewed who identified as lesbian, gay, bisexual, transgender or intersex. All of the interviewed residents reported feeling safe. At the time of the onsite audit there were no residents identified as limited English speaking, disabled; and no resident was in isolation or made a sexual abuse or sexual harassment allegation.

Interviews Protocols	Number of Interviews
Agency Head	1
Captain of Operations (Superintendent)	1
PREA Coordinator	1
PREA Compliance Manager	1
Medical Staff (Contract)	1
Mental Health Staff (Contract)	1
Intake Staff	1
Volunteer	N/A
Investigation Staff	1

Administrative (Human Resources) Staff	1
Intermediate or Higher-level Staff (Unannounced rounds)	3
SAFE and SANE	La Piñon Sexual Assault Recovery Service of Southern New Mexico.
Staff who supervise residents in isolation	No isolation
Staff on the Incident Review Team	3
Designated staff member charged with monitoring retaliation	<b>No one assigned.</b>
Random sample of Staff	5
Random sample of Residents	8
Resident identified as lesbian, gay, bisexual, transgender or intersex	2
Resident who reported a sexual abuse	N/A
Resident with an identified disability or limited English speaking	N/A
Resident in isolation	N/A
Residents who disclosed prior sexual victimization during risk screening	N/A
Total Number of Staff Interviews	20
Total Number of Resident Interviews	10
Total Number of Interviews	30

### Exit Briefing

An exit briefing was conducted with the Captain of Operations, PREA Coordinator, PREA Compliance Manager and **additional facility/agency leaders**. The onsite audit as discussed. The auditor identified the standards that will need to be addressed to bring the facility into compliance. The standards included: 115.313, 115.317, 115.322, 115.331, 115.332, 115.333, 115.334, 115.335, 115.341, 115.354, 115.361, 115.365, 115.381 and 115.386.

### Corrective Action Phase

The auditor began immediately working with DACDC upon the issuance of the interim report. The PREA Coordinator and the auditor-maintained communication either through phone calls or emails during the corrective action phase to ensure the agency would achieve compliance. As the agency fulfilled the necessary steps to demonstrate compliance with a standard the supporting documents were uploaded to the secure electronic system for review. Supporting documents included proof of training logs or certificates, full policies with updated policy language and internal operation forms. The auditor encouraged and supported the agency throughout the corrective action phase and is pleased with the efforts of the agency.

## 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.*

## JUVENILE DETENTION CENTER

The Doña Ana County Juvenile Detention Center (DACDC) is a 50-bed facility that was built in 2000; and opened in 2001. The governing authority is Doña Ana County and certified by the New Mexico Children, Youth and Families Department.

DACDC employs detention officers who are stationed inside the housing unit dayrooms, directly supervising and observing the residents and their daily activities. There are thirty-five (35) cameras strategically placed throughout the facility that is connected to the facility video monitoring system. The residents are housed in five different units. Each unit is designed to house ten residents. Four of the housing units consist of a dayroom, eight single-person cells and one two-person cell. The remaining unit consists of ten single-person cells, a dayroom and a small outside recreation area. The facility can utilize the unit as a maximum-security and/or special-management unit when needed.

### POPULATION:

DACDC serves both male and female residents from Doña Ana and surrounding counties. The resident population served at the juvenile facility is in the age range from 12-17 years old. Most of the residents are from Doña Ana County, but the facility will admit juveniles from other counties and governmental agencies.

### JUVENILE PROGRAMS:

The Las Cruces Public School District provides two full-time teachers for educational classes, which allows the juveniles to maintain their educational goals by earning required credits toward graduation. In addition, DACDC provides religious programming and life-skills classes. The residents are allowed two half-hour family visits per week. Various counseling agencies are available for court-ordered counseling and individual counseling when such needs are identified. Recreational activities, commissary and library services also are provided.

### MEDICAL:

All residents admitted to the facility are medically screened upon intake. Medical services are provided 24 hours a day 7 days per week. Residents experiencing a medical or behavioral health concern are encouraged to notify the dayroom officer to request to speak to the facility Chaplain, Medical Staff and/or the Mental Health Staff.

## 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

**Number of Standards Met:** 41

The following standards required corrective action:

- Standard 115.311 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator
- Standard 115.313 Supervision and monitoring
- Standard 115.317 Hiring and promotion decisions
- Standard 115.322 Policies to ensure referrals of allegations for investigations
- Standard 115.331 Employee training
- Standard 115.332 Volunteer and contractor training
- Standard 115.333 Resident education
- Standard 115.334 Specialized training: Investigations
- Standard 115.335 Specialized training: Medical and mental health care
- Standard 115.341 Screening for risk of victimization and abusiveness
- Standard 115.354 Third-party reporting
- Standard 115.361 Staff and agency reporting duties
- Standard 115.363 Reporting to other confinement facilities
- Standard 115.365 Coordinated response
- Standard 115.367 Agency protection against retaliation
- Standard 115.368 Post-allegation protective custody
- Standard 115.386 Sexual abuse incident reviews
- Standard 115.387 Data collection
- Standard 115.388 Data review for corrective action

**Number of Standards Not Met:** 0

### Summary of Corrective Action (if any)

#### 115.311

**CORRECTIVE ACTION:** DACDC will need to develop a PREA policy or policies addressing the PREA standards specific to each operated facility (adult and juvenile) since there are specific standards for juvenile facilities that are not applicable to adult facilities.

**CORRECTIVE ACTION:** 115.311(a) A review of the documentation did not include the definitions of prohibited behaviors regarding sexual abuse and sexual harassment. It appears page 2-3 of SOP 2A-29 was not included.

**CORRECTIVE ACTION STEPS TAKEN:** The agency updated the Doña Ana County Detention Center standard operating procedure J2A-9 (Sexual Assault) policy that went into effect January 28, 2020. The policy now includes definitions for sexual abuse and sexual harassment.

**CORRECTIVE ACTION: 115.311(c)** Given that the adult and juvenile facilities are separate, per the standards each facility should have a designated PREA Compliance Manager. The juvenile facility does not have a designated PREA Compliance Manager. In selecting a PREA Compliance Manager, the individual should have sufficient time and authority to coordinate the facility's efforts to comply with the PREA Standards. Both the PREA Coordinator and PREA Compliance Manager should have the authority to delegate and require staff to complete tasks and comply with direction.

**CORRECTIVE ACTION STEPS TAKEN:** The agency developed separate policies for the facilities under their jurisdiction. There is now a policy specific to the adult facility and one for the juvenile facility. There is also an organizational chart that delineates the persons responsible for overseeing and managing the adult facility versus the juvenile facility.

The agency operates the adult and juvenile detention facility. The PREA Coordinator is the PSU Lieutenant or a designee. The juvenile facility PREA Compliance Manager is the responsibility of the staff member in the Caption of Support position. The PREA Compliance Manager shall have sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards.

**The organizational structures between the adult facility and the juvenile facility should be separated to demonstrate the hierarchical designations, roles and responsibilities.**

**CORRECTIVE ACTION STEPS TAKEN:** The agency demonstrated on the updated organizational chart the individuals in leadership roles responsible for overseeing the operation of the juvenile facility that is separate and apart of the adult facility. The agency has designated a PREA Compliance Manager who is responsible for overseeing the facility's compliance with the juvenile standards.

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### 115.313

**CORRECTIVE ACTION: 115.313(a)** DACDC has included the staffing plan requirements in their policy; however, the facility has not implemented a staffing plan. The juvenile standards require the facility to develop, document, and make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing and where applicable, video monitoring, to protect residents against abuse. Each facility operated by DACDC shall have a staffing plan developed for each facility type (adult and juvenile).

**The facility leaders are in the process of discussing contracting for service to complete a full facility staffing analysis. This auditor advised, for the purposes of this particular standard a staffing analysis is not necessary; however, the auditor supports the decision to have a full facility staffing analysis completed.**

**The auditor will share examples of staffing plans developed in varies types of facilities to assist DACDC with the implementation of the policy and staffing plan.**

**CORRECTIVE ACTION STEPS TAKEN:** A staffing plan dated August 14, 2019 indicates the agency employs one hundred seventy-eight (178) full time employees. When any post is not filled due to vacancies, the positions are filled by use of overtime. When a post is vacant due to the use of various leave types, the position is left vacant requiring the facility to operate under contingency plans.

A staffing analysis was completed and delivered to the agency in January 2020. The facility houses residentss pending adjudication or serving a sentence, federal residents pending adjudication; and local state and county jurisdictions. There were two hundred seventy-four (274) residents admitted to the facility in the 12 months prior to the onsite audit; two hundred twenty-six (226) were whose length of stay in the facility for 10 days or more. The resident population consists of males and females. The minimum staff coverage is eight (8) per shift.

**CORRECTIVE ACTION: 115.313(b) DACDC will need to adopt a procedure to track and document all deviations from the staffing plan in those instances staffing is outside of what is required per their staffing plan.**

**CORRECTIVE ACTION STEPS TAKEN:** The agency updated the standard operating procedure that requires any deviations from the staffing plan to be documented on the post assignments form. The documentation will include documenting circumstances surrounding the deviation and will be reviewed by the Shift Lieutenant and forwarded through the chain of command. There is also a review process that will be conducted by the agency PREA Review Committee, which may result in modifications to the staffing plan.

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### 115.317

**CORRECTIVE ACTION: 115.317(c) The facility has not adopted a policy or practice that involves consulting the child abuse registry maintained by the State of New Mexico. The DACDC will be required to communicate with the New Mexico Children, Youth and Families Department to establish a practice that will allow the facility to contact the department to complete a background check that involves running the name of an employee in the child abuse registry to ensure there are no civil or administrative child abuse findings.**

**CORRECTIVE ACTION: 115.317(d) The facility has not adopted a policy or practice that involves consulting the child abuse registry maintained by the State of New Mexico. The DACDC will be required to communicate with the New Mexico Children, Youth and Families Department to establish a practice that will allow the facility to contact the department to complete a background check that involves running the name of an employee in the child abuse registry to ensure there are no civil or administrative child abuse findings.**

**To Demonstrate Compliance:**

**The facility will need to provide records that the contactors who are providing services for the residents cleared a child abuse registry background check.**

**CORRECTIVE ACTION STEPS TAKEN:** DADC and New Mexico's Children Youth and Families Department agree to a limited inquiry and disclosure process, which will allow DACJDC to submit to CYFD the name and other sufficient personally identifying information of an otherwise qualified applicant for employment with DACJDC. CYFD will either confirm or deny that a DACJDC applicant has

been adjudicated to have engaged in or attempted to engage in activity prohibited by the PREA Juvenile Detention Standards.

All current Doña Ana Detention staff has undergone a CYFD child abuse registry check. According to the PREA Coordinator all staff cleared the registry. Going forward all new hires will complete the child abuse registry as part of the background check. The auditor reviewed a sample of the child abuse registry authorization form that granted the agency permission to collect the information. CYFD indicates on the form that the employee or potential employee has a record of no substantiated finding of sexual abuse or a substantiated finding of sexual abuse.

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### 115.322

**CORRECTIVE ACTION: 115.322(a) The policy language should instruct the staff where they are required to document sexual abuse or sexual harassment allegations or provide the auditor with the appropriate policy that provides guidance to staff on documenting incidents.**

**CORRECTIVE ACTION: 115.322(b) A review of the DACDC website shows the investigation/PREA policy is not published on the website.**

**CORRECTIVE ACTION STEPS TAKEN:** The agency updated standard operating procedure 2A-29 (Sexual Assaults) to include language that requires the staff to immediately inform their supervisor and document the allegations on a written report that must be submitted to the shift supervisor by the end of the shift in which the allegation was reported.

A review of the agency website also indicates the facility updated the website, which includes a link to the policy.

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### 115.331

**CORRECTIVE ACTION: 115.331(a) The policy does not require the training to cover relevant laws regarding the applicable age of consent.**

**CORRECTIVE ACTION STEPS TAKEN:** A review of the training curriculum demonstrated the staff training was updated and includes the staff mandatory reporter/duty to report responsibility per the State of New Mexico statute.

**CORRECTIVE ACTION: Develop documentation of employee's signatures or electronic verification signifying comprehension of the training.**

**CORRECTIVE ACTION STEPS TAKEN:** Training certificates and training logs were provided to demonstrate staff completed PREA training in September 2019. The training includes the agencies gender-based assignments (female staff only work with female residents and vice versa for male residents) and how to work with specific genders.

### 115.332

**CORRECTIVE ACTION: 115.332(a) To demonstrate compliance the facility will need to provide the auditor with training logs or signed acknowledgement forms from the previous 12 months to present day for contractors and volunteers.**

CORRECTIVE ACTION STEPS TAKEN: The facility provided the auditor with 60 training acknowledgment forms from 2019, demonstrating contract and volunteer staff received PREA training. The signed acknowledgement form also indicates the signee understands the training material, were afforded the opportunity to ask questions, and acknowledging they will comply with the applicable laws and the county related policies.

Contract and volunteer staff also completed the National Institute of Corrections (NIC) training, "PREA: Your Role Responding to Sexual Abuse". Training certificates were provided to demonstrate compliance.

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### 115.333

**CORRECTIVE ACTION: 115.333(a) The policy is not compliant with the juvenile PREA standards which requires the facility to provide education within 10 days of intake. The auditor suggests separating the DACDC juvenile detention PREA policy from the DACDC adult detention policy.**

CORRECTIVE ACTION STEPS TAKEN: The facility submitted signed attendance forms that require the signature of every resident present during the showing of the video. The form includes the date the PREA education was provided, the name and a signature line for the supervisor responsible for ensuring the residents received the PREA education.

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### 115.334

**CORRECTIVE ACTION: The policy does not require training that requires sexual abuse evidence collection in confinement settings, or the criteria and evidence required to substantiate a case for administrative action or prosecution referral. Since the facility does conduct administrative investigations, the policy should adopt the appropriate level of training to comply with how to collect evidence required to substantiate a case for administrative action.**

**The facility will need to ensure the 1 investigator assigned to the juvenile detention facility has completed the required training. Compliance can be demonstrated through a certification or training log.**

**PREA Online Training can be accessed on the following website:**

<https://nic.learn.com/learncenter.asp?id=178416&page=1>

CORRECTIVE ACTION STEPS TAKEN: The agency provided the auditor with eleven (11) training certificates from September and October of 2019. The certificates show the agency investigators completed the National Institute of Corrections training, "PREA: Investigating Sexual Abuse in Confinement Setting: Advanced Investigations".

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### 115.335

**CORRECTIVE ACTION: 115.335(c) The facility did not provide the auditor with medical and mental health care training documentation showing the practitioners have completed the required training. DACDC will need to provide training certificates and/or training logs.**

**PREA Online Training can be accessed on the following website:**

<https://nic.learn.com/learncenter.asp?id=178416&page=1>

**CORRECTIVE ACTION STEPS TAKEN:** The facility provided the auditor with training certificates demonstrating the facility medical and mental health staff completed the NIC training, "Medical Health Care for Sexual Assault Victims in a Confinement Setting" and "Mental Health Care for Sexual Assault Victims in a Confinement Setting". All training was completed in September and October 2019.

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### 115.341

**CORRECTIVE ACTION: 115.341(a)**

**Step 1: DACDC will need to update the current risk of victimization and abusiveness tool to ensure every criterion required per the standard is included in the assessment tool. Once updated the facility will need to provide a copy to the auditor for review.**

**Step 2: DACDC will need to submit an updated and complete risk of victimization and abusiveness for 10 residents per month during the corrective action period to demonstrate compliance with this provision of the standard.**

**CORRECTIVE ACTION STEPS TAKEN:** The facility updated the risk screening tool and process for ascertaining the information. Residents will be screened within 24 hours. The initial screening will consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse known to DCDC.

The facility updated the risk assessment tool, which demonstrated the objective risk screening tool screens for the criterion required per the standard is included. A sample of the assessment tools were provided to demonstrate the residents are being appropriately screened and assessed.

