

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

Interim     Final

Date of Interim Audit Report:  N/A

Date of Final Audit Report: May 4, 2020

## Auditor Information

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Company Name: PREA Auditors of America, LLC (PAOA)

Mailing Address: PO Box 1071

City, State, Zip: Cypress, TX 77410

Telephone: 484-999-4167

Date of Facility Visit: March 3-5, 2020

## Agency Information

Name of Agency: Federal Bureau of Prisons (FBOP)

Governing Authority or Parent Agency (If Applicable): U.S. Department of Justice

Physical Address: 320 First Street, NW

City, State, Zip: Washington, DC 20534

Mailing Address: Same As Above (SAA)

City, State, Zip: SAA

The Agency Is:

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

Agency Website with PREA Information:

[https://www.bop.gov/inmates/custody\\_and\\_care/sexual\\_abuse\\_prevention.jsp](https://www.bop.gov/inmates/custody_and_care/sexual_abuse_prevention.jsp)

## Agency Chief Executive Officer

Name: M.D. Carvajal, Director

Email: [BOP-CPD/PREACoordinator@bop.gov](mailto:BOP-CPD/PREACoordinator@bop.gov)

Telephone: 202-616-2112

## Agency-Wide PREA Coordinator

Name: Jill Roth, National PREA Coordinator

Email: [BOP-CPD/PREACoordinator@bop.gov](mailto:BOP-CPD/PREACoordinator@bop.gov)

Telephone: 202-616-2112

PREA Coordinator Reports to:  
Hugh J. Hurwitz, Assistant Director, Reentry  
Services Division

Number of Compliance Managers who report to the  
PREA Coordinator:  
0

## Facility Information

**Name of Facility:** Federal Correctional Institution (FCI) Elkton

**Physical Address:** 8730 Scroggs Road

**City, State, Zip:** Lisbon, Ohio 44432

**Mailing Address (if different from above):**  
P. O. Box 129

**City, State, Zip:** Lisbon, Ohio 44432

**The Facility Is:**

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

**Facility Type:**

Prison

Jail

**Facility Website with PREA Information:**

[https://www.bop.gov/inmates/custody\\_and\\_care/sexual\\_abuse\\_prevention.jsp](https://www.bop.gov/inmates/custody_and_care/sexual_abuse_prevention.jsp)

**Has the facility been accredited within the past 3 years?**  Yes  No

**If the facility has been accredited within the past 3 years, select the accrediting organization(s) – select all that apply (N/A if the facility has not been accredited within the past 3 years):**

ACA

NCCHC

CALEA

AAAHC (Accreditation Association for Ambulatory Health Care)

N/A

**If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:**

Recurring facility operational reviews (internal audits) of all program/operational functions are facilitated on an annual basis and triennial program reviews of the same functions are facilitated by audit teams external to FCI Elkton.

### Warden/Jail Administrator/Sheriff/Director

**Name:** Mark. K. Williams

**Email:** [ELK/PREAComplianceMgr@bop.gov](mailto:ELK/PREAComplianceMgr@bop.gov)

**Telephone:** 330-420-6200

### Facility PREA Compliance Manager

**Name:** Shaun Faulkner

**Email:** [ELK/PREAComplianceMgr@bop.gov](mailto:ELK/PREAComplianceMgr@bop.gov)

**Telephone:** 330-420-6200

### Facility Health Service Administrator

**Name:** Sarah Dees

**Email:** [ELK/PREAComplianceMgr@bop.gov](mailto:ELK/PREAComplianceMgr@bop.gov)

**Telephone:** 330-420-6200

## Facility Characteristics

<b>Designated Facility Capacity:</b>	2048	
<b>Current Population of Facility:</b>	2429	
<b>Average daily population for the past 12 months:</b>	2474	
<b>Has the facility been over capacity at any point in the past 12 months?</b>	X <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Which population(s) does the facility hold?</b>	<input type="checkbox"/> Females    X <input type="checkbox"/> Males <input type="checkbox"/> Both Females and Males	
<b>Age range of population:</b>	19-84	
<b>Average length of stay or time under supervision:</b>	62 months	
<b>Facility security levels/inmate custody levels:</b>	Low/In; Min/Out; Min/Community	
<b>Number of inmates admitted to facility during the past 12 months:</b>	1457	
<b>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:</b>	1410	
<b>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:</b>	1287	
<b>Does the facility hold youthful inmates?</b>	<input type="checkbox"/> Yes    X <input type="checkbox"/> No	
<b>Number of youthful inmates held in the facility during the past 12 months: (N/A if the facility never holds youthful inmates)</b>	X <input type="checkbox"/> N/A	
<b>Does the audited facility hold inmates for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?</b>	<input type="checkbox"/> Yes    X <input type="checkbox"/> No	
<b>Select all other agencies for which the audited facility holds inmates: Select all that apply (N/A if the audited facility does not hold inmates for any other agency or agencies):</b>	<input type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> U.S. Marshals Service <input type="checkbox"/> U.S. Immigration and Customs Enforcement <input type="checkbox"/> Bureau of Indian Affairs <input type="checkbox"/> U.S. Military branch <input type="checkbox"/> State or Territorial correctional agency <input type="checkbox"/> County correctional or detention agency <input type="checkbox"/> Judicial district correctional or detention facility <input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail) <input type="checkbox"/> Private corrections or detention provider <input type="checkbox"/> Other - please name or describe: <input checked="" type="checkbox"/> <b>N/A</b>	
<b>Number of staff currently employed by the facility who may have contact with inmates:</b>	349	
<b>Number of staff hired by the facility during the past 12 months who may have contact with inmates:</b>	53	
<b>Number of contracts in the past 12 months for services with contractors who may have contact with inmates:</b>	36	
<b>Number of individual contractors who have contact with inmates, currently authorized to enter the facility:</b>	36	

Number of volunteers who have contact with inmates, currently authorized to enter the facility:	59
<b>Physical Plant</b>	
<p>Number of buildings:</p> <p>Auditors should count all buildings that are part of the facility, whether inmates are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house inmates, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.</p>	20
<p>Number of inmate housing units:</p> <p>Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house inmates of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows inmates to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.</p>	9
Number of single cell housing units:	0
Number of multiple occupancy cell housing units:	1
Number of open bay/dorm housing units:	8
Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):	72
In housing units, does the facility maintain sight and sound separation between youthful inmates and adult inmates? (N/A if the facility never holds youthful inmates)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Medical and Mental Health Services and Forensic Medical Exams</b>	
Are medical services provided on-site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Are mental health services provided on-site?	X <input type="checkbox"/> Yes <input type="checkbox"/> No
Where are sexual assault forensic medical exams provided? Select all that apply.	<input type="checkbox"/> On-site X <input type="checkbox"/> Local hospital/clinic <input type="checkbox"/> Rape Crisis Center <input type="checkbox"/> Other (please name or describe:
<b>Investigations</b>	
<b>Criminal Investigations</b>	
Number of investigators employed by the agency and/or facility who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment:	0
When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.	<input type="checkbox"/> Facility investigators <input type="checkbox"/> Agency investigators X <input type="checkbox"/> An external investigative entity
Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police X <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <input type="checkbox"/> <input type="checkbox"/> N/A
<b>Administrative Investigations</b>	
Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?	253
When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply	X <input type="checkbox"/> Facility investigators X <input type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <input checked="" type="checkbox"/> <input type="checkbox"/> N/A

# Audit Findings

## Audit Narrative (including Audit Methodology)

The Prison Rape Elimination Act (PREA) on-site audit of the Federal Correctional Institution (FCI) Elkton, Ohio (ELK), inclusive of the Federal Satellite Low (FSL) facility was conducted March 3-5, 2020 by K. E. Arnold from Castle Rock, CO, a United States Department of Justice Certified PREA Auditor for both adult and juvenile facilities. Ms. D. O'Connor, likewise a Department of Justice Certified PREA Auditor for adult facilities, assisted the auditor, conducting nearly all random and specialty inmate interviews. Pre-audit preparation included review of all materials and self reports emailed to the auditor by an FBOP Management Analyst (MA).

The auditor notes that throughout this audit report, the FSL is included as part of FCI Elkton and accordingly, the ELK reference is all encompassing.