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### 115.354

**CORRECTIVE ACTION: DACDC will need to update the agency website with PREA information, which explains what PREA is, the agency PREA policy, third-party reporting mechanisms and the roles and responsibilities of the investigative entities.**

**CORRECTIVE ACTION STEPS TAKEN:** The agency created a PREA link on the website. The website includes PREA information, third-party reporting information, PREA policies, and investigation process. The PREA website can be found at: <https://www.donaanacounty.org/detention/prea>

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### 115.361

**CORRECTIVE ACTION: 115.361(b) The policy does not have a statement that requires DACDC employees to comply with the state of New Mexico mandatory child abuse reporting laws.**

CORRECTIVE ACTION STEPS TAKEN: standard operating procedure 2A-29 (Sexual Assaults) to include language that requires any staff member who has knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment to comply with the State of New Mexico mandatory child abuse reporting laws.

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### 115.363

**CORRECTIVE ACTION: 115.363(a) The agency policy does not require that the head of the facility notify the appropriate investigative agency. The language will need to be added to the policy.**

CORRECTIVE ACTION STEPS TAKEN: standard operating procedure 2A-29 (Sexual Assaults) to include language stating, "Upon the Detention Center receiving an allegation that a resident was sexually abused while confined at another facility, the head of the Detention Center shall notify the head of the facility or agency where the alleged abuse occurred. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation."

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### 115.365

**CORRECTIVE ACTION: The facility has not 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.**

CORRECTIVE ACTION STEPS TAKEN: The facility updated the agency standard operating procedure (Sexual Assault) to include very specific steps and guidelines for staff at every level to appropriately respond to an imminent risk of and allegations of sexual abuse.

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### 115.367

**CORRECTIVE ACTION: 115.367(a) The facility has not designated a staff member(s) or department with monitoring for possible retaliation. DACDC will need to formally designate a staff or department with monitoring for possible retaliation to protect residents and staff who report or cooperate with a sexual abuse and sexual harassment allegation.**

CORRECTIVE ACTION STEPS TAKEN: The agency updated standard operating procedure 2A-29 (Sexual Assaults) designating the Program Department as the entity responsible for monitoring for possible retaliation. The monitoring would take place for at least 90 days following a report of sexual abuse.

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**115.368**

**CORRECTIVE ACTION: 115.368(a) The policy language does not state residents who allege to have suffered sexual abuse may only be placed in isolation as a last resort if less restrictive measures are inadequate to keep them and other residents safe, and only until an alternative means of keeping all residents safe can be arranged.**

**The policy will need to include the requirements that residents who are placed in isolation because they allege to have suffered sexual abuse have access to legally required educational programming, special education services, and daily large-muscle exercise.**

**CORRECTIVE ACTION STEPS TAKEN:** The agency updated standard operating procedure 2A-29 (Sexual Assaults) to include language providing guidance to staff for post-allegation protective custody. Anytime the facility places a resident in segregated housing who alleged to have suffered sexual abuse can only be utilized as a last resort when less restrictive measures are inadequate.

The facility is required to make its best efforts to ensure residents receive daily large muscle exercise and any legally-required educational programming or special education services. Residents in isolation are required to receive daily visits from a medical or mental health care clinician, who is required to document the visit and other pertinent information.

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**115.386**

**CORRECTIVE ACTION: According to the PAQ DACDC has not implemented or adopted an incident review team or procedures. The policy requires updating to include guidance on convening 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.**

**CORRECTIVE ACTION STEPS TAKEN:** The agency updated standard operating procedure 2A-29 (Sexual Assaults) to include language requiring an incident review at the conclusion of every sexual abuse investigation. The facility leadership team has a monthly meeting that includes upper-level management officials, line supervisors, investigators, medical and mental health practitioners. Any sexual abuse allegation will be reviewed during the meeting and all discussions and outcomes will be documented in the meeting minutes.

The incident review team will consider whether the allegation indicates a need to change procedure or practice; whether the incident was motivated by race, ethnicity, gender identity, or gang affiliation. The team will examine the area in the facility where the incident allegedly occurred, staffing levels, monitoring technology and the findings as well as recommendations will be documented.

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**115.387**

**CORRECTIVE ACTION: DACDC has data collection language in the policy but has not aggregated the data for 2018 or the previous years. DACDC will need to aggregate the data for 2018 and post the data on the website to achieve compliance with this standard.**

**CORRECTIVE ACTION STEPS TAKEN:** According to the PAQ, the agency collects accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. The auditor reviewed data collected, which includes the data necessary to answer all questions from the Survey of Sexual Violence.

The auditor reviewed published annual reports for 2018 and 2019. The auditor observed the reports include aggregate incident-based sexual abuse data; however, the data report is pie charted and does not explain what the numbers represent. The PREA Coordinator stated the agency will continue to enhance the data report to reflect what the data represents. During the onsite and report writing phase of the audit, the PREA Coordinator stated the 2019 data report will reflect the aggregated data per facility. A review of the 2019 draft report included aggregated data by facility, to include contract facilities.

According to the PAQ and the auditor's observation, the standardized instrument includes, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence (SSV) conducted by the Department of Justice. The auditor reviewed Critical Incident Reports and observed data collected includes the data necessary to answer all questions from the Survey of Sexual Violence.

The data can be found on the agency website at:

<https://www.donaanacounty.org/detention/prea/policies>

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**115.388**

**CORRECTIVE ACTION: DACDC has data collection language in the policy but has not aggregated the data for 2018 or the previous year. DACDC will need to aggregate the data for 2018 and post the data on the website to achieve compliance with this standard.**

**CORRECTIVE ACTION STEPS TAKEN:** According to the PAQ, the agency collects accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. The auditor reviewed data collected, which includes the data necessary to answer all questions from the Survey of Sexual Violence.

The auditor reviewed published annual reports for 2018 and 2019. The auditor observed the reports include aggregate incident-based sexual abuse data; however, the data report is pie charted and does not explain what the numbers represent. The PREA Coordinator stated the agency will continue to enhance the data report to reflect what the data represents. During the onsite and report writing phase of the audit, the PREA Coordinator stated the 2019 data report will reflect the aggregated data per facility. A review of the 2019 draft report included aggregated data by facility, to include contract facilities.

According to the PAQ and the auditor's observation, the standardized instrument includes, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence (SSV) conducted by the Department of Justice. The auditor reviewed Critical Incident

Reports and observed data collected includes the data necessary to answer all questions from the Survey of Sexual Violence.

The data can be found on the agency website at:  
<https://www.donaanacounty.org/detention/prea/policies>

## PREVENTION PLANNING

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

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

#### 115.311 (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

#### 115.311 (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

#### 115.311 (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.*

#### Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault
- Standard Operating Procedures 7D-04 Facility Administration, Facility Organizational Chart

#### DACDC

#### Standard Operating Procedures

#### S.O.P. 2A-29

#### Page 1-4

SOP: The Doña Ana County Detention Center mandates zero tolerance toward all forms of sexual abuse and sexual harassment. Sexual abuse of a resident and sexual harassment of a resident are prohibited.

PURPOSE: The Detention Center is committed to zero tolerance of any form of sexual abuse and sexual harassment in facilities it operates directly or with which it holds contracts for the confinement of residents.

The purpose of this procedure is to describe the Detention Center mandate of zero tolerance towards all forms of sexual abuse and sexual harassment; and to outline The Detention Center approach to preventing, detecting, and responding to sexual abuse and harassment.

**CORRECTIVE ACTION:** DACDC will need to develop a PREA policy or policies addressing the PREA standards specific to each operated facility (adult and juvenile) since there are specific standards for juvenile facilities that are not applicable to adult facilities.

**CORRECTIVE ACTION:** 115.311(a)-2 A review of the documentation did not include the definitions of prohibited behaviors regarding sexual abuse and sexual harassment. It appears page 2-3 of SOP 2A-29 was not included.

**CORRECTIVE ACTION STEPS TAKEN:** The agency updated the Doña Ana County Detention Center standard operating procedure J2A-9 (Sexual Assault) policy that went into effect January 28, 2020. The policy now includes definitions for sexual abuse and sexual harassment.

*The Doña Ana County Detention Center has zero tolerance towards all forms of sexual abuse and sexual harassment. The agency/county takes appropriate steps to prevent, detect, and respond to all*

*forms of sexual abuse and sexual harassment within the facility. The leadership team reports every allegation of sexual abuse and sexual harassment will be appropriately investigated. The efforts to prevent, detect, and respond to all forms of sexual abuse and sexual harassment apply to all facilities under the county's jurisdiction.*

**CORRECTIVE ACTION: 115.311(c)-1** Given that the adult and juvenile facilities are separate, per the standards each facility should have a designated PREA Compliance Manager. The juvenile facility does not have a designated PREA Compliance Manager. In selecting a PREA Compliance Manager, the individual should have sufficient time and authority to coordinate the facility's efforts to comply with the PREA Standards. Both the PREA Coordinator and PREA Compliance Manager should have the authority to delegate and require staff to complete tasks and comply with direction.

**The organizational structures between the adult facility and the juvenile facility should be separated to demonstrate the hierarchical designations, roles and responsibilities.**

**CORRECTIVE ACTION STEPS TAKEN:** The agency developed separate policies for the facilities under their jurisdiction. There is now a policy specific to the adult facility and one for the juvenile facility. There is also an organizational chart that delineates the persons responsible for overseeing and managing the adult facility versus the juvenile facility.

The agency operates the adult and juvenile detention facility. The PREA Coordinator is the PSU Lieutenant or a designee. The PREA Compliance Manager for the juvenile facility is the responsibility of the staff member in the Caption of Support position. The PREA Compliance Manager shall have sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards.

Interviews:

- Interim Director
- PREA Coordinator
- PREA Compliance Manager

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the agency and facility is not in compliance with this standard requiring a zero-tolerance policy toward sexual abuse and sexual harassment and the designation of a PREA Coordinator and PREA Compliance Manager. No corrective action is required.

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

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

### **115.312 (a)**

- If this agency is public and it contracts for the confinement of its residents with private agencies or other entities including other government agencies, has the agency included the entity's obligation to adopt and 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 residents.)  Yes  No  NA

### 115.312 (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 residents OR the response to 115.312(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.*

#### Interviews:

- DACDC Juvenile Pre-Audit Questionnaire
- Interim Director
- PREA Coordinator

DACDC does not contract with other agencies or departments to house juvenile residents. The facility serves pre-adjudicated youth and has the capacity to manage the low juvenile population serviced by the county.

#### Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the agency is in compliance with this standard regarding contracting with other entities for the confinement of residents.

## Standard 115.313: Supervision and monitoring

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

### 115.313 (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 residents against sexual abuse?  Yes  No

- Does the agency ensure that each facility has implemented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect residents 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 residents against sexual abuse?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: The prevalence of substantiated and unsubstantiated incidents of sexual abuse?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Generally accepted juvenile detention and correctional/secure residential practices?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Any judicial findings of inadequacy?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Any findings of inadequacy from Federal investigative agencies?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Any findings of inadequacy from internal or external oversight bodies?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: All components of the facility's physical plant (including "blind-spots" or areas where staff or residents may be isolated)?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: The composition of the resident population?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: The number and placement of supervisory staff?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Institution programs occurring on a particular shift?  Yes  No

- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Any applicable State or local laws, regulations, or standards?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Any other relevant factors?  Yes  No

#### 115.313 (b)

- Does the agency comply with the staffing plan except during limited and discrete exigent circumstances?  Yes  No
- In circumstances where the staffing plan is not complied with, does the facility document all deviations from the plan? (N/A if no deviations from staffing plan.)  Yes  No  NA

#### 115.313 (c)

- Does the facility maintain staff ratios of a minimum of 1:8 during resident waking hours, except during limited and discrete exigent circumstances? (N/A only until October 1, 2017.)  Yes  No  NA
- Does the facility maintain staff ratios of a minimum of 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances? (N/A only until October 1, 2017.)  Yes  No  NA
- Does the facility fully document any limited and discrete exigent circumstances during which the facility did not maintain staff ratios? (N/A only until October 1, 2017.)  Yes  No  NA
- Does the facility ensure only security staff are included when calculating these ratios? (N/A only until October 1, 2017.)  Yes  No  NA
- Is the facility obligated by law, regulation, or judicial consent decree to maintain the staffing ratios set forth in this paragraph?  Yes  No

#### 115.313 (d)

- 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: Prevailing staffing patterns?  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

### 115.313 (e)

- Has the facility 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? (N/A for non-secure facilities)  Yes  No  NA
- Is this policy and practice implemented for night shifts as well as day shifts? (N/A for non-secure facilities)  Yes  No  NA
- Does the facility 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? (N/A for non-secure facilities)  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.*

#### Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault

#### Documentation Reviewed During Onsite Phase of Audit

- Unannounced Rounds Documentation

115.313(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 5-6**

**CORRECTIVE ACTION: DACDC has included the staffing plan requirements in their policy; however, the facility has not implemented a staffing plan. The juvenile standards require the**

facility to develop, document, and make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing and where applicable, video monitoring, to protect residents against abuse. Each facility operated by DACDC shall have a staffing plan developed for each facility type (adult and juvenile).

The facility leaders are in the process of discussing contracting for service to complete a full facility staffing analysis. This auditor advised, for the purposes of this particular standard a staffing analysis is not necessary; however, the auditor supports the decision to have a full facility staffing analysis completed.

The auditor will share examples of staffing plans developed in various types of facilities to assist DACDC with the implementation of the policy and staffing plan.

CORRECTIVE ACTION STEPS TAKEN: A staffing plan dated August 14, 2019 indicates the agency employs one hundred seventy-eight (178) full time employees. When any post is not filled due to vacancies, the positions are filled by use of overtime. When a post is vacant due to the use of various leave types, the position is left vacant requiring the facility to operate under contingency plans.

A staffing analysis/plan was completed and delivered to the auditor in January 2020. The facility houses residents pending adjudication or serving a sentence. There were two hundred seventy-four (274) residents admitted to the facility in the 12 months prior to the onsite audit; two hundred twenty-six (226) whose length of stay in the facility was for 10 days or more. The resident population consists of males and females between the age of 12 and 17 years old. The minimum staff coverage is eight (8) staff members per shift; four (4) of the staff members are trained Dayroom Officers.

115.313(b)

**CORRECTIVE ACTION: DACDC will need to adopt a procedure to track and document all deviations from the staffing plan in those instances staffing is outside of what is required per their staffing plan.**

CORRECTIVE ACTION STEPS TAKEN: The agency updated the standard operating procedure that requires any deviations from the staffing plan to be documented on the post assignments form. The documentation will include documenting circumstances surrounding the deviation and will be reviewed by the Shift Lieutenant and forwarded through the chain of command. There is also a review process that will be conducted by the agency PREA Review Committee, which may result in modifications to the staffing plan.

115.313(c) A review of facility schedule and a comparison to the average daily population of residents show the facility consistently complies with the staffing ratios.

115.313(d) Once DACDC develops a staffing plan the existing policy requires at least once every year, and in collaboration with the PREA Coordinator, The Detention Center shall conduct an assessment to determine whether adjustments are needed to the staffing plan and the deployment of video monitoring systems and other technologies.

While the policy has the language requiring the completion of a staffing plan, the facility has not developed nor implemented said plan. DACDC will need to develop a staffing plan that will assess all elements required and the final staffing plan shall include a review by the PREA Coordinator and the director/interim director.