The documentation review included, but was not limited to, agency and facility policies, staff training slides, completed forms regarding both staff and inmate training, Memorandums of Understanding (MOUs) and Agreements, organizational chart(s), inmate admission and orientation handbooks, inmate education materials, photographs of PREA related materials (e.g., posters, etc.), staff training certifications, and victimization/aggressor screening documentation. This review prompted several questions and informational needs that were addressed with the assigned MA and he subsequently contacted facility staff for clarification of issues and some documentary needs. The majority of informational needs were addressed pursuant to this process with the expectation the auditor would review remaining documents on site.

Following conclusion of the on-site audit, the auditor spoke with the Social Services & Development Officer at the Youngstown Rape Crisis Center. When questioned as to the frequency of interaction with inmates from ELK and/or staff requests, on behalf of ELK inmates, services related to sexual abuse incident(s) originating at ELK have not been provided during the last 12 months. He/she also advised registered advocates (victim advocates) are credentialed by the State of Ohio.

**Auditor's Note:** For clarity, the Youngstown Rape Crisis Center and The Rape Crisis and Counseling Center (Compass Family and Community Services) are the same entity.

The auditor and Ms. O'Connor met with the Warden, Associate Warden (AW)/PREA Compliance Manager (PCM), Executive Assistant/Camp Administrator/Acting AW, central office MA, captain, chief psychologist, safety administrator, facility manager, two unit secretaries, psychology technician, human resource manager (HRM), two human resource specialists, reentry affairs coordinator, two American Correctional Association (ACA) auditors, Core Section Chief Program Review Division/chair person of the human resources program review/ and four program review team members at 7:30AM on Tuesday, March 3, 2020. The auditor provided an overview of the audit process and advised all attendees the same would be facilitated in the least disruptive manner possible. Additionally, the auditor advised attendees of the tentative schedule(s) for the conduct of the audit. Between 8:30AM and 2:30PM, the auditor toured the entire facility with the PCM, the chief psychologist, and the psychology technician with various unit managers/unit staff, lieutenants, captains, department heads in attendance at various stages of the tour.

It is noted the rated capacity of ELK is 2048 inmates and the institutional count on March 3, 2020 was 2446 inmates.

During the on-site audit, the auditor and assistant auditor were provided offices, located in psychology services, from which to review documents and facilitate confidential interviews with staff and inmates. Inmates were placed on call-out to expedite the interview process. The assistant auditor randomly selected (from an inmate roster provided by the PCM) and interviewed 41 inmates on-site pursuant to the Random Inmate Interview Questionnaire and specialty questionnaires. At least one inmate

(representative of the total sample of inmate interviewees) was interviewed from each housing unit throughout the facility.

Twenty-one random inmate interviewees were also interviewed pursuant to specialty interviewee questionnaires. Accordingly, 20 of the total 41 interviewees are counted as random inmate interviewees only.

The auditor interviewed an additional two transgender inmates who requested the same, thereby bringing the total inmate interviews to forty-three. Of note, all specialty interviews were facilitated using both the random inmate questionnaire and specialty questionnaires.

The assistant auditor interviewed one inmate who presented as physically disabled, one blind inmate, two limited English proficient (LEP) inmates, two cognitively disabled inmates, three gay or bisexual inmates, seven transgender inmates (two transgender interviewees also assert they were subjected to sexual abuse at ELK), four inmates who reported a sexual abuse at ELK, and three inmates who reported prior sexual abuse during their intake sexual abuse vulnerability/aggressor assessment.

The PCM advised there were no inmate(s) confined within the facility during the on-site audit who were placed in Segregation for high risk of sexual victimization nor were there any youthful offenders.

It is noted the 20 random inmate interviewees were generally questioned regarding their knowledge of a variety of PREA protections and their knowledge of reporting mechanisms available to inmates for reporting sexual abuse and sexual harassment. Overall, random interviewees presented reasonable knowledge of PREA policies and practices.

Twelve random staff selected by the auditor from a staff roster provided by the PCM, were interviewed. The Random Sample of Staff Interview Questionnaire was administered to this sample group of interviewees with interviewees questioned regarding PREA training and overall knowledge of the agency's zero tolerance policy, reporting mechanisms available to inmates and staff, the response protocols when an inmate alleges sexual abuse, and first responder duties.