**B. Unannounced Rounds**

- 1) Supervisors shall conduct and document unannounced rounds covering all shifts, and all areas of the facility, to identify and deter staff sexual abuse or harassment. The Detention Center SOP prohibits staff members who are aware of these rounds from alerting other staff as to when or where these rounds are occurring, unless related to the legitimate operational needs of the facility.
- 2) The PREA Coordinator shall determine how and when the unannounced rounds will be conducted and shall review all documentation from the rounds.
- 3) The Shift Supervisor shall enter each unit for an unannounced round to identify staff sexual abuse and harassment at a minimum of once bi-weekly.
- 4) Actions by staff to alert colleagues that a supervisor is reroute to conduct unannounced rounds are prohibited.
- 5) The Shift Supervisor shall document their conducted rounds on (PREA Round Checklist) in the G drive. (This will be reviewed by the PREA Coordinator and/or Compliance Specialist at least once per month and documented in the JMS)

The facility utilizes a staffing pattern to achieve the required ratio levels to provide adequate resident supervision. The auditor reviewed daily assignments that demonstrated the staffing patterns comply with the 1:8 during waking hours and 1:16 during sleeping hours staffing ratios. The facility provided documentation to demonstrate the facility conducts unannounced rounds. Interviews with the PREA Coordinator, supervisors and random staff indicate they are aware of the policy which prohibits staff from alerting other staff of the unannounced round while it is being conducted. There was no indication from interviews or a review of documentation that the facility has had to address staff alerts with individual staff members or as a systemic issue. Resident interviews and the auditors observations indicate the residents frequently see supervisors throughout the facility and the residents have the ability to interact with supervisors when necessary.

**Interviews:**

- PREA Coordinator
- PREA Compliance Manager
- Intermediate or Higher-Level Facility Staff

Interviews with the PREA Coordinator confirm the agency/facility has not developed a staffing plan.

Interviews with intermediate and higher-level facility staff confirm the facility has a policy and practice in place requiring unannounced rounds. The rounds are documented and reviewed by the PREA Compliance Manager for completion. All interviewed staff and residents denied being aware of staff alerting others when unannounced rounds are being conducted.

**Conclusion:**

Based upon the review and analysis of the available evidence, the auditor has determined the facility is not in compliance with this standard regarding supervision and monitoring. No corrective action required.

## Standard 115.315: Limits to cross-gender viewing and searches

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

#### 115.315 (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

#### 115.315 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches in non-exigent circumstances?  Yes  No  NA

#### 115.315 (c)

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

#### 115.315 (d)

- Does the facility 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?  Yes  No
- Does the facility require staff of the opposite gender to announce their presence when entering a resident housing unit?  Yes  No
- In facilities (such as group homes) that do not contain discrete housing units, does the facility 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? (N/A for facilities with discrete housing units)  Yes  No  NA

#### 115.315 (e)

- Does the facility always refrain from searching or physically examining transgender or intersex residents for the sole purpose of determining the resident's genital status?  Yes  No
- If a resident's genital status is unknown, does the facility determine genital status during conversations with the resident, 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

### 115.315 (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 residents 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.*

#### Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault
- Training Attendance Sign-In Sheet
- PREA Training Curriculum

115.315(a)

**DACDC**

**Standard Operating Procedures**

**E. Cross Gender Viewing and Searches/Searches of Transgender Detainees**

1) Searches

- a. The facility shall not conduct cross-gender strip searches (meaning a search that requires a person to remove or arrange clothing so as to permit a visual inspection of their breasts, buttocks, or genitalia) 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.

Note: "Medical practitioner" means a health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice.

- b. Effective August 20, 2015 [or August 20, 2017 for a facility who rated capacity does not exceed 50 detainees] the facility shall not permit cross-gender pat-down searches (a running of the hands over the clothed body of a detainee by an employee to determine whether the individual possesses contraband) of female detainees, absent exigent circumstances. The facility shall not restrict female detainees' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision.

In the past 12 months the facility reports on the PAQ that there have been zero (0) cross-gender strip, pat or cross-gender visual body cavity searches of residents. During staff and resident interviews, it was made clear that the facility does not conduct cross-gender pat or strip searches and such practice is prohibited; except in exigent circumstances. A body cavity search, which means a search of the anal or genital opening shall not be conducted except in exigent circumstances or when performed by medical practitioners.

115.315(b) The policy does not allow cross-gender strip or pat searches, even in exigent circumstances.

During staff and resident interviews, it was confirmed that cross-gender strip searches do not occur within the facility.

115.315(c)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 7**

- c. The facility shall document all cross-gender visual searches and body cavity searches of detainees and all cross-gender pat-down searches of female detainees.

115.315(d)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

2) Viewing

- a. The facility shall enable detainees 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.

Interviews with the residents indicate staff members of the opposite gender consistently announce their presence when entering a housing unit. The residents described a process where the opposite gender staff will knock on the unit door to get the staff members attention and wait for clearance before opening and/or entering the housing unit. During the tour, the auditor had the ability to observe the practice and can confirm opposite gender staff knock and wait for clearance prior to walking on to the unit. The auditors observation was even if a resident is using the restroom the opposite gender staff member is asked to wait until the youth is done before entering.

115.315(e)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 7**

- d. No staff member shall conduct a search of a transgender or intersex detainee solely for the purpose of determining genital status. If the detainee's genital status is unknown, it may be determined during conversations with the detainee, 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.

The facility PAQ indicates the facility has not conducted a search of a resident who identifies as transgender or intersex for the sole purpose of determining the resident's genital status in the past 12 months. All interviews confirmed the practice of searching a youth to determine their genital status has never happened during their tenure with the county. The policy explicitly prohibits the search of transgender or intersex residents for the sole purpose of determining the resident's genital status.

115.315(f) Training records indicate PREA training was conducted on March 21, 2019.

Interviews:

- Interim Director
- PREA Coordinator
- Random Staff
- Resident who identifies as LGBTQI
- Random Residents

All resident and staff interviews confirm the facility does not allow cross-gender searches. The residents report if an opposite-gender staff member was to instruct them participate in a search they would not allow the search to occur and would inform someone. Additionally, the residents report they did not believe staff would ever attempt to engage in a cross-gender search because that would be unusual and would present as a red flag. The staff adamantly denied they have ever conducted or witnessed a cross-gender search.

All interviewed staff report receiving search procedure training and expressed feeling adequately trained.

During the onsite phase of the audit, the auditor witnessed the facility's opposite gender announcement practice. The auditor witnessed the staff announce themselves prior to completely entering the unit to ensure the residents are appropriately dressed; no one is in the shower and no one is in their room using the restroom.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is compliant with this standard regarding limits to cross-gender viewing and searches. No corrective action is required.

## Standard 115.316: Residents with disabilities and residents who are limited English proficient

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

### 115.316 (a)

- Does the agency take appropriate steps to ensure that residents 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: Residents who are deaf or hard of hearing?  Yes  No
- Does the agency take appropriate steps to ensure that residents 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: Residents who are blind or have low vision?  Yes  No
- Does the agency take appropriate steps to ensure that residents 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: Residents who have intellectual disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that residents 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: Residents who have psychiatric disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that residents 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: Residents who have speech disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that residents 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 residents 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 residents with disabilities including residents 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 residents with disabilities including residents 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 residents with disabilities including residents who: Are blind or have low vision?  Yes  No

#### 115.316 (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 residents 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

#### 115.316 (c)

- Does the agency always refrain from relying on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties under §115.364, or the investigation of the resident'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.*

Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault
- Doña Ana County Contractor for Goods and Services; Translation and Interpretation Services
- Doña Ana County *Sexual Abuse Behind Bars* Brochure (English and Spanish)
- Zero Tolerance Poster (English and Spanish)

115.316(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 10**

F. Detainees with Disabilities or Who Have Limited English Proficiency

1) Disabled Detainees

- a. The Detention Center shall take appropriate steps to ensure that detainees with disabilities have an equal opportunity to benefit from all aspects of the Detention Center efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include-when necessary to ensure effective communication with detainees who are deaf or hard of hearing-providing access to interpreters who can interpret effectively, accurately, and impartially.

Note: Detainees with disabilities includes detainees who are deaf, hard of hearing, blind or have low vision, and those who have intellectual, psychiatric, or speech disabilities.

115.316(b)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 10**

- b. In addition, The Detention Center shall ensure that written materials are provided in formats and through methods that ensure effective communication with detainees with disabilities.

115.316(c)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 10**

4) Use of Detainee Interpreters

- a. The Detention Center shall not rely on detainee interpreters, detainee readers, or other types of detainee assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise a detainee's safety, the performance of first-responder duties, or the investigation of a detainee's allegations.
- b. The County has a contract with Luna Consulting Agency, LLC to provide interpreter services.

The facility provided the auditor with a contract between DACDC and an agency that provides Interpretation and translation services. The contract was signed and went into effect in January 2020.

All interviews with the residents were conducted in English. The clients were fluent and felt comfortable communicating in English. The residents were asked if they are aware of any residents in the facility that are not English speakers, they all denied there were any non-English speaking youth and reported the majority of the youth were bilingual (English and Spanish). The majority of the staff interviewed were also bilingual Spanish speakers.

During the facility tour, the auditor observed posters strategically posted throughout the facility in English and Spanish. The facility PAQ indicated there were zero (0) instances where a resident was utilized as an interpreter, reader, or other type of resident assistance has been used in the past 12 months.

Interviews:

- Interim Director
- Random Staff
- Random Resident

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding residents with disabilities and residents who are limited English Proficient. No corrective action is required.

## Standard 115.317: Hiring and promotion decisions

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

#### 115.317 (a)

- Does the agency prohibit the hiring or promotion of anyone who may have contact with residents 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 residents 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 residents 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 residents 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 residents 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 residents who: Has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above?  Yes  No

#### 115.317 (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 residents?  Yes  No

#### 115.317 (c)

- Before hiring new employees, who may have contact with residents, does the agency: Perform a criminal background records check?  Yes  No
- Before hiring new employees, who may have contact with residents, does the agency: Consult any child abuse registry maintained by the State or locality in which the employee would work?  Yes  No
- Before hiring new employees, who may have contact with residents, 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

#### 115.317 (d)

- Does the agency perform a criminal background records check before enlisting the services of any contractor who may have contact with residents?  Yes  No
- Does the agency consult applicable child abuse registries before enlisting the services of any contractor who may have contact with residents?  Yes  No

### 115.317 (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 residents or have in place a system for otherwise capturing such information for current employees?  Yes  No

### 115.317 (f)

- Does the agency ask all applicants and employees who may have contact with residents 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 residents 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

### 115.317 (g)

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

### 115.317 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

Documentation Reviewed:

- Standard Operating Procedures 2A-29 Health Services, Sexual Assault
- Online Application

115.317(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 16**

B. Hiring and Promotion Practices

- 1) The Detention Center shall not hire or promote anyone who may have contact with detainees, or retain the services of any contractor who may have contact with detainees, who:
  - a. Has engaged in sexual abuse in prison, jail, lockup, community confinement facility, juvenile facility, or other institution; or
  - b. Has been convicted of, or civilly or administratively adjudicated for, engaging or attempting to engage in sexual activity in the community facilitated by force, threats of force, or coercion, or if the victim did not consent or was unable to consent.

The facility has one (1) employee responsible for conducting and maintaining all files for the background clearance check process. Once a candidate background check clears, the hiring manager will be notified and is allowed to move forward with making an offer. Most felonies are automatic disqualifiers. The human resource representative reports the agency has disqualified candidates in the past when the individual had too many misdemeanor offenses.

The agency hiring and promotion policy is comprehensive and meets the requirements of this standard. The hiring policy requires the completion of a background check for employees at every level. A review of background check clearance documents demonstrates the agency is in compliance with the standard.

115.317(b)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 16**

- 2) The Detention Center shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to retain the services of any contractor, who may have contact with detainees.

The agency policy requires the consideration of any incidents of sexual harassment when making hiring and promotion decisions, or to enlist the services of any contractor, who may have contact with the residents. Candidates for employment are required to answer and/or disclose PREA related conduct during the application and hiring process. A review of an agency application demonstrates the

application screens for a history of sexual misconduct that they may have been accused of within institutions and in communities.

115.317(c)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 16**

- 3) Before hiring new employees, who may have contact with detainees, The Detention Center shall:
  - a. Perform a criminal background records check; and
  - b. 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.

The facility PAQ indicates there were thirty-two (32) new employees hired in the past 12 months who may have contact with residents who have had criminal background records checks. While onsite, the auditor observed and reviewed background clearance check documentation for random staff, all documents reviewed cleared the agency background check.

**CORRECTIVE ACTION: The facility has not adopted a policy or practice that involves consulting the child abuse registry maintained by the State of New Mexico. The DACDC will be required to communicate with the New Mexico Children, Youth and Families Department to establish a practice that will allow the facility to contact the department to complete a background check that involves running the name of an employee in the child abuse registry to ensure there are no civil or administrative child abuse findings.**

115.317(d)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 16**

- 4) The Detention Center shall also perform a criminal background records check before retaining the services of any contractor who may have contact with detainees.

The agency policy requires the completion of a criminal background check as well as the child abuse registry be conducted prior to hiring an employee; however, the facility did not have this requirement implemented in to practice. Once a candidate has received a conditional offer the background check is initiated. The candidate cannot begin employment within the facility until all portions of the background check is complete. The facility PAQ shows there were eight (8) new contracts for services where criminal background record checks were conducted.

**CORRECTIVE ACTION: The facility has not adopted a policy or practice that involves consulting the child abuse registry maintained by the State of New Mexico. The DACDC will be required to communicate with the New Mexico Children, Youth and Families Department to establish a practice that will allow the facility to contact the department to complete a background check**

that involves running the name of an employee in the child abuse registry to ensure there are no civil or administrative child abuse findings.

**To Demonstrate Compliance:**

The facility will need to provide records that the contactors who are providing services for the residents cleared a child abuse registry background check.

CORRECTIVE ACTION STEPS TAKEN: DADC and New Mexico's Children Youth and Families Department agree to a limited inquiry and disclosure process, which will allow DACJDC to submit to CYFD the name and other sufficient personally identifying information of an otherwise qualified applicant for employment with DACJDC. CYFD will either confirm or deny that a DACJDC applicant has been adjudicated to have engaged in or attempted to engage in activity prohibited by the PREA Juvenile Detention Standards.

All current Doña Ana Detention staff have undergone a CYFD child abuse registry check. According to the PREA Coordinator all staff cleared the registry. Going forward all new hires will complete the child abuse registry as part of the background check. The auditor reviewed a sample of the child abuse registry authorization form that granted the agency permission to collect the information. CYFD indicates on the form that the employee or potential employee has a record of no substantiated finding of sexual abuse or a substantiated finding of sexual abuse.

115.317(e)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 16**

- 5) The Detention Center shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with detainees or have in place a system for otherwise capturing such information for current employees.

115.317(g)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 16**

- 6) The Detention Center shall ask all applicants and employees who may have direct contact with detainees about previous misconduct described in this section, in:
  - a. Written application and/or interviews for hiring or promotion; and
  - b. Interviews or written self-evaluations conducted as part of reviews of current employees.
- 7) The Detention Center shall impose on its current employees a continuing affirmative duty to disclose any of the misconduct described in this section.
- 8) Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

Interviews:

- PREA Coordinator

- Human Resources/Background Clearance Staff
- Random Staff

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is not in compliance with this standard regarding hiring and promotion decisions. No corrective action is required.

## Standard 115.318: Upgrades to facilities and technologies

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

### 115.318 (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 residents 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

### 115.318 (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 residents 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.*

Interviews:

- Interim Director

According to the Interim Director the Doña Ana County Detention Center is approximately 25 years old. The county was recently involved in evaluating the possibility of installing energy conservation to improve the infrastructure of existing structures. The purpose of the project is to enhance energy.

According to the PAQ, the facility has not made any substantial expansions or modifications since the add-on of the juvenile facility. The Interim Director stated that when designing, acquiring, or planning substantial modifications to the facility

The county is slated to contract for services to replace locking mechanisms on the doors and possibly updating existing cameras. Once the cameras are updated, DACDC will update the policy to ensure all staff will have the capability to monitor the equipment.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the agency and facility is in compliance with this standard regarding upgrades to facilities and technologies. No corrective action is required.

## RESPONSIVE PLANNING

### Standard 115.321: Evidence protocol and forensic medical examinations

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

#### 115.321 (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

#### 115.321 (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

#### 115.321 (c)

- Does the agency offer all residents who experience 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

#### 115.321 (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

#### 115.321 (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

#### 115.321 (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

#### 115.321 (g)

- Auditor is not required to audit this provision.