The following specialty staff questionnaires were utilized during this review:

Agency Head  
Warden or Designee  
PREA Coordinator (1)  
ELK PCM (1)  
Agency Contract Administrator  
Designated Staff Charged with Monitoring Retaliation (1)  
Incident Review Team (1)  
Human Resources (1)  
Investigator (1)  
Intermediate or Higher Level Facility Staff (1)  
Medical Staff (1)  
Mental Health Staff (1)  
SANE Staff- (1)  
Intake (1)  
Staff Who Perform Screening for Risk of Victimization and Abusiveness (1)  
Security and Non-Security Staff Who Have Acted as First Responders (2- one correctional officer and one non-correctional officer) **\*\*\*Auditor's Note: The FBOP has requested, commensurate with their protocols, that security staff be identified as correctional officers and non-security staff be identified as non-correctional officers throughout this report.**  
Staff Who Supervise Inmates in Segregated Housing (1)  
Non-medical Staff Involved in Cross-Gender Strip or Visual Searches (1)  
Contractors and Volunteers Who Have Contact With Inmates (4- two contractors and two volunteers)

It is noted the Federal Bureau of Prisons (FBOP) is the umbrella agency for ELK.

The auditor reviewed 13 random staff plus two contractor Human Resources (HR) files, 15 random staff and two contractor Training records, 15 random inmate files, six random PREA investigative files, and other records reflected throughout the following narrative were reviewed prior to the audit, during the audit, and subsequent to completion of the same. In view of documentary evidence logistics related to 115.17 (described in the narrative for 115.17), validation of relevant standards could not be validated on site.

On March 3, 2020, the auditor was processed into the facility at the Front Entrance. Standard security processing was employed.

During the facility tour, the auditor noted an FBOP PREA poster was posted in the Front Lobby and Visiting Room (FCI and FSL) for visitor/attorney third-party consumption. PREA posters and Audit Notices were prevalent throughout the facilities, inclusive of the housing units, pods, program areas, etc.

During the facility tour, the auditor observed, among other features, the facility configuration, location of cameras, staff supervision of inmates, unit layout (inclusive of shower/toilet areas), placement of PREA posters and informational resources, security monitoring, and inmate programming.

There are eight housing units (two wings) (comprised of cubicles) at ELK. Additionally, the Special Housing Unit is comprised of 72 segregation cells. Supervision is addressed in the narrative for 115.13. With one officer per two wings, effecting perpetual rounds, and periodic assistance supervision provided by unit management staff (offices located in the units), supervision appears to be acceptable and effective for a low security facility.

As previously indicated, throughout the tour, the auditor observed numerous PREA posters in housing units, program areas, and staff offices/gathering places. Clearly, inmates have access to continual education regarding PREA processes.

The auditor noted sufficient camera surveillance in most areas however, staff supervision is the key to sexual safety at ELK. While the Warden asserts the camera surveillance system has not been upgraded, equipment added, or enhanced, equipment has been replaced.

The PCM asserts the video surveillance upgrades consisted of replacement of existing PTZ cameras and video storage components. No substantive changes were made to the video system.

The auditor observed the control center, particularly focusing on camera placements and the degree of inmate exposure in their cells and shower areas. [REDACTED]

During the tour, the auditor did note properly shielded urinal/toilet areas. Staff offices have windows in the doors.

## Facility Characteristics

The FBOP mission is to protect society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens.

The ELK mission is to provide a safe, secure, and humane environment for inmates and staff. Opportunities for self improvement including work, education, vocational training, religious, and counseling programs are provided. These programs are designed to assist inmates during confinement and upon release, as well as, to facilitate the orderly operation of the institution.

Activated in 1997, ELK is an all-male low security facility with an adjacent low security Federal Satellite Low (FSL) facility. Housing approximately 2400 inmates, staff are committed to carrying out the judgments of the federal courts. ELK provides a safe, secure, and humane environment for those individuals remanded to its custody. Employees are committed to the institution agenda which stresses safety of staff, inmates, and the public; the fair and equitable treatment of inmates; and maximum use of resources.

ELK is located on approximately 320 acres in a rural area within Columbiana County, Ohio. The eight housing units are designed as dormitory style bunked cubicles with handicap accessible cubicles available in the lower units. The Special Housing Unit is comprised of 72 high security cells.

In 2007, the Reentry Program was established at ELK to assist offenders in obtaining the skills and knowledge needed for successful release. A Residential Drug Abuse Program (RDAP) is also available at ELK. RDAP is a nine month course of individual and group activities in a treatment unit set apart from the general prison population. Additionally, a non-residential Sex Offender Management Program (SOMP) is available.

The gamut of correctional programming is offered to inmates confined at ELK. General Education Development (GED) study and preparation, Adult Continuing Education (ACE), Vocational Training (VT) Building and Trades, VT Culinary Arts, Advanced Occupational Education (AOE) Hospitality Management, English as a Second Language (ESL), Parenting Program (PP), various recreation programs and activities, various religious programs and services, Non-residential Drug Abuse Program (NR-DAP), UNICOR, law library, and leisure library constitute a sampling of programming opportunities at ELK. Additionally, the gamut of confinement operational opportunities are offered at ELK.

## Summary of Audit Findings

*The summary should include the number and list of standards exceeded, number of standards met, and number and list of standards not met.*

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

### Standards Exceeded

**Number of Standards Exceeded:** 1  
**List of Standards Exceeded:** 115.31

### Standards Met

**Number of Standards Met:** 44

### Standards Not Met

**Number of Standards Not Met:** 0  
**List of Standards Not Met:** 115.35 (Note: Auditor found standard compliant on April 22, 2020)

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## PREVENTION PLANNING

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

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

#### 115.11 (a)

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

#### 115.11 (b)

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

#### 115.11 (c)

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

#### Auditor Overall Compliance Determination

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

Pursuant to the Pre-Audit Questionnaire (PAQ), the Warden self reports the agency has a written policy mandating zero tolerance toward all forms of sexual abuse/harassment in facilities it operates directly or under contract. According to the Warden, the policy outlines how it will implement the agency's approach to preventing, detecting, and responding to sexual abuse/sexual harassment and the policy includes definitions of prohibited behaviors regarding sexual abuse/harassment, as well as, sanctions for those found to have participated in prohibited behaviors. The policy includes a description of agency strategies and responses to reduce and prevent sexual abuse and sexual harassment of inmates.

The Zero Tolerance policy is clearly articulated in Federal Bureau of Prisons (FBOP) Program Statement (PS) 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page

13, section 115.11(a). Additionally, zero tolerance for sexual abuse appears at Institution Supplement (IS) ELK 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 2, section 5(a). The remainder of PREA required information is provided in pages 7-57 of PS 5324.12 and pages 2 through page 4 of IS ELK 5324.12.

FBOP Program Statement 3420.11, entitled Standards of Employee Conduct, pages 6 and 7, section 5(b) addresses zero tolerance for staff sexual abuse/harassment, definitions of the same, penalties for perpetration of such acts, and staff prohibition from volunteer activities.

In addition to the above, FBOP PS 5270.09 entitled Inmate Discipline Program, pages 44, 45, 46, 48, and 49, section entitled Table 1 specifies prohibited acts, by severity level, a brief description of the offense, and range of sanctions available for imposition in the event of inmate violation of the acts.

Pursuant to the PAQ, the Warden self reports the agency employs or designates an upper-level, agency-wide PREA Coordinator (PC) with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities. According to the FBOP Organizational Chart, the agency-wide PC ultimately reports to the Assistant Director (AD), Reentry Services Division.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 13 and 14, section 115.11(b) address the requirements of 115.11(b). The duties of both the National PC and Regional PC are clearly scripted at this citation.

Pursuant to interview with the FBOP PC, the auditor learned she does feel she has sufficient time to manage all of her PREA related responsibilities as the position is full-time. There are 122 PREA Compliance Managers (PCM), one for each facility.

She provides training to all new Associate Wardens (AWs) as AWs are generally the PCMs at facilities. She also responds to PCM questions via telephone, email, and in person when she visits respective facilities. In 2019, a four-hour comprehensive PREA training was developed and the PC provided the same at multiple facilities. This training is ongoing.