## 115.321 (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? (Check N/A if agency attempts to make a victim advocate from a rape crisis center available to victims per 115.321(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.*

#### Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault
- MOU between DACDC and La Piñon Sexual Assault Recovery Services of Southern New Mexico

115.321(a) The DACDC is responsible for conducting administrative sexual abuse investigations. All criminal investigations will be referred to and conducted by the Doña Ana County Sheriff's Office when the act is resident on resident. When the allegation involves staff on resident the allegation will be referred to the New Mexico State Police for an investigation.

A review of the websites for the Sheriff's Office and the state police show there are crime victims' units responsible for conducting sexual assault investigations following the appropriate uniform evidence protocol. The protocol is developmentally appropriate for the youth at DACDC.

The agency/facility PAQ indicates they are responsible for only conducting administrative sexual abuse investigations. Criminal investigations are conducted by the Doña Ana County Sheriff's Office. The sheriff's office follows a uniform evidence protocol consistent with law enforcement agencies sexual abuse crimes unit protocols. The agency follows a uniform evidence protocol for first responders that maximizes the potential for obtaining usable physical evidence for both administrative and criminal prosecutions. The staff were able to articulate their first responder duties, which demonstrated they understand the need to secure the scene to protect and preserve evidence.

115.321(c)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 28**

13) Evidence Protocol and Forensic Medical Exams

- b. The Detention Center shall offer all victims of sexual abuse access to forensic medical examinations, without financial cost to the victim, 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 Detention Center shall document its efforts to provide SAFEs or SANEs for this purpose.

The DACDC PAQ shows there were zero (0) forensic medical exams conducted in the past 12 months. DACDC has an established MOU with La Piñon the community advocacy center. An interview with a representative from the agency indicated if a resident were to make a request for a victim advocate, services would be provided and would be individualized to meet the residents needs. There are no costs to the resident associated with the services provided.

115.321(d) The DACDC has entered into a MOU with La Piñon Sexual Assault Recovery Service of Southern New Mexico. The agreement states, SANE exams will be offered as an option for DACDC residents at no cost; all cost will be incurred by DACDC.

115.321(e) The MOU between DACDC and La Piñon Sexual Assault Recovery Service of Southern New Mexico states La Piñon will dispatch a Victim Advocate on-call to make someone available when a resident makes a request.

The facility PAQ, interviews with the PREA Coordinator and the facility director (Lieutenant) indicated if a resident were to make a request for a victim advocate, a staff member would accompany and support a resident through the forensic examination process and investigatory interviews.

Interviews:

- SANE Staff
- Random Staff

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding evidence protocol and forensic medical examinations. No corrective action is required.

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

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

**115.322 (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

**115.322 (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

**115.322 (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 115.321(a).]  
 Yes  No  NA

**115.322 (d)**

- Auditor is not required to audit this provision.

**115.322 (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.*

Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault
- Doña Ana County Sheriff's Office website – Criminal Investigations Division

115.322(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 25**

8) Administrative investigations:

- Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and
- Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
- Shall be referred for prosecution if there are substantiated allegations of conduct that appear to be criminal.
- The Detention Center shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated in administrative investigations.

9) Criminal investigations: Shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.

The PAQ shows the facility received six (6) allegations of sexual abuse and sexual harassment in the past 12 months. A review of the incidents shows the majority of the allegations were resident-on-resident sexual harassment allegations. An administrative investigation was completed for every allegation, zero (0) were referred for a criminal investigation. All investigations were complete at the time of the onsite phase of the audit. Interviews with the PREA Coordinator, facility director and interim agency director confirm each one would ensure an administrative and criminal investigation would take place for all sexual abuse and sexual harassment allegations that may have violated a law.

**CORRECTIVE ACTION: The policy language should instruct the staff where they are required to document sexual abuse or sexual harassment allegations or provide the auditor with the appropriate policy that provides guidance to staff on documenting incidents.**

**CORRECTIVE ACTION STEPS TAKEN:** The agency updated standard operating procedure 2A-29 (Sexual Assaults) to include language that requires the staff to immediately inform their supervisor and

document the allegations on a written report that must be submitted to the shift supervisor by the end of the shift in which the allegation was reported.

A review of the agency website shows there were updates made during the final report writing phase to comply with the standard. The updates include a link to the sexual abuse prevention policy, a brief explanation of the investigation procedures and annual data reports.

115.322(b)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 25**

**F. Investigation of Incidents [§ 115.21(a)(b)(c)(f) and(h), 115.22, 115.71, 115.72, 115.73 and 115.86]**

- 1) The Detention Center shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.
- 2) It is The Detention Center SOP 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.
- 3) When the Detention Center conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.
- 4) Where sexual abuse is alleged, The Detention Center shall use investigators who have received special training in sexual abuse investigations pursuant to Section 6. A. (Employee Training) of this procedure.
- 5) Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; interview alleged victims, suspected perpetrators, and witnesses, and review prior complaints and reports of sexual abuse involving the suspected perpetrator.
- 6) When the quality of evidence appears to support criminal prosecution, The Detention Center shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

**CORRECTIVE ACTION: A review of the DACDC website shows the investigation policy is not published on the website.**

**CORRECTIVE ACTION STEPS TAKEN:** A review of the agency website also indicates the facility updated the website, which includes a link to the policy.

The agency policy regarding the referral of allegation of sexual abuse or sexual harassment for a criminal investigation is published on the agency website at

<https://www.donaanacounty.org/detention/prea/policies>. The facility provided the auditor with the

documented allegations of sexual abuse and sexual harassment that resulted in an administrative and criminal investigation. The documented reports included the names of involved parties, date, time and the details of the allegation.

Interviews:

- Interim Director
- Investigative Staff
- PREA Coordinator

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding policies to ensure referrals of allegations for investigations. No corrective action is required.

## TRAINING AND EDUCATION

### Standard 115.331: Employee training

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

#### 115.331 (a)

- Does the agency train all employees who may have contact with residents on: Its zero-tolerance policy for sexual abuse and sexual harassment?  Yes  No
- Does the agency train all employees who may have contact with residents 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 residents on: Residents' right to be free from sexual abuse and sexual harassment  Yes  No
- Does the agency train all employees who may have contact with residents on: The right of residents 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 residents on: The dynamics of sexual abuse and sexual harassment in juvenile facilities?  Yes  No
- Does the agency train all employees who may have contact with residents on: The common reactions of juvenile victims of sexual abuse and sexual harassment?  Yes  No
- Does the agency train all employees who may have contact with residents on: How to detect and respond to signs of threatened and actual sexual abuse and how to distinguish between consensual sexual contact and sexual abuse between residents?  Yes  No

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

#### 115.331 (b)

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

#### 115.331 (c)

- Have all current employees who may have contact with residents 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

#### 115.331 (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 Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault
- PREA Training Curriculum
- Electronic Training Records

115.331(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 33**

## 12. STAFF TRAINING AND DETAINEE EDUCATION

The Detention Center is committed to communicating to the detainees at its jail, to its employees, and to contractors and volunteers, the following information through the training, education and orientation programs described in this section:

- The Detention Center zero tolerance SOP;
- The Detention Center policies to prevent, detect, and respond to sexual abuse and sexual harassment; and
- Other rights and obligations under this SOP

### A. Employee Training (§ 115.31]

- 1) Detention Center shall train all employees who may have contact with detainees on:
  - a. Its zero-tolerance SOP for sexual abuse, sexual harassment and retaliation;
  - b. How to fulfill their responsibilities regarding prevention, detection, reporting, and response to sexual abuse and sexual harassment;
  - c. Detainees' right to be free from sexual abuse and sexual harassment;

- d. The right of detainees and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
- e. The dynamics of sexual abuse and sexual harassment in confinement;
- f. The common reactions of sexual abuse and sexual harassment victims;
- g. How to detect and respond to signs of threatened and actual sexual abuse;
- h. How to avoid inappropriate relationships with detainees;
- i. How to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees;
- j. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

**CORRECTIVE ACTION: The policy does not require the training to cover relevant laws regarding the applicable age of consent.**

CORRECTIVE ACTION STEPS TAKEN: A review of the training curriculum demonstrated the staff training was updated and includes the staff mandatory reporter/duty to report responsibility per the State of New Mexico statute.

115.331(b) A review of the training curriculum show the training is tailored to the unique needs and attributes and gender of the residents at the facility. The juvenile facility serves male and female youth between the age of 12-17 years old. The training curriculum contains appropriate information for staff working with juveniles. The training was updated and now includes the staff member's responsibility to report actual and suspected child abuse to the appropriate authority for an investigation. The facility provided training records to indicate the staff received PREA training.

115.331(c) Staff interviews consistently confirm the employees receive annual PREA training that covers the relevant training topics. The PAQ indicates the facility maintains documentation confirming that employees who may have contact with residents receive training and refresher training on the PREA requirements annually.

**The facility PAQ shows there are 259 staff employed by the facility, who may have contact with residents, who were trained or retrained on the PREA requirements. The facility should separate the employee count between the two facilities (adult and juvenile) operated by Doña Ana County to ensure the staff working in the juvenile facility is trained using the appropriate curriculum.**

115.331(d) **CORRECTIVE ACTION: Develop documentation of employee's signatures or electronic verification signifying comprehension of the training.**

CORRECTIVE ACTION STEPS TAKEN: Training certificates and training logs were provided to demonstrate staff completed PREA training in September 2019. The training includes the agencies gender-based assignments (female staff only work with female residents and vice versa for male residents) and how to work with specific genders.

Electronic training records as well as attendance sign-in sheets were provided for the auditor to review for the 2018 and 2019 training calendar year. The sign-in sheet has a place for the attendee to print and sign their name; however, it is not clear if the attendee signature is to indicate they signed the form acknowledging they received and understand their role and responsibilities.

**RECOMMENDATION: Update the training attendance roster or implement a training acknowledgment form with a statement that the signature acknowledges the attendee understands the training received and commits to adhering to the PREA standards and agency policy.**

Interviews:

- PREA Coordinator
- Specialized Staff
- Random Staff

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with the standard regarding employee training. No corrective action is required.

## Standard 115.332: Volunteer and contractor training

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

### 115.332 (a)

- Has the agency ensured 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?  Yes  No

### 115.332 (b)

- Have all volunteers and contractors who have contact with residents 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 residents)?  Yes  No

### 115.332 (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.*

#### Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault
- PREA Training Curriculum

115.332(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 36**

#### **Volunteer and Contractor Training [§ 115.32]**

- 1) The Detention Center shall ensure that all volunteers and contractors who have contact with detainees have been trained on their responsibilities under The Detention Center sexual abuse and sexual harassment prevention, detection, and response procedures.
- 2) The level and type of training provided to volunteers and contractors shall be based on the services they provide and the level of contact they have with detainees, but all volunteers and contractors who have contact with detainees shall be notified of Doña Ana County zero-tolerance SOP regarding sexual abuse and sexual harassment and how to report such incidents.
- 3) The Detention Center shall maintain documentation confirming that volunteers and contractors understand the training they have received

**According to the PAQ, there are 165 contractors and volunteers, who have contact with residents, who have been trained in the agency's policies and procedures regarding sexual abuse and sexual harassment prevention, detection and response. The facility should break down the numbers of contractors and volunteers between the juvenile facility and adult jail to ensure the individuals providing services in the juvenile detention facility are appropriately trained.**

**CORRECTIVE ACTION: To demonstrate compliance the facility will need to provide the auditor with training logs or signed acknowledgement forms from the previous 12 months to present day for contractors and volunteers.**

**CORRECTIVE ACTION STEPS TAKEN:** The facility provided the auditor with 60 training acknowledgment forms from 2019, demonstrating contract and volunteer staff received PREA training. The signed acknowledgement form also indicates the signee understands the training material, were afforded the opportunity to ask questions, and acknowledging they will comply with the applicable laws and the county related policies.

Contract and volunteer staff also completed the National Institute of Corrections (NIC) training, "PREA: Your Role Responding to Sexual Abuse". Training certificates were provided to demonstrate compliance.

Interviews with contract staff indicate there has consistently been training provided that is consistent with the PREA training provided to county employees. The training included the zero-tolerance policy, how to make a report, duty as a non-security first responder and appropriate documentation.

The volunteer interview indicates prior to accessing the facility and initiating contact with the detainees they received training and a portion of the training included PREA. The training involved the PREA zero-tolerance policy, reporting responsibilities and maintaining professional boundaries relationships with the detainees.

Interviews:

- Contract Staff (Medical)
- Volunteer (Chaplain Assistant)

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding volunteer and contractor training. No corrective action is required.

## Standard 115.333: Resident education

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

### 115.333 (a)

- During intake, do residents receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment?  Yes  No
- During intake, do residents receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment?  Yes  No
- Is this information presented in an age-appropriate fashion?  Yes  No

### 115.333 (b)

- Within 10 days of intake, does the agency provide age-appropriate comprehensive education to residents either in person or through video regarding: Their rights to be free from sexual abuse and sexual harassment?  Yes  No

- Within 10 days of intake, does the agency provide age-appropriate comprehensive education to residents either in person or through video regarding: Their rights to be free from retaliation for reporting such incidents?  Yes  No
- Within 10 days of intake, does the agency provide age-appropriate comprehensive education to residents either in person or through video regarding: Agency policies and procedures for responding to such incidents?  Yes  No

#### 115.333 (c)

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

#### 115.333 (d)

- Does the agency provide resident education in formats accessible to all residents including those who: Are limited English proficient?  Yes  No
- Does the agency provide resident education in formats accessible to all residents including those who: Are deaf?  Yes  No
- Does the agency provide resident education in formats accessible to all residents including those who: Are visually impaired?  Yes  No
- Does the agency provide resident education in formats accessible to all residents including those who: Are otherwise disabled?  Yes  No
- Does the agency provide resident education in formats accessible to all residents including those who: Have limited reading skills?  Yes  No

#### 115.333 (e)

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

#### 115.333 (f)

- In addition to providing such education, does the agency ensure that key information is continuously and readily available or visible to residents through posters, resident 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:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault
- DACDC Resident/Juvenile Detainee Handbook (Revised: July 1, 2018)

115.333(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 35**

#### **Detainee Orientation and Education [§ 115.33]**

- 1) During the intake process, detainees shall receive information explaining The Detention Center zero-tolerance SOP regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

The facility PAQ shows there were 274 residents admitted to the facility in the past 12 months who received PREA information upon intake.

115.333(c)

- 2) Within 30 days of intake, The Detention Center shall provide comprehensive education to detainees either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents.

The auditor was informed by the PREA Coordinator that the residents watch the PREA video every Monday to ensure compliance with the standard. During interviews with the residents it became clear that at some point the facility would show the video every Monday, but at the time of the onsite audit this practice did not appear to be implemented. All interviewed residents report they had not watched a PREA video and was unsure if the video was available on the Telmate Tablet System.

**CORRECTIVE ACTION: The policy is not compliant with the juvenile PREA standards which requires the facility to provide education within 10 days of intake. The auditor suggests separating the DACDC juvenile detention PREA policy from the DACDC adult detention policy.**

**The facility will have to demonstrate compliance with this provision of the standard by adopting an acknowledgement form the residents will sign upon completion of the education they receive within the 10 days of their intake.**

CORRECTIVE ACTION STEPS TAKEN: The facility submitted signed attendance forms that require the signature of every resident present during the showing of the video. The form includes the date the PREA education was provided, the name and a signature line for the supervisor responsible for ensuring the residents received the PREA education.

115.333(d)

- 3) The Detention Center shall provide detainee education in formats accessible to all detainees, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to detainees who have limited reading skills.

115.333(f)

- 4) In addition to providing such education, The Detention Center shall ensure that key information is continuously and readily available or visible to detainees through posters, detainee handbooks, and Telmate Tablet System.

During the facility tour, the auditor observed PREA posters including audit announcement strategically posted throughout the facility. The interviewed residents report they recall seeing the posters and a few acknowledged they have read the posters.

Resident handbook does not have PREA information.

Resident interviews indicated the residents receive PREA information at intake and posters are visible throughout the facility. The residents state the information they receive informs them of their right to be free from sexual abuse and sexual harassment; how to report, and their right to be free from retaliation when they participate in sexual abuse and sexual harassment allegations.