Pursuant to the PAQ, the Warden self reports there is a designated PCM at ELK. According to the Warden, he does have sufficient time and authority to coordinate the facility efforts to comply with the PREA standards. IS ELK 5324.12 reflects the AW Programs (AWP) is designated as the PCM at ELK. According to the ELK Organizational Chart, the AWP/PCM reports directly to the Warden at ELK.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 14, section 115.11(c) addresses the requirements of 115.11(c). Additionally, IS ELK 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 2, section 5(b) addresses the requirements of 115.11(c). That provision also provides an overview of PCM duties.

The PCM asserts he feels he has sufficient time to manage all PREA related responsibilities. As the result of management by walking around (MBWA), he tours all areas of the facility, inclusive of the FSL, on a weekly basis. He stands mainline and monitors inmate movements, remaining accessible to all inmates and staff. During weekly tours, he assesses blind spots and other potential PREA-related problem areas throughout the facility. As the result of the FBOP structure and policies, he is involved in all things PREA.

In view of the above, the auditor finds ELK substantially compliant with 115.11.

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

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

### 115.12 (a)

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

### 115.12 (b)

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

### Auditor Overall Compliance Determination

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

Pursuant to PAQ documentation, the FBOP requires other private entities contracted for the confinement of inmates (private/state/local prisons/jails and residential reentry centers) to adopt and comply with PREA standards. All agency contractual agreements were modified to incorporate the language requiring all contractors to adopt and comply with PREA standards. The auditor's review of one completed Solicitation, Offer, and Award document, as well as, two Award, Contract documents relative to three separate privatized prison providers clearly reveals requisite language is included in the same.

Of note, ELK does not individually contract with private/state/local providers for confinement of inmates.

However, the FBOP has entered into five contracts with privatized providers within the last 12 months. Additionally, pursuant to the PAQ, each contract contains requisite PREA language and all of these contracts impose an obligation upon the FBOP to monitor PREA compliance.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 14, section 115.12(a) and (b) addresses the requirements of 115.12.

The FBOP Contract Administrator interviewee asserts each private contract facility under contract with the FBOP is subject to the following language in their contract: "The contractor shall develop policy and procedures for the establishment of a sexual abuse/assault program and comply with the Prison Rape Elimination Act of 2003 and the national standards to prevent, detect, and respond to prison rape as contained in 28 CFR Part 115, National Standards to Prevent, Detect, and Respond to Prison Rape; Final Rule dated June 20, 2012."

The contractor's policies and procedures are reviewed by FBOP subject-matter experts who ensure appropriate adherence to national standards and regulations. The contractor is further required to notify the FBOP of any PREA allegation and forward a copy of the allegation, investigation, and findings to FBOP oversight staff for review. FBOP oversight staff and the respective Privatization Management Branch (PMB) Health Systems Specialist review any PREA allegation to ensure compliance with PREA requirements and such reviews are reflected on monitoring reports. Additionally, at least once per year,

the FBOP's quality assurance program conducts a review of all contractor's PREA allegations to determine contract compliance.

The FBOP executed five contracts within the last 12 months. Two of the five contracts, NLK and REE, are at new locations and both have scheduled dates later this year for their national compliance review. The remaining three contracts, DAL/RVS/and TAF, are at existing locations and each have scheduled dates during this year for their national renewal certifications.

All contractor PREA policies have been reviewed and approved by the FBOP, oversight of all allegations occurs when necessary, and the FBOP Quality Assurance Program will be conducted and reviewed at each facility this year.

Ten of the FBOP's 12 private contract facilities have undergone at least an initial national PREA certification, with subsequent re-certifications every three years. Compliance results were submitted to the FBOP in a timely manner.

Two new contracts were awarded in May, 2019. Both NLK and RVS have scheduled dates this year for their national compliance review.

In view of the above, the auditor finds ELK substantially compliant with 115.12.