Interviews:

- Random Staff
- Residents

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding resident education. No corrective action is required.

## **Standard 115.334: Specialized training: Investigations**

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

**115.334 (a)**

- In addition to the general training provided to all employees pursuant to §115.331, 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 115.321(a).]  Yes  No  NA

#### 115.334 (b)

- Does this specialized training include: Techniques for interviewing juvenile sexual abuse victims? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.321(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 115.321(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 115.321(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 115.321(a).]  Yes  No  NA

#### 115.334 (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 115.321(a).]  Yes  No  NA

#### 115.334 (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.

Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault
- One (1) Training Certificate

115.334(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 34**

Specialized Training: Investigators [§ 115.34]

- a. In addition to the general training provided to all employees, The Detention Center shall ensure that, to the extent it 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.

A review of investigator training records provided to the auditor included one training certificate, but that certificate was not for the investigative staff assigned to the juvenile detention facility.

**CORRECTIVE ACTION: The policy does not require training that requires sexual abuse evidence collection in confinement settings, or the criteria and evidence required to substantiate a case for administrative action or prosecution referral. Since the facility does conduct administrative investigations, the policy should adopt the appropriate level of training to comply with how to collect evidence required to substantiate a case for administrative action.**

**The facility will need to ensure the 1 investigator assigned to the juvenile detention facility has completed the required training. Compliance can be demonstrated through a certification or training log.**

**PREA Online Training can be accessed on the following website:**

<https://nic.learn.com/learncenter.asp?id=178416&page=1>

**CORRECTIVE ACTION STEPS TAKEN:** The agency provided the auditor with eleven (11) training certificates from September and October of 2019. One of the training certificates demonstrated the juvenile facility investigator has been appropriately trained. The certificates show the agency investigators completed the National Institute of Corrections (NIC) training, "PREA: Investigating Sexual Abuse in Confinement Setting: Advanced Investigations". The NIC training includes interviewing juvenile sexual abuse victims, proper use of the *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.

Interviews:

- Two Investigators
- PREA Coordinator
- PREA Compliance Manager

An interview with the juvenile detention facility investigator reports she received the appropriate training at least three years prior to the onsite audit. Based on the investigators report, the auditor would suggest she participate in the online training as a refresher to ensure she has up-to-date and relevant training information.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding specialized training for investigations. No corrective action is required.

## Standard 115.335: Specialized training: Medical and mental health care

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

### 115.335 (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 juvenile 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

### 115.335 (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

### 115.335 (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

### 115.335 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.331?  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 §115.332?  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:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault
- Standard Operating Procedures 7B-05 Training and Development; Staff Training

115.335(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 35**

#### 5) Specialized Training: Medical and Mental Health Professionals [§ 115.35]

The Detention Center shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facility have been trained in:

- a. How to detect and assess signs of sexual abuse and sexual harassment;

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

The PAQ indicates the facility has 65 medical and mental health care practitioners who work regularly at the facility. Based on interviews with the PREA Coordinator and medical/mental health staff there is one professional assigned to the juvenile facility and in that person's absence someone from the department will fill-in. Both the assigned staff member and any individual who will fill-in for any reason should receive the appropriate PREA training (115.331) according to the juvenile standards as well as the specialized training per 115.335.

115.335(b) According to the PAQ and medical staff interviews the DACDC medical practitioners are not allowed to conduct a forensic examination. Should a detainee require a SANE exam, they would be transported off-site to a SANE clinic.

115.335(c)

- 6) The Detention Center shall document, through employee signature or electronic verification, that employees have received and understand the training. In the case of investigators who investigate sexual abuse in the facility, it shall maintain documentation they have completed the required specialized training in sexual abuse investigations. In the case of medical and mental health practitioners, it shall maintain documentation that they have received the specialized training described in this section.

**CORRECTIVE ACTION: The facility did not provide the auditor with medical and mental health care training documentation showing the practitioners have completed the required training. DACDC will need to provide training certificates and/or training logs.**

**PREA Online Training can be accessed on the following website:**

<https://nic.learn.com/learncenter.asp?id=178416&page=1>

**CORRECTIVE ACTION STEPS TAKEN:** The facility provided the auditor with training certificates demonstrating the facility medical and mental health staff completed the NIC training, "Medical Health Care for Sexual Assault Victims in a Confinement Setting" and "Mental Health Care for Sexual Assault Victims in a Confinement Setting". All training was completed in September and October 2019.

Interviews with medical staff confirm forensic exams are not conducted at the facility and any resident to make a report of sexual abuse and the report was made in enough time to collect evidence, the resident will be transported to an external SANE clinic. It was also confirmed during the interview that the medical staff have received PREA training that is required of all employees as well as the required specialized training.

Interviews:

- Contract Staff (Medical)

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding specialized training for medical and mental health care. No corrective action is required.

## SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

### Standard 115.341: Screening for risk of victimization and abusiveness

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

#### 115.341 (a)

- Within 72 hours of the resident's arrival at the facility, does the agency obtain and use information about each resident's personal history and behavior to reduce risk of sexual abuse by or upon a resident?  Yes  No
- Does the agency also obtain this information periodically throughout a resident's confinement?  Yes  No

#### 115.341 (b)

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

#### 115.341 (c)

- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Prior sexual victimization or abusiveness?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Current charges and offense history?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Age?  Yes  No

- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Level of emotional and cognitive development?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Physical size and stature?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Mental illness or mental disabilities?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Intellectual or developmental disabilities?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Physical disabilities?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: The resident's own perception of vulnerability?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents?  Yes  No

#### 115.341 (d)

- Is this information ascertained: Through conversations with the resident during the intake process and medical mental health screenings?  Yes  No
- Is this information ascertained: During classification assessments?  Yes  No
- Is this information ascertained: By reviewing court records, case files, facility behavioral records, and other relevant documentation from the resident's files?  Yes  No

#### 115.341 (e)

- 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 resident's detriment by staff or other residents?  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:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault
- Page 2 of the Risk Screening Tool

115.341(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 10**

#### **G. Screening of Detainees Risk of Victimization and Abusiveness [§ 115.41]**

1. All detainees shall be assessed during an intake screening and upon transfer from another facility for their risk of being sexually abused by other detainees or sexually abusive toward other detainees.
2. Intake screening shall ordinarily take place within 24 hours of arrival at the facility.
3. Such assessments shall be conducted using an objective screening instrument.
4. The intake screening shall consider, at a minimum, the following criteria to assess detainees for risk of sexual victimization:
  - a. Whether the detainee has a mental, physical, or developmental disability;
  - b. The age of the detainee;
  - c. The physical build of the detainee;
  - d. Whether the detainee has previously been incarcerated;
  - e. Whether detainee's criminal history is exclusively nonviolent;
  - f. Whether the detainee has prior convictions for sex offenses against an adult or child;
  - g. Whether the detainee is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming
  - h. Whether the detainee has previously experienced sexual victimization;
  - i. The detainee's perception of his or her own vulnerability to sexual abuse or sexual harassment; and
  - j. Whether the detainee is detained solely for civil immigration purposes.

The PAQ shows there were 274 residents who entered the facility in the past 12 months. During resident interviews all reported the facility completed the screening for risk of victimization and

abusiveness for all residents the weekend prior to the onsite audit. The reports seemed to indicate prior to that time the residents had not been assessed for victimization or abusiveness. The policy requires all relevant criteria are assessed; however, an example of the risk screening tool does not demonstrate all required criteria are actively being assessed on the screening tool.

**CORRECTIVE ACTION:**

**Step 1: DACDC will need to update the current risk of victimization and abusiveness tool to ensure every criterion required per the standard is included in the assessment tool. Once updated the facility will need to provide a copy to the auditor for review.**

**Step 2: DACDC will need to submit an updated and complete risk of victimization and abusiveness for 10 residents per month during the corrective action period to demonstrate compliance with this provision of the standard.**

**CORRECTIVE ACTION STEPS TAKEN:** The facility updated the risk screening tool and process for gathering the information. The facility practice is to screen all residents immediately upon intake. The initial screening will consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse known to DCDC.

The facility provided the auditor with an updated risk assessment tool, which demonstrated the objective risk screening tool screens for the criterion required per the standard is included. A sample of the assessment tools were provided to demonstrate the residents are being appropriately screened and assessed.

115.341(b)

- 7) A detainee's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the detainee's risk of sexual victimization or abusiveness.

Interviews with the intake staff indicate the risk victimization and abusiveness screening tool is administered within one hour of the resident's admission to the facility. The screening tool is utilized to assist with the room assignment for the residents on their assigned unit. The screening tool is completed for all new intakes rather they are being admitted to the facility from the community or transferred from another facility.

Interviews:

- Intake Staff
- Random Residents

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding screening for risk of victimization and abusiveness. No corrective action is required.

## **Standard 115.342: Use of screening information**

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

### 115.342 (a)

- Does the agency use all of the information obtained pursuant to § 115.341 and subsequently, with the goal of keeping all residents safe and free from sexual abuse, to make: Housing Assignments?  Yes  No
- Does the agency use all of the information obtained pursuant to § 115.341 and subsequently, with the goal of keeping all residents safe and free from sexual abuse, to make: Bed assignments?  Yes  No
- Does the agency use all of the information obtained pursuant to § 115.341 and subsequently, with the goal of keeping all residents safe and free from sexual abuse, to make: Work Assignments?  Yes  No
- Does the agency use all of the information obtained pursuant to § 115.341 and subsequently, with the goal of keeping all residents safe and free from sexual abuse, to make: Education Assignments?  Yes  No
- Does the agency use all of the information obtained pursuant to § 115.341 and subsequently, with the goal of keeping all residents safe and free from sexual abuse, to make: Program Assignments?  Yes  No

### 115.342 (b)

- Are residents isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until an alternative means of keeping all residents safe can be arranged?  Yes  No
- During any period of isolation, does the agency always refrain from denying residents daily large-muscle exercise?  Yes  No
- During any period of isolation, does the agency always refrain from denying residents any legally required educational programming or special education services?  Yes  No
- Do residents in isolation receive daily visits from a medical or mental health care clinician?  Yes  No
- Do residents also have access to other programs and work opportunities to the extent possible?  Yes  No

### 115.342 (c)

- Does the agency always refrain from placing: Lesbian, gay, and bisexual residents in particular housing, bed, or other assignments solely on the basis of such identification or status?  Yes  No
- Does the agency always refrain from placing: Transgender residents in particular housing, bed, or other assignments solely on the basis of such identification or status?  Yes  No

- Does the agency always refrain from placing: Intersex residents in particular housing, bed, or other assignments solely on the basis of such identification or status?  Yes  No
- Does the agency always refrain from considering lesbian, gay, bisexual, transgender, or intersex identification or status as an indicator or likelihood of being sexually abusive?  Yes  No

#### 115.342 (d)

- When deciding whether to assign a transgender or intersex resident to a facility for male or female residents, does the agency consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether a placement would present management or security problems (NOTE: if an agency by policy or practice assigns residents 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 residents, does the agency consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether a placement would present management or security problems?  Yes  No

#### 115.342 (e)

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

#### 115.342 (f)

- Are each transgender or intersex resident'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

#### 115.342 (g)

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

#### 115.342 (h)

- If a resident is isolated pursuant to paragraph (b) of this section, does the facility clearly document: The basis for the facility's concern for the resident's safety? (N/A for h and i if facility doesn't use isolation?)  Yes  No  NA
- If a resident is isolated pursuant to paragraph (b) of this section, does the facility clearly document: The reason why no alternative means of separation can be arranged? (N/A for h and i if facility doesn't use isolation?)  Yes  No  NA

### 115.342 (i)

- In the case of each resident who is isolated as a last resort when less restrictive measures are inadequate to keep them and other residents safe, 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.*

#### Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault
- Standard Operating Procedures 2A-30 Classification (Screening & Housing)
- Classification Interview Form

115.342(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 12-13**

#### H. Use of Information Obtained from Screening [§ 115.42]

- 1) The Detention Center shall use information from the risk screening to inform housing, bed, work, education, and program assignments with the goal of keeping separate those detainees at high risk of being sexually victimized from those at high risk of being sexually abusive.

The facility PAQ indicates there were zero (0) residents at risk of sexual victimization who were placed in isolation in the past 12 months. This was confirmed through interviews with the PREA Coordinator, Investigator, Facility Director, random staff and resident interviews. During the facility tour the auditor did not see a separate isolation area. It was communicated during random staff interviews that residents would be placed in their sleeping rooms should they require separation from their peers for their own safety or the safety of others.

An interview with the intake staff member responsible for completing the risk screening assessment confirm the facility uses the information from the risk screen during intake to make housing decisions intended to keep detainees safe and free from sexual abuse and sexual harassment.

115.342(b)

- 2) The Detention Center shall make individualized determinations about how to ensure the safety of each detainee.

The PAQ indicates there were zero (0) residents at risk of sexual victimization who were placed in isolation in the past 12 months. Interviews with intake staff responsible for completing the risk screening tool confirm the facility uses the information from the risk screening tool during intake to keep residents safe and free from sexual abuse and sexual harassment, but will not place a resident in isolation/seclusion. During the facility tour the auditor did not observe isolation/seclusion rooms or a pod designated to isolate residents. Should a resident require temporary isolation/seclusion, the resident would be placed in their sleeping room and will be monitored by the staff assigned to the unit.

115.342(c)

- 7) The Detention Center shall not place lesbian, gay, bisexual, transgender, or intersex detainees in dedicated facilities, units, or wings solely on the basis of such identification or status unless pursuant to a legal settlement or judgement.

**RECOMMENDATION: The facility risk screening or classification tool does not ascertain the resident's sexual orientation. Since this particular population is at greater risk of being sexually abused and sexually harassed, the facility should gather the information to ensure the residents safety. The facility should add questions to the risk screening or classification tool to understand a resident's sexual orientation prior to making a housing or room assignment decision to ensure the residents safety.**

115.342(d)

- 4) Placement and programming assignments for each transgender or intersex detainee shall be reassessed at least twice each year to review any threats to safety experienced by the detainee.
- 5) A transgender or intersex detainee's own view with respect to his or her own safety shall be given serious consideration.
- 6) Transgender and intersex detainees shall be given the opportunity to shower separately from other detainees.

Interviews:

- Intake Staff
- Random Staff
- Random Resident

According to the PAQ, if a resident at risk of sexual victimization is held in isolation/seclusion, the facility will afford the resident a review every 30 days to determine whether there is a continuing need for separation

from the general population. There were zero residents at risk of sexual victimization held in isolation in the past 12 months prior to the onsite phase of the audit.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding use of screening information. No corrective action is required.

## REPORTING

### Standard 115.351: Resident reporting

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

#### 115.351 (a)

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

#### 115.351 (b)

- Does the agency also provide at least one way for residents 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 resident reports of sexual abuse and sexual harassment to agency officials?  Yes  No
- Does that private entity or office allow the resident to remain anonymous upon request?  Yes  No
- Are residents detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security to report sexual abuse or harassment?  Yes  No

#### 115.351 (c)

- Do staff members accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties?  Yes  No

- Do staff members promptly document any verbal reports of sexual abuse and sexual harassment?  Yes  No

#### 115.351 (d)

- Does the facility provide residents with access to tools necessary to make a written report?  Yes  No
- Does the agency provide a method for staff to privately report sexual abuse and sexual harassment of residents?  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:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault
- DACDC Resident/Juvenile Detainee Handbook (Revised: July 1, 2018)
- MOU between DACDC and La Piñon Sexual Assault Recovery Services of Southern New Mexico

115.351(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 18**

#### **Procedures for Reporting Sexual Abuse and Sexual Harassment**

##### A. Detainee Reporting

- 1) Ways for Detainees to Report Incidents [§ 115.51 (a), (b), and (c)]:

- a. The Detention Center shall provide multiple internal ways for detainees to privately report sexual abuse and sexual harassment, retaliation by other detainees or staff for reporting sexual abuse or sexual harassment, and staff neglect that may have contributed to such incidents. Detainees may report concerns by:
  - i. File notification through the Telmate Tablet System
  - ii. Report to a staff member
  - iii. Third Party reporting to an outside entity not affiliated with the detention facility by calling the same unit at (575) 526-3437 or 888-595-7273.