## Standard 115.13: Supervision and monitoring

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

#### 115.13 (a)

- Does the facility have a documented staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? X Yes
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Generally accepted detention and correctional practices? X  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any judicial findings of inadequacy? X  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from Federal investigative agencies? X  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from internal or external oversight bodies? X  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated)? X  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The composition of the inmate population? X  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The number and placement of supervisory staff? X  Yes  No

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The institution programs occurring on a particular shift? X  Yes  No  NA
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any applicable State or local laws, regulations, or standards? X  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The prevalence of substantiated and unsubstantiated incidents of sexual abuse? X  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any other relevant factors? X  Yes  No

#### 115.13 (b)

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

#### 115.13 (c)

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The staffing plan established pursuant to paragraph (a) of this section? X  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? X  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? X  Yes  No

#### 115.13 (d)

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

#### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports FBOP requires each 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 inmates against sexual abuse. The Warden self reports since the last PREA audit, the average daily number of inmates is 2450. The staffing plan is predicated upon an average daily number of inmates of 2450.

FBOP Program Statement 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 14 and 15, section 115.13(a) addresses 115.13(a). Pursuant to this policy citation, the Human Resource Management Division and Administration Division, Central Office, must consider PREA factors and safety, in general, when allocating overall staffing resources. At the institution, the Salary/Workforce Utilization Committee Meeting Minutes serve as evidence of the staffing plan.

The auditor's limited review of the 1st Quarter 2020 and 4th Quarter 2019 Salary/Workforce Utilization Committee Meeting Minutes clearly reflects notations in each document reflecting PREA considerations were included in the process. Each document is signed by the Warden.

The Warden asserts the facility has a staffing plan. There are adequate staffing levels to protect inmates against sexual abuse.

The complement is based on the security level of the facility (Low) and size of the institution. One correctional officer (CO) is assigned to each housing unit (two wings per unit), facilitating direct supervision of inmates. Video monitoring is assessed during the annual Security Enhancement Review and the same is documented in an accompanying report.

The staffing plan is reviewed on a quarterly basis at Salary/Workforce Meetings and PREA is considered/ documented in the report. Facility budgets are reviewed annually in the central office and generally, staffing remains the same absent re-programming or mission change allowances. Salary/Workforce Meeting Minutes are maintained electronically by the Warden, associate wardens, and captain.

When assessing adequate staffing levels and the need for video monitoring, the following considerations are factored into staffing plan development:

Generally accepted detention and correctional practices- Staffing throughout the facility is based on the security level of the facility. The same has been tested over time and accounts for various management variables. The complement is in sync with FBOP and American Correctional Association (ACA) standards to the degree possible. Institution Duty Officers (IDOs), department heads, and executive staff monitor operations across all shifts.

The staffing complement is established by formula for a low security facility. The central office establishes the formula. Essentially, increases in the number of unit buildings and perhaps programs/operations buildings can equate to staffing increases;

Any judicial finding of inadequacy- NA;

Any findings of inadequacy from federal investigative agencies- NA;

Any findings of inadequacy from internal or external oversight bodies- No findings at this point. As findings develop or are identified, action plans are developed and implemented to the degree feasible;

All components of the facility's physical plant- Annually, a Security Enhancement Review is facilitated (central office, regional office, and ELK staff) to assess security weaknesses (camera/mirror needs, procedural issues, potential physical plant changes). Between this process, the addition of mirrors, and movement of cameras, observation and supervision are enhanced;

The composition of the inmate population- With respect to gang members, the same are separated to the degree possible. We chart locations at which gang members are housed throughout the facility. There is a decent sized LGBTI population at ELK and we do monitor the same. No racial imbalance is noted. In summary, there are no real population concerns;

The number and placement of supervisory staff- Staff resources, inclusive of supervisors, are placed where inmates are located. Unit management staff provide extra visibility and coverage in the units. The staffing pattern is reduced during non-regular business hours. Supervisory staffing is adequate and pre-determined by the central office with input from the regional office and facility. If there is a concern with particular area(s), realignment of posts and areas of supervision from the existing complement is implemented;

Institution programs occurring on a particular shift- Program attendance volume is monitored and staff are assigned accordingly to facilitate the safety and security of the facility. Generally, direct supervision is employed in all program areas;

Any applicable state or local laws, regulations, or standards- Generally, state or local laws, regulations, or standards are not relevant to the facility. PREA and ACA standards may impact facility operations, dependent upon circumstances and FBOP decisions;

The prevalence of substantiated and unsubstantiated incidents of sexual abuse- Each investigation and associated fact patterns are assessed on a case-by-case basis. Staffing adjustments and defined duties are generally addressed locally. Other practices associated with PREA (e.g., removal of perpetrators from the facility) serve to minimize future incidents.