DACDC provides the residents with multiple internal methods to report a private and confidential report of sexual abuse and sexual harassment, retaliation by other residents and staff neglect or violation of responsibilities that may have contributed to the incident. The internal reporting methods include making a verbal or written report to any staff member and/or file a grievance.

115.351(b) DACDC has established a MOU with La Piñon Sexual Assault Recovery Services of Southern New Mexico, which allows the residents to report abuse or harassment. A review of the MOU does not show La Piñon accepts reports of sexual abuse, sexual harassment or retaliation for reporting sexual abuse or sexual harassment.

DACDC also established an intergovernmental agreement with the New Mexico Corrections Department (NMCD). The purpose of the agreement is to establish the process and protocols whereby a resident under the jurisdiction of DACDC may contact NMCD to report sexual abuse or sexual harassment, which report NMCD will forward to DACDC as soon as is reasonably possible.

115351(c)

- b. Staff shall accept reports made verbally, in writing, and anonymously from third parties and shall promptly document any verbal reports.

All interviewed staff confirmed they would accept a report of sexual abuse and sexual harassment that is made verbally, in writing and any report where the resident or third-party reporter would like to remain anonymous. The staff state the report would be documented immediately when possible and prior to the end of the employees shift.

115.351(d) DACDC residents have access to writing utensils as well as the Telmate Tablet System. The residents can file a grievance and make a report of sexual abuse or sexual harassment utilizing the Telmate Tablet System. There is no cost associated with the Telmate Tablet System to the resident and their access to the tablet is mostly unrestricted.

115.351(e)

## 2) Staff Reporting Rules [§ 115.51(d) and § 115.61]

- a. Any staff member who has knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment; retaliation against detainees or staff who reported such an incident; and any staff neglect that may have contributed to such incident or

retaliation, shall immediately report such incident or retaliation, in the manner specified by The Detention Center SOP.

- b. Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone except as specified by The Detention Center SOP.

Note: Medical and mental health practitioners shall report knowledge, suspicion, or information regarding sexual abuse, sexual harassment, retaliation, or staff neglect pursuant to this section. This information shall be provided to detainees, in writing, at the initiation of services.

- a. The Detention Center shall provide a method for staff to privately report sexual abuse and sexual harassment of detainees [S 115.51 (d)]

- 2) Rules for Third Parties to Report Abuse and to Assist Detainees with Notifications [§ 115.51(c), § 115.52 (e), and § 115.54]

The PAQ indicates the facility staff has the ability to privately report sexual abuse and sexual harassment of residents by contacting the Ethics Hotline. During random staff interviews no one mentioned the Ethics Hotline as a reporting mechanism. All mentioned they felt comfortable reporting directly to their supervisor or higher up the chain of command if the allegation involves their supervisor.

**RECOMMENDATION: The auditor recommend sending a memorandum to DACDC staff to educate them about the Ethics Hotline as a reporting mechanism.**

Interviews:

- Random Staff
- Random Residents

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance this standard regarding resident reporting. Residents are provided with numerous ways to report both internally and externally. No corrective action is required.

## Standard 115.352: Exhaustion of administrative remedies

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

### 115.352 (a)

- Is the agency exempt from this standard? NOTE: The agency is exempt ONLY if it does not have administrative procedures to address resident grievances regarding sexual abuse. This does not mean the agency is exempt simply because a resident 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

### 115.352 (b)

- Does the agency permit residents 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 a resident 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

### 115.352 (c)

- Does the agency ensure that: A resident 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

### 115.352 (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 residents in preparing any administrative appeal.) (N/A if agency is exempt from this standard.)  Yes  No  NA
- If the agency determines that the 90-day timeframe is insufficient to make an appropriate decision and claims an extension of time [the maximum allowable extension of time to respond is 70 days per 115.352(d)(3)], does the agency notify the resident 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 resident does not receive a response within the time allotted for reply, including any properly noticed extension, may a resident 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

### 115.352 (e)

- Are third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, permitted to assist residents 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 residents? (If a third party, other than a parent or legal guardian, files such a request on behalf of a resident, 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 resident declines to have the request processed on his or her behalf, does the agency document the resident's decision? (N/A if agency is exempt from this standard.)  
 Yes  No  NA
- Is a parent or legal guardian of a juvenile allowed to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such juvenile? (N/A if agency is exempt from this standard.)  Yes  No  NA
- If a parent or legal guardian of a juvenile files a grievance (or an appeal) on behalf of a juvenile regarding allegations of sexual abuse, is it the case that those grievances are not conditioned upon the juvenile agreeing to have the request filed on his or her behalf? (N/A if agency is exempt from this standard.)  Yes  No  NA

#### 115.352 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that a resident 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 a resident 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 resident 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

#### 115.352 (g)

- If the agency disciplines a resident for filing a grievance related to alleged sexual abuse, does it do so ONLY where the agency demonstrates that the resident 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.*

#### Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault
- PREA Case Log

115.352(a)

#### **DACDC**

#### **Standard Operating Procedures**

#### **S.O.P. 2A-29**

#### **Page 13, 18-20**

e. The Detention Center shall ensure that:

- i. A detainee who alleges sexual abuse may submit a notification without submitting it to a staff member who is the subject of the complaint, and
- ii. Such notification is not referred to a staff member who is the subject of the complaint.

115.352(b)

- c. The Detention Center shall not impose a time limit on when a detainee may submit a notification regarding an allegation of sexual abuse.

115.352(c)

- d. The Detention Center shall not require a detainee to use any informal notification process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

115.352(d)

- f. The Detention Center shall issue a final decision on the merits of any portion of a notification alleging sexual abuse within 90 days of the initial filing of the notification. Computation of the 90-day time period shall not include time consumed by detainees in preparing any administrative appeal.

115.352(g)

- i. The Detention Center may discipline a detainee for filing a notification related to alleged sexual abuse only where the agency demonstrates that the detainee filed the notification in bad faith.

The PAQ shows the facility received six (6) grievances in the past 12 months and a final decision was reached within 90 days after the grievance was filed. All grievances received a final decision with 5 days after the grievance was filed. The PAQ also shows there were zero grievances filed by a resident that the facility determined was filed in bad faith in the past 12 months.

Interviews:

- PREA Coordinator

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding exhaustion of administrative remedies. No corrective action is required.

## Standard 115.353: Resident access to outside confidential support services and legal representation

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

#### 115.353 (a)

- Does the facility provide residents with access to outside victim advocates for emotional support services related to sexual abuse by providing, posting, or otherwise making assessable 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 residents and these organizations and agencies, in as confidential a manner as possible?  Yes  No

#### 115.353 (b)

- Does the facility 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?  Yes  No

### 115.353 (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 residents 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

### 115.353 (d)

- Does the facility provide residents with reasonable and confidential access to their attorneys or other legal representation?  Yes  No
- Does the facility provide residents with reasonable access to parents or legal guardians?  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:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault
- DACDC Resident/Juvenile Detainee Handbook
- Zero Tolerance Poster (English and Spanish)

115.353(a)

**DACDC**

**Standard Operating Procedures**

## E. Support Services for Victims of Sexual Abuse

### 1) Victim Advocate [§ 115.21(d)(e) and (h)]

- a. The Detention Center shall attempt to make available to the victim an advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocacy services, The Detention Center shall make available a qualified staff member from a community-based organization, or a qualified agency staff member to provide these services.

Note: A "qualified agency staff member" or a "qualified community-based staff member" means an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general.

- b. When requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany the victim throughout the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.

### 2) Emotional Support Services [S 115.53]

- a. The facility shall provide detainees with access to outside victim advocates for emotional support services related to sexual abuse by giving detainees mailing addresses and telephone numbers, including toll-free hotline numbers, where available, of local, State, or national victim advocacy or rape crisis organizations, and for persons detained solely for civil immigration purposes, immigrant services agencies. The facility shall enable reasonable communication between detainees and these organizations and agencies, in as confidential a manner as possible.

### 115.353(b)

- b. The facility shall inform detainees, prior to giving them access to outside advocates, of the extent to which such communications shall be monitored and the extent to which reports of abuse shall be forwarded to authorities in accordance with mandatory reporting laws.

DACDC residents would be made aware of their rights and ability to have access to outside victim advocates for emotional support services related to sexual abuse when they are being provided crisis intervention services within the facility. At the time the resident would be presented with all options to support their needs.

115.353(c) The facility has established a MOU and maintains a signed copy of the MOU with La Piñon Sexual Assault Recovery Service of Southern New Mexico. The facility MOU will allow residents to request the services of an advocate or contact the agency directly. The resident does not have direct access to a telephone and would have to make arrangements with staff to complete the phone call. Interviews with random staff and residents show the resident would be able to make the phone call with limited confidentiality.

113.353(d) A review of the resident handbook shows that phone calls with legal, Legal Disability of New Mexico, and Officer of the Inspector General are subject to being recorded and monitored. This practice will ensure legal conversations are private and confidential.

Interviews:

- PREA Coordinator
- PREA Compliance Manager
- Random Residents

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding resident access to outside confidential support services and legal representation. No corrective action is required.

## Standard 115.354: Third-party reporting

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

#### 115.354 (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 a resident?  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:

- PREA Coordinator

During the facility tour, the auditor observed reporting information is made available through posters that are strategically posted throughout the facility. DACDC has an agency website; however, the website does not provide visitors to the website with PREA information or any information about how to make a third-party report.

**CORRECTIVE ACTION: DACDC will need to update the agency website with PREA information, which explains what PREA is, the agency PREA policy, third-party reporting mechanisms and the roles and responsibilities of the investigative entities.**

CORRECTIVE ACTION STEPS TAKEN: The agency created a PREA link on the website. The website includes PREA information, third-party reporting information, PREA policies, and investigation process. The PREA website can be found at: <https://www.donaanacounty.org/detention/prea>

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding third-party reporting. No corrective action is required.

## OFFICIAL RESPONSE FOLLOWING A RESIDENT REPORT

### Standard 115.361: Staff and agency reporting duties

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

#### 115.361 (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 residents 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

#### 115.361 (b)

- Does the agency require all staff to comply with any applicable mandatory child abuse reporting laws?  Yes  No

#### 115.361 (c)

- Apart from reporting to designated supervisors or officials and designated State or local services agencies, are staff prohibited 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

#### 115.361 (d)

- Are medical and mental health practitioners required to report sexual abuse to designated supervisors and officials pursuant to paragraph (a) of this section as well as to the designated State or local services agency where required by mandatory reporting laws?  Yes  No
- Are medical and mental health practitioners required to inform residents of their duty to report, and the limitations of confidentiality, at the initiation of services?  Yes  No

#### 115.361 (e)

- Upon receiving any allegation of sexual abuse, does the facility head or his or her designee promptly report the allegation to the appropriate office?  Yes  No
- Upon receiving any allegation of sexual abuse, does the facility head or his or her designee promptly report the allegation to the alleged victim's parents or legal guardians unless the facility has official documentation showing the parents or legal guardians should not be notified?  Yes  No
- If the alleged victim is under the guardianship of the child welfare system, does the facility head or his or her designee promptly report the allegation to the alleged victim's caseworker instead of the parents or legal guardians? (N/A if the alleged victim is not under the guardianship of the child welfare system.)  Yes  No  NA
- If a juvenile court retains jurisdiction over the alleged victim, does the facility head or designee also report the allegation to the juvenile's attorney or other legal representative of record within 14 days of receiving the allegation?  Yes  No

#### 115.361 (f)

- 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.*

### Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault

115.361(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 20**

#### 2) Staff Reporting Rules [8 115.51(d) and § 115.61]

- a. Any staff member who has knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment; retaliation against detainees or staff who reported such an incident; and any staff neglect that may have contributed to such incident or retaliation, shall immediately report such incident or retaliation, in the manner specified by The Detention Center SOP.

During staff interviews the staff confirmed they are required to report any knowledge, suspicion, or information they receive 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. According to the PAQ, and interviews with staff, the evidence shows the facility follows this provision of the standard.

115.361(b) All staff interviews report they would report all knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment.

**CORRECTIVE ACTION: The policy does not have a statement that requires DACDC employees to comply with the state of New Mexico mandatory child abuse reporting laws.**

**CORRECTIVE ACTION STEPS TAKEN:** standard operating procedure 2A-29 (Sexual Assaults) to include language that requires any staff member who has knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment to comply with the State of New Mexico mandatory child abuse reporting laws.

115.361(c)

- b. Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone except as specified by The Detention Center SOP.

Interviews:

- Interim Director
- Medical & Mental Health Staff
- Random Staff

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding staff and agency reporting duties. No corrective action is required.

## Standard 115.362: Agency protection duties

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

#### 115.362 (a)

- When the agency learns that a resident is subject to a substantial risk of imminent sexual abuse, does it take immediate action to protect the resident?  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:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault

115.362(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 13**

## 6. Protection of Detainees Facing Substantial Risk

- 1) Upon Learning of Substantial Risk [§ 115.62] When the Detention Center learns that a detainee is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the detainee.

The PREA Coordinator confirmed immediate action would be taken to protect a resident who is subject to a substantial risk of imminent sexual abuse. The facility has the ability to put protective measures in place, which would include separating the potential victim from the potential aggressor. The facility would respond immediately of learning of the threat. According to the PAQ, there were zero (0) incidents of the facility determining that a resident was subject to substantial risk of imminent sexual abuse in the 12 months preceding the audit.

### Interviews:

- Interim Director
- PREA Coordinator
- PREA Compliance Manager
- Random Staff

### Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding agency protection duties. No corrective action is required.

## Standard 115.363: Reporting to other confinement facilities

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

#### 115.363 (a)

- Upon receiving an allegation that a resident 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
- Does the head of the facility that received the allegation also notify the appropriate investigative agency?  Yes  No

#### 115.363 (b)

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

#### 115.363 (c)

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

#### 115.363 (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.*

#### Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault

115.363(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 32**

#### **I. Notifying Other Confinement Agencies (§ 115.63]**

- 1) Upon the Detention Center receiving an allegation that a detainee was sexually abused while confined at another facility, the head of The Detention Center shall notify the head of the facility or agency where the alleged abuse occurred.

**CORRECTIVE ACTION: The agency policy does not require that the head of the facility notify the appropriate investigative agency. The language will need to be added to the policy.**

**CORRECTIVE ACTION STEPS TAKEN:** standard operating procedure 2A-29 (Sexual Assaults) to include language stating, "Upon the Detention Center receiving an allegation that a resident was sexually abused while confined at another facility, the head of the Detention Center shall notify the head of the facility or agency where the alleged abuse occurred. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation."

In the past 12 months, the facility received zero allegations that a resident was abused while confined at another facility. This was confirmed during interviews with the Interim Director, PREA Coordinator and the intake staff members.

115.363(b)

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

115.363(c)

- 2) The Detention Center shall document that it has provided such notification.

The facility received zero allegations from other facilities of sexual abuse in the past 12 months.

Interviews:

- Interim Director

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding reporting to other confinement facilities. No corrective action is required.

## Standard 115.364: Staff first responder duties

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

#### 115.364 (a)

- Upon learning of an allegation that a resident 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 a resident 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 a resident 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 a resident 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

#### 115.364 (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.*

#### Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault

115.364(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 21**

#### **C. Immediate Steps After Receiving Report of Incident [§ 115.64 and § 115.82 (b)]**

- 1) When a security staff first-responder learns that a detainee has been sexually abused, they shall take immediate action to protect the detainee. This includes:
  - a. Separate the detainee from the alleged perpetrator;
  - b. Preserve and protect any crime scene until appropriate steps can be taken to collect evidence; and
  - c. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim-and ensure that the alleged abuser-not take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and

- d. If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall immediately notify the appropriate medical and mental health practitioners. [115.82 (b)]

According to the PAQ, there were six allegations of sexual abuse. All six allegations involved a security staff member responding to the report by separating the alleged victim and abuser.

One (1) allegation involved a resident making a request to have a SANE exam completed; however, the resident was reluctant to cooperate with the DACDC administrative investigation. As a result of their lack of cooperation the investigator had to review video to make a finding and determine if the resident required transportation for a SANE exam. Zero allegations involved the collection of physical evidence.

The staff adequately communicated to the auditor, the steps they would take to respond to an allegation of sexual abuse.

115.364(b)

- 2) When the first staff responder is not a security staff member, they shall request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.

Zero allegations were made in the past 12 months that a non-security staff member was the first responder. The information documented on the PAQ was confirmed during the interview with the PREA Coordinator.

Interviews:

- Staff First Responders
- Random Staff

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding staff first responder duties. No corrective action is required.

## Standard 115.365: Coordinated response

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

115.365 (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.*

**CORRECTIVE ACTION: The facility has not 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.**

**CORRECTIVE ACTION STEPS TAKEN:** The facility updated the agency standard operating procedure (Sexual Assault) to include very specific steps and guidelines for staff at every level to appropriately respond to an imminent risk of and allegations of sexual abuse.

The auditor reviewed the facility's coordinated response plan, which provides step-by-step guidance that should be followed by the: security staff first responder, facility supervisor or PREA Coordinator, medical/mental health staff, shift supervisor, transport officer and the resident programs department. The coordinated plan instructs the supervisor to consult with a Sexual Assault Nurse Examiner, law enforcement investigator, and the facility medical staff when the need for a forensic exam is not immediately apparent to determine if a forensic exam is necessary. At every level the staff are instructed to, "Share information related to the incident with only those people who need to know in order to ensure the victim's safety, conduct the investigation, or provide treatment to the victim or alleged perpetrator. The first responder is responsible for immediately reporting to the supervisor and documenting the allegations in a report.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding a coordinated response to an incident of sexual abuse. No corrective action is required.

## Standard 115.366: Preservation of ability to protect residents from contact with abusers

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

### 115.366 (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 residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted?  Yes  No

### 115.366 (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.*

#### Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Collective Bargaining Agreement between Doña Ana County and American Federation of State, County and Municipal Employees, Council 18, Local 1529

DACDC has a collective bargaining agreement with the American Federation of State, County, and Municipal Employees, Council 18, Local 1529. The collective bargaining agreement was amended in January 2018. The amendment addressed shift bidding for detention officers and sergeants.

An interview with the Interim Director states the detention center administrators have the ability to terminate an employee who was found to have violated the agency PREA policy without the need to negotiate an agreement with a union representative.

#### Interviews:

- Interim Director

#### Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding the preservation of ability to protect residents from contact with abusers. No corrective action is required.

## Standard 115.367: Agency protection against retaliation

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

#### 115.367 (a)

- Has the agency established 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?  Yes  No
- Has the agency designated which staff members or departments are charged with monitoring retaliation?  Yes  No

#### 115.367 (b)

- Does the agency employ multiple protection measures for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations, 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?  Yes  No

#### 115.367 (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 residents 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 residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents 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 resident 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: Resident 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: Resident 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

#### 115.367 (d)

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

#### 115.367 (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

#### 115.367 (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.*

#### Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault

115.367(a)  
**DACDC**

**G. Protection from Retaliation [§ 115.67]**

Note: For rules regarding reporting by detainees and staff of retaliation after it has occurred, see Section 7. A. (Procedures for Reporting Sexual Abuse/Sexual Harassment) above.

- 1) The Detention Center SOP is to protect all detainees and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other detainees or staff.

**CORRECTIVE ACTION: The facility has not designated a staff member(s) or department with monitoring for possible retaliation. DACDC will need to formally designate a staff or department with monitoring for possible retaliation to protect residents and staff who report or cooperate with a sexual abuse and sexual harassment allegation.**

CORRECTIVE ACTION STEPS TAKEN: The agency updated standard operating procedure 2A-29 (Sexual Assaults) designating the Program Department as the entity responsible for monitoring for possible retaliation. The monitoring would take place for at least 90 days following a report of sexual abuse.

DACDC has designated the Inmate Programs Department as the entity responsible for monitoring possible retaliation. When there is a determination that a resident or staff member is a victim of retaliation when reporting or cooperating in an investigation of sexual abuse or sexual harassment a report should immediately be reported to the Caption of Operations.

115.367(c)

- 2) The Detention Center shall employ multiple protection measures, such as housing changes or transfers for detainee victims or abusers, removal of alleged staff or detainee abusers from contact with victims, and emotional support services for detainees or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
- 3) For at least 90 days following a report of sexual abuse, The Detention Center shall monitor the conduct and treatment of detainees or staff who reported sexual abuse, and of detainees who were reported to have suffered sexual abuse, to see if there are changes that may suggest possible retaliation by detainees or staff, and shall act promptly to remedy any such retaliation.

The Detention Center shall continue such monitoring beyond 90 days if the initial monitoring indicates an ongoing need. Monitoring shall include:

- a. Periodic in-person conversations with detainees and/or staff;
- b. Review of disciplinary incidents involving detainees;
- c. Review of housing or program changes; and
- d. Review of negative performance reviews or reassignments of staff.

The PAQ shows of the six (6) allegations of sexual abuse and sexual harassment there were zero (0) incidents of retaliation that occurred in the past 12 months. Staff and resident interviews confirm they are unaware of retaliation against a resident or staff member in general, but more specifically a reporter or witness to sexual abuse or sexual harassment.

Interviews:

- Interim Director
- PREA Coordinator
- Random Staff Interviews
- Random Resident Interviews

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding agency protection against retaliation. No corrective action is required.

## Standard 115.368: Post-allegation protective custody

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

#### 115.368 (a)

- Is any and all use of segregated housing to protect a resident who is alleged to have suffered sexual abuse subject to the requirements of § 115.342?  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:

- DACDC Juvenile Pre-Audit Questionnaire

- Standard Operating Procedures 2A-29 Health Services, Sexual Assault

115.368(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

- 4) Any use of segregated housing to protect a detainee who is alleged to have suffered sexual abuse shall be subject to the same requirements that are discussed above in Section 4.G(3) (Protective Custody).

The PAQ indicates there were zero residents who alleged to have suffered sexual abuse resulting in them being placed in isolation in the past 12 months. The PREA Coordinator confirmed this information and reports the detention center would not use isolation as a protective measure to keep a resident safe from sexual abuse or sexual harassment, or a victim who reported sexual abuse or sexual harassment. During a tour of the facility the auditor did not observe an isolation/seclusion pod or area. The staff report when there is a need to isolate a resident for their safety or the safety of other residents, the juvenile would be secured in their room until the threat has been mitigated.

**CORRECTIVE ACTION: The policy language does not state residents who allege to have suffered sexual abuse may only be placed in isolation as a last resort if less restrictive measures are inadequate to keep them and other residents safe, and only until an alternative means of keeping all residents safe can be arranged.**

**The policy will need to include the requirements that residents who are placed in isolation because they allege to have suffered sexual abuse have access to legally required educational programming, special education services, and daily large-muscle exercise.**

**CORRECTIVE ACTION STEPS TAKEN:** The agency updated standard operating procedure 2A-29 (Sexual Assaults) to include language providing guidance to staff for post-allegation protective custody. Anytime the facility places a resident in segregated housing who alleged to have suffered sexual abuse can only be utilized as a last resort when less restrictive measures are inadequate.

The DACDC juvenile facility has four (4) "Lockdown" room statuses; 1) Cool down, 2) Pre-Disciplinary Lockdown, Disciplinary Lockdown and Special Management. Residents may be placed on Special Management with the approval of the Juvenile Manager for a period to be determined by the Juvenile Manager. Residents on special management status are not allowed to attend school, recreation or participate in dayroom activities with the other residents. Education will be conducted in the dayroom for the resident on special management, and all other programming rights will be allowed as normal.

The facility is required to make its best efforts to ensure residents receive daily large muscle exercise and any legally-required educational programming or special education services. Residents in isolation are required to receive daily visits from a medical or mental health care clinician, who is required to document the visit and other pertinent information.

Interviews:

- PREA Coordinator

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding post-allegation protective custody. No corrective action is required.

## INVESTIGATIONS

### Standard 115.371: Criminal and administrative agency investigations

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

#### 115.371 (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 115.321(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 115.321(a).]  Yes  No  NA

#### 115.371 (b)

- Where sexual abuse is alleged, does the agency use investigators who have received specialized training in sexual abuse investigations involving juvenile victims as required by 115.334?  Yes  No

#### 115.371 (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

#### 115.371 (d)

- Does the agency always refrain from terminating an investigation solely because the source of the allegation recants the allegation?  Yes  No

### 115.371 (e)

- 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

### 115.371 (f)

- 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 resident or staff?  
 Yes  No
- Does the agency investigate allegations of sexual abuse without requiring a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding?  Yes  No

### 115.371 (g)

- 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

### 115.371 (h)

- 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

### 115.371 (i)

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

### 115.371 (j)

- Does the agency retain all written reports referenced in 115.371(g) and (h) for as long as the alleged abuser is incarcerated or employed by the agency, plus five years unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention?  
 Yes  No

### 115.371 (k)

- 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

### 115.371 (l)

- Auditor is not required to audit this provision.

### 115.371 (m)

- 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 115.321(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.*

#### Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault

115.371(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 25**

### **F. Investigation of Incidents [S§ 115.21(a)(b)(c)(f) and(h), 115.22, 115.71, 115.72, 115.73 and 115.86]**

- 1) The Detention Center shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.
- 2) It is The Detention Center SOP 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.

- 3) When the Detention Center conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.

DACDC conducts administrative investigations and the local law enforcement agencies conduct the criminal investigations. Whenever an employee, contractor, volunteer, or intern is alleged to have committed or reports witnessing sexual abuse or sexual harassment, a trained investigator will conduct the administrative investigation. The PAQ indicates there were zero substantiated allegations of conduct that appeared to be criminal and resulted in criminal prosecution in the past 12 months. Interviews with the investigator confirm there were zero (0) allegations that she investigated where there was a determination that a crime was committed.

115.371(j)

8) Administrative investigations:

- a. Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and
- b. Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
- c. Shall be referred for prosecution if there are substantiated allegations of conduct that appear to be criminal.
- d. The Detention Center shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated in administrative investigations.

- 9) Criminal investigations: Shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible; and

Facility interviews confirm any allegations of sexual abuse or sexual harassment shall be reported immediately to a supervisor and a written report must be submitted to the shift supervisor by the end of the shift in which the allegation was reported. The administrative investigators are required to gather and preserve direct and circumstantial evidence; including electronic monitoring data, interview alleged victims, suspected perpetrators, and witnesses; and review prior complaints and reports of sexual abuse involving the suspected perpetrator.

Interviews:

- PREA Coordinator
- Investigative Staff

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding criminal and administrative agency investigations. No corrective action is required.

## Standard 115.372: Evidentiary standard for administrative investigations

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

### 115.372 (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.

Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault

115.372(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 26**

8) Administrative investigations:

- Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and
- Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

- c. Shall be referred for prosecution if there are substantiated allegations of conduct that appear to be criminal.
- d. The Detention Center shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated in administrative investigations.

According to the PAQ and interviews with the investigator, DACDC imposes a standard of preponderance of the evidence or a lower standard of proof for determining whether allegations of sexual abuse or sexual harassment are substantiated. DACDC did not have any substantiated findings for sexual abuse or sexual harassment allegations; however, a review of the reports provided to the auditor show the agency does not impose a standard of preponderance of the evidence when determining whether an allegation is substantiated. This was demonstrated through documentation and the findings of the allegation after a thorough investigation.

Interviews:

- Investigative Staff

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding evidentiary standard for administrative investigations. No corrective action is required.

## Standard 115.373: Reporting to residents

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

#### 115.373 (a)

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

#### 115.373 (b)

- If the agency did not conduct the investigation into a resident'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 resident? (N/A if the agency/facility is responsible for conducting administrative and criminal investigations.)  Yes  No  NA

#### 115.373 (c)

- Following a resident'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 resident's unit?  Yes  No

- Following a resident'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 a resident'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 a resident'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

#### 115.373 (d)

- Following a resident's allegation that he or she has been sexually abused by another resident, 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 a resident's allegation that he or she has been sexually abused by another resident, 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

#### 115.373 (e)

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

#### 115.373 (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.*

Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault
- Completed Investigative Finding Sheet

115.373(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 27**

16) Following a detainee's allegation that a staff member committed sexual abuse against him or her, The Detention Center shall subsequently inform the detainee whenever:

- a. The staff member is no longer posted within the detainee's unit;
- b. The staff member is no longer employed at the facility;
- c. The Detention Center learns that the staff member has been charged with or indicted on a charge related to sexual abuse within the facility; or
- d. The Detention Center learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

17) Following a detainee's allegation that he or she has been sexually abused by another detainee, The Detention Center shall subsequently inform the alleged victim whenever:

- a. The Detention Center learns that the alleged abuser has been charged with or indicted on a charge related to sexual abuse within the facility; or
- b. The Detention Center learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

The facility conducted six administrative investigations of alleged resident sexual abuse that was completed in the past 12 months. According to the PAQ, of the investigations completed all six resulted in a notification of the results of the investigation to the resident, five notifications were documented. DACDC provided the auditor with documented notifications that have been provided to residents who have reported sexual abuse allegations.

DACDC referred zero allegations of sexual abuse or sexual harassment to an outside agency for an investigation in the past 12 months. All child abuse allegations would be reported to the New Mexico Children, Youth and Families Department (CYFD) statewide central intake hotline at 1-855-333-SAFE [7233]).

Interviews:

- Investigative Staff
- PREA Coordinator

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding reporting to residents. No corrective action is required.

## DISCIPLINE

### Standard 115.376: Disciplinary sanctions for staff

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

#### 115.376 (a)

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

#### 115.376 (b)

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

#### 115.376 (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

#### 115.376 (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.*

#### Documentation Reviewed:

- Standard Operating Procedures 2A-29 Health Services, Sexual Assault

115.376(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 31**

### H. Sanctions for Individuals Found to have Participated in Sexual Abuse or Harassment

- 1) Disciplinary Sanctions for Staff [§ 115.76]
  - a. Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.
  - b. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.
  - c. Disciplinary sanctions for violations of The Detention Center policies relating to sexual abuse or sexual harassment shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
  - d. 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, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

115.376(b) According to the PAQ, staff are subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.

115.376(c) According to the PAQA, 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.

There have been zero (0) staff from the facility that have been disciplined, short of termination, for violation of agency sexual abuse or sexual harassment policies.

115.376(d) According to the PAQ, all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for the resignation, are reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

There have been zero (0) staff from the facility that have been reported to law enforcement or licensing boards following their termination (or resignation prior to termination) for violating agency sexual abuse or sexual harassment policies.

The PREA Coordinator and juvenile detention center Lieutenant confirmed all sexual abuse allegations will be investigated, even if the suspected perpetrator resigns or otherwise leaves employment.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding disciplinary sanctions for staff. No corrective action is required.

## Standard 115.377: Corrective action for contractors and volunteers

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

### 115.377 (a)

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with residents?  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

### 115.377 (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 residents?  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:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault

115.377(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 31**

#### **2) Corrective Action for Contractors and Volunteers [§ 115.77]**

- a. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with detainees and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.
- b. The facility shall take appropriate remedial measures and shall consider whether to prohibit further contact with detainees, in the case of any other violation of The Detention Center sexual abuse or sexual harassment policies by a contractor or volunteer.

According to the PAQ, the DACDC policy requires that any contractor or volunteer who engages in sexual abuse will 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 residents, and the facility takes appropriate remedial measures and considers whether to prohibit further contact with residents in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer. There were no contractors or volunteers reported to law enforcement agencies and relevant licensing bodies for engaging in sexual abuse of residents in the 12 months preceding the audit.

The interviews indicate the facility would take action in the case of any violation of sexual abuse or sexual harassment policies by a contractor or volunteer. The facility would prevent any contractor or volunteer from having contact with the residents pending the conclusion of an investigation.