Any other relevant factors- None.

When assessing adequate staffing levels and the need for video monitoring, the PCM asserts the following considerations are factored into staffing plan development:

The auditor notes the PCM provided essentially similar narrative to that of the Warden with respect to the 11 staffing plan factors. Accordingly, the narrative, as reflected above, is also applicable for the PCM.

Pursuant to the PAQ, the Warden self reports there were no deviations from the staffing plan during the audit period. Accordingly, the auditor finds 115.13(b) is not applicable to ELK.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 15, section 115.13(b) addresses 115.13(b).

The Warden self reports the facility does document all instances of non-compliance with the staffing plan on the daily roster. However, there has been no deviations from the staffing plan during the last 12 months as posts are filled. Documentation would include explanations for non-compliance.

Pursuant to the PAQ, the Warden self reports that at least once every year, the facility, in collaboration with the FBOP PC, reviews the staffing plan to determine whether adjustments are needed to the staffing plan; the deployment of monitoring technology; or the allocation of facility resources to commit to the staffing plan to ensure compliance with the same.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 15 and 16, section 115.13(c) addresses 115.13(c). Specifics regarding the use of the aforementioned Salary/ Workforce Utilization Committee Meeting Minutes as evidence of such reviews are clearly articulated in this policy provision.

The auditor notes findings articulated in the narrative for 115.13(a) also apply to 115.13(c).

The FBOP PC asserts she is provided with an annual review of facility staffing plans. The Human Resource Management Division and Administration Division allocate overall staffing resources.

The auditor finds the 1st Quarter 2020 Salary/Workforce Utilization Committee Meeting Minutes clearly reflect the conduct of the requisite 115.13(c) review.

Pursuant to the PAQ, the Warden self reports the facility requires that intermediate-level or higher-level staff conduct unannounced rounds to identify and deter staff sexual abuse/harassment of inmates. Rounds are

documented and cover all shifts. FBOP policy does prohibit staff from alerting other staff of the conduct of such rounds.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 16, section 115.13(d) addresses 115.13(d). Intermediate level or higher level supervisory staff unannounced sexual safety rounds are conducted at ELK by the Institution Duty Officer (IDO), documented, and forwarded to the PCM for retention.

The auditor's limited review of 10 IDO Unannounced PREA Rounds documents dated January, 2019 through December, 2019, reveals substantial compliance with 115.13(d).

The intermediate or higher level staff interviewee [unit manager (UM)] asserts she has conducted unannounced inmate sexual safety rounds and documented the same in logs.

To facilitate such rounds and in an attempt to prevent staff from alerting other staff she is conducting unannounced rounds, the interviewee asserts rounds are made, displaying no patterns. She may start rounds, interrupt conduct of the same by stopping, and subsequently start rounds again minutes up to hours from the initial start. She never announces her path to any staff member in advance of rounds. Staff rarely know where she is or where she is going when conducting unannounced sexual safety rounds.

In view of the above, the auditor finds ELK substantially compliant with 115.13.

## Standard 115.14: Youthful inmates

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

#### 115.14 (a)

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

#### 115.14 (b)

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

#### 115.14 (c)

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

## Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports youthful inmates are not housed at ELK and the auditor confirmed the same during the facility tour. FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 16, section 115.14(a), (b), and (c) addresses 115.14(a), (b), and (c). Accordingly, the auditor finds 115.14 is not applicable to ELK.

As there is no evidence of non-compliance with 115.14, the auditor finds ELK substantially compliant with the same.

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

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

#### 115.15 (a)

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

#### 115.15 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female inmates, except in exigent circumstances? (N/A if the facility does not have female inmates.)  
 Yes  No  NA
- Does the facility always refrain from restricting female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision? (N/A if the facility does not have female inmates.)  Yes