Interviews:

- Interim Director
- PREA Coordinator

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding corrective action for contractors and volunteers. No corrective action is required.

## Standard 115.378: Interventions and disciplinary sanctions for residents

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

#### 115.378 (a)

- Following an administrative finding that a resident engaged in resident-on-resident sexual abuse, or following a criminal finding of guilt for resident-on-resident sexual abuse, may residents be subject to disciplinary sanctions only pursuant to a formal disciplinary process?  
 Yes  No

#### 115.378 (b)

- Are disciplinary sanctions commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories?  Yes  No
- In the event a disciplinary sanction results in the isolation of a resident, does the agency ensure the resident is not denied daily large-muscle exercise?  Yes  No
- In the event a disciplinary sanction results in the isolation of a resident, does the agency ensure the resident is not denied access to any legally required educational programming or special education services?  Yes  No
- In the event a disciplinary sanction results in the isolation of a resident, does the agency ensure the resident receives daily visits from a medical or mental health care clinician?  Yes  No
- In the event a disciplinary sanction results in the isolation of a resident, does the resident also have access to other programs and work opportunities to the extent possible?  Yes  No

#### 115.378 (c)

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

### 115.378 (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 offer the offending resident participation in such interventions?  Yes  No
- If the agency requires participation in such interventions as a condition of access to any rewards-based behavior management system or other behavior-based incentives, does it always refrain from requiring such participation as a condition to accessing general programming or education?  Yes  No

### 115.378 (e)

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

### 115.378 (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

### 115.378 (g)

- Does the agency always refrain from considering non-coercive sexual activity between residents to be sexual abuse? (N/A if the agency does not prohibit all sexual activity between residents.)  
 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.*

### Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire

- Standard Operating Procedures 2A-29 Health Services, Sexual Assault

115.378(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 32**

**3) Disciplinary Sanctions for Detainees [§ 115.78]**

- a. Detainees shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the detainee engaged in detainee-on-detainee sexual abuse or following a criminal finding of guilt for detainee-on-detainee sexual abuse.
- b. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the detainee's disciplinary history, and the sanctions imposed for comparable offenses by other detainees with similar histories.

According to the PAQ, there have been zero administrative or criminal findings of resident-on-resident sexual abuse allegations that have occurred at the facility in the past 12 months. Of the residents interviewed none reported receiving any sanctions as a result of a sexual abuse allegation.

The resident handbook states, "Any detainee who commits an act that is a violation of any local, state or federal law may be held administratively accountable through detention sanctions as well as criminal prosecution for that act."

115.378(e)

- e. The Detention Center may discipline a detainee for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

115.378(f)

- f. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident, even if an investigation does not establish evidence sufficient to substantiate the allegation.

115.378(g)

According to the PAQ, the agency prohibits all sexual activity between residents and the agency deems such activity to constitute sexual abuse only if it determines that the activity is coerced. During interviews with residents, this policy was confirmed and understood by the residents.

Interviews:

- PREA Coordinator
- Medical & Mental Health Staff

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding interventions and disciplinary sanctions for residents. No corrective action is required.

## MEDICAL AND MENTAL CARE

### Standard 115.381: Medical and mental health screenings; history of sexual abuse

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

#### 115.381 (a)

- If the screening pursuant to § 115.341 indicates that a resident has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the resident is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening?  Yes  No

#### 115.381 (b)

- If the screening pursuant to § 115.341 indicates that a resident has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, do staff ensure that the resident is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening?  Yes  No

#### 115.381 (c)

- 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

#### 115.381 (d)

- Do medical and mental health practitioners obtain informed consent from residents before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the resident 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.*

#### Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault
- Limits of Confidentiality and Group Form

115.381(a)(b)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 13**

#### **I. Medical and Mental Health Screenings [§ 115.81]**

- 1) If the screening required in Section 4. F(1) above indicates that a detainee has experienced prior sexual victimization, whether in an institutional setting or in the community, staff shall ensure that the detainee is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.

According to the PAQ, all residents at the facility who have disclosed any prior sexual victimization during a screening pursuant to §115.341 are offered a follow-up meeting with a medical or mental health practitioner. Of the residents interviewed one (1) resident disclosed prior victimization during the risk screening interview. During the interview the youth reported they were seen by the facility medical and mental health practitioners prior to the onsite audit. The youth reported they did not request additional outside support services. The meetings were offered and completed within the required time frame.

115.381(c)

- 2) Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments.

According to the PAQ and interviews with medical and mental health practitioners the information shared with security staff is strictly limited to informing security and management decisions, including treatment plans, housing, bed, work, education and program assignments.

#### 115.381(d)

- 3) Medical and mental health practitioners shall obtain informed consent from detainees before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the detainee is under the age of 18.

According to the PAQ, medical and mental health practitioners obtain informed consent from residents before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the resident is under the age of 18. Interview with medical staff state the residents are informed prior to any interviews or conversations that the medical staff are mandatory reporters and have a duty to report abuse.

#### Interviews:

- Medical & Mental Health Staff

#### Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding medical and mental health screenings; history of sexual abuse. No corrective action is required.

## Standard 115.382: Access to emergency medical and mental health services

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

#### 115.382 (a)

- Do resident 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

#### 115.382 (b)

- If no qualified medical or mental health practitioners are on duty at the time a report of recent sexual abuse is made, do staff first responders take preliminary steps to protect the victim pursuant to § 115.362?  Yes  No
- Do staff first responders immediately notify the appropriate medical and mental health practitioners?  Yes  No

#### 115.382 (c)

- Are resident 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

### 115.382 (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.*

#### Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault
- Limits of Confidentiality and Group Confidentiality

115.382(a)(b)(c)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 13**

- 2) Ongoing Medical and Mental Health Care [§ 115.83]
  - a. The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all detainees who have been sexually abused in a prison, jail, lockup, community corrections facility, or juvenile justice facility.
  - b. The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
  - c. The facility shall provide such victims with medical and mental health services consistent with the community level of care.

- d. Detainee victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests, as medically necessary.
- e. If pregnancy results from the conduct described in this section, victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services, such as prenatal care and access to pregnancy termination services, where available.
- f. Detainee victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections, as medically appropriate.
- g. Ongoing treatment services shall be provided to the victim without financial cost to the victim and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

115.382(d)

- c. Treatment services shall be provided to the victim — without financial cost to the victim — and regardless of whether the victim names the abuser or cooperates with any investigation.

The auditor contacted La Piñon and confirmed a SANE would be made available to all DACDC residents of sexual victimization. The medical practitioners confirmed residents who report they were victims of sexual abuse while in the facility would receive timely and unimpeded access to emergency medical treatment and crisis intervention services.

La Piñon is equipped to provide a physical examination to assess general health and to treat any physical injuries. The medical practitioners at the facility are trained to provide information and treatment for Sexually Transmitted Infections (STI) and possible pregnancy. Interviews with the medical staff confirmed victims of sexual abuse would be offered timely information about access to emergency contraception and sexually transmitted infection prophylaxis.

The PAQ corroborates the standards and facility protocol. 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.

Interviews:

- Medical & Mental Health Staff

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding access to emergency medical and mental health services. No corrective action is required.

## **Standard 115.383: 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

### 115.383 (a)

- Does the facility 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?  Yes  No

### 115.383 (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

### 115.383 (c)

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

### 115.383 (d)

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

### 115.383 (e)

- If pregnancy results from the conduct described in paragraph § 115.383(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

### 115.383 (f)

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

### 115.383 (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

### 115.383 (h)

- Does the facility 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?  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:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault

115.383(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 23**

#### 3) Ongoing Medical and Mental Health Care [§ 115.83]

- a. The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all detainees who have been sexually abused in a prison, jail, lockup, community corrections facility, or juvenile justice facility.
- b. The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
- c. The facility shall provide such victims with medical and mental health services consistent with the community level of care.
- d. Detainee victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests, as medically necessary.
- e. If pregnancy results from the conduct described in this section, victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services, such as prenatal care and access to pregnancy termination services, where available.
- f. Detainee victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections, as medically appropriate.

- g. Ongoing treatment services shall be provided to the victim without financial cost to the victim and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

According to the PAQ, the facility offers 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. The auditor observed medical facilities during the site review and the interview with the Facility Administrator reported that behavioral health care would be offered at the facility through the facility clinicians.

The interview with medical personnel confirmed evaluations and treatment for residents who have been victimized would include follow-up medical and mental health services and appropriate referrals when necessary. They also confirmed victims are given timely information and access to all lawful pregnancy-related services if a pregnancy would result from a sexual abuse incident while detained. It was confirmed victims would be given timely information and access to all lawful pregnancy-related services if pregnancy results from sexual abuse while detained, and also stated confidently that the services provided are consistent with the community level of care.

Interviews:

- Medical & Mental Health Staff

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding ongoing medical and mental health care for sexual abuse victims and abusers. No corrective action is required.

## DATA COLLECTION AND REVIEW

### Standard 115.386: Sexual abuse incident reviews

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

#### 115.386 (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

#### 115.386 (b)

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

#### 115.386 (c)

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

#### 115.386 (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 §§ 115.386(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager?  Yes  No

#### 115.386 (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.*

**CORRECTIVE ACTION: According to the PAQ DACDC has not implemented or adopted an incident review team or procedures. The policy requires updating to include guidance on convening 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.**

**CORRECTIVE ACTION STEPS TAKEN:** The agency updated standard operating procedure 2A-29 (Sexual Assaults) to include language requiring an incident review at the conclusion of every sexual abuse investigation. The facility leadership team has a monthly meeting that includes upper-level management officials, line supervisors, investigators, medical and mental health practitioners. Any sexual abuse allegation will be reviewed during the meeting and all discussions and outcomes will be documented in the meeting minutes.

The incident review team will consider whether the allegation indicates a need to change procedure or practice; whether the incident was motivated by race, ethnicity, gender identity, or gang affiliation. The team will examine the area in the facility where the incident allegedly occurred, staffing levels, monitoring technology and the findings as well as recommendations will be documented.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding sexual abuse incident reviews. No corrective action is required.

## Standard 115.387: Data collection

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

### 115.387 (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

### 115.387 (b)

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

### 115.387 (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

### 115.387 (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

### 115.387 (e)

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

### 115.387 (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.*

#### Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault

115.387(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 36**

### 13 DATA COLLECTION AND REVIEW [28 C.F.R. § 115.87–89]

#### A. Data Collection [§ 115.87]

- 1) The Detention Center shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.

2) The Detention Center shall aggregate the incident-based sexual abuse data at least annually.

**CORRECTIVE ACTION: DACDC has data collection language in the policy but has not aggregated the data for 2018 or the previous years. DACDC will need to aggregate the data for 2018 and post the data on the website to achieve compliance with this standard.**

**CORRECTIVE ACTION STEPS TAKEN:** According to the PAQ, the agency collects accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. The auditor reviewed data collected, which includes the data necessary to answer all questions from the Survey of Sexual Violence.

The auditor reviewed published annual reports for 2018 and 2019. The auditor observed the reports include aggregate incident-based sexual abuse data; however, the data report is pie chart and does not explain what the numbers represent. The PREA Coordinator stated the agency will continue to enhance the data report to reflect what the data represents. During the onsite and report writing phase of the audit, the PREA Coordinator stated the 2019 data report will reflect the aggregated data per facility. A review of the 2019 draft report included aggregated data by facility, to include contract facilities.

According to the PAQ and the auditor's observation, the standardized instrument includes, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence (SSV) conducted by the Department of Justice. The auditor reviewed Critical Incident Reports and observed data collected includes the data necessary to answer all questions from the Survey of Sexual Violence.

The data can be found on the agency website at:  
<https://www.donaanacounty.org/detention/prea/policies>

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding data collection. No corrective action is required.

## Standard 115.388: Data review for corrective action

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

#### 115.388 (a)

- Does the agency review data collected and aggregated pursuant to § 115.387 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 § 115.387 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 § 115.387 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

#### 115.388 (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

#### 115.388 (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

#### 115.388 (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.*

#### Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault

**CORRECTIVE ACTION: DACDC has data collection language in the policy but has not aggregated the data for 2018 or the previous year. DACDC will need to aggregate the data for 2018 and post the data on the website to achieve compliance with this standard.**

**CORRECTIVE ACTION STEPS TAKEN:** According to the PAQ, the agency collects accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. The auditor reviewed data collected, which includes the data necessary to answer all questions from the Survey of Sexual Violence.

The auditor reviewed published annual reports for 2018 and 2019. The auditor observed the reports include aggregate incident-based sexual abuse data; however, the data report is pie chart and does not explain what the numbers represent. The PREA Coordinator stated the agency will continue to enhance the data report to reflect what the data represents. During the onsite and report writing phase of the audit, the PREA Coordinator stated the 2019 data report will reflect the aggregated data per facility. A review of the 2019 draft report included aggregated data by facility, to include contract facilities.

According to the PAQ and the auditor's observation, the standardized instrument includes, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence (SSV) conducted by the Department of Justice. The auditor reviewed Critical Incident Reports and observed data collected includes the data necessary to answer all questions from the Survey of Sexual Violence.

The data can be found on the agency website at:  
<https://www.donaanacounty.org/detention/prea/policies>

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding data review for corrective action. No corrective action is required.

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

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

#### **115.389 (a)**

- Does the agency ensure that data collected pursuant to § 115.387 are securely retained?  
 Yes  No

#### **115.389 (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

#### **115.389 (c)**

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

### 115.389 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.387 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.

#### Documentation Reviewed:

- DACDC Juvenile Pre-Audit Questionnaire
- Standard Operating Procedures 2A-29 Health Services, Sexual Assault

115.389(a)

**DACDC**

**Standard Operating Procedures**

**S.O.P. 2A-29**

**Page 37**

#### **B. Data Storage, Publication, and Destruction [§ 115.89]**

- 1) The Detention Center shall ensure that data collected pursuant to Section 7. A. are securely retained.
- 2) Before making aggregated sexual abuse data publicly available, the Detention Center shall remove all personal identifiers.
- 3) The Detention Center shall maintain sexual abuse data collected pursuant to Section 7. A. for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding data storage, publication, and destruction. No corrective action is required.

## 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 prior three-year audit period, 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? (*Note: The response here is purely informational. A "no" response does not impact overall compliance with this standard.*)  Yes  No

#### 115.401 (b)

- Is this the first year of the current audit cycle? (*Note: a "no" response does not impact overall compliance with this standard.*)  Yes  No
- If this is the second year of the current audit cycle, 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 during the first year of the current audit cycle? (N/A if this is **not** the *second* year of the current audit cycle.)  Yes  No  NA
- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? (N/A if this is **not** the *third* year of the current audit cycle.)  Yes  No  NA

#### 115.401 (h)

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

#### 115.401 (i)

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

#### 115.401 (m)

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

## 115.401 (n)

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

### Auditor 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.*

DACDC operates two facilities; one adult and one juvenile detention center. DACDC is participating in a PREA audit for the first time, as a result there are no previous audit reports to review. DACDC has not been required by the Department of Justice (DOJ) to complete an expedited audit.

The auditor utilized the Auditor Compliance Tool for guidance on the conduct and contents of the audit. DACDC has demonstrated their efforts to comply with the standards and has taken corrective action steps to become fully compliant. The audit process involved reviewing all relevant policies, reports and conducted interviews. The auditor reviewed documents and records involving information for 12 months prior to the onsite audit.

The auditor was allowed full and unimpeded access to the facility and observed all areas of the facility. During and after the onsite audit, the auditor requested additional documentation to support the auditors findings. All audit material relied upon has been retained by the auditor and will be provided to the DOJ upon request.

DACDC residents were able to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel. The auditor did not receive correspondence.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding frequency and scope of audits. No corrective action is required.

## 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 auditor certifies that no conflict of interest exists with respect to her ability to conduct an audit of the DACDC juvenile center.

This is the first audit for the DACDC juvenile facility.

## 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 resident 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.



**Auditor Signature**

3-9-2020

**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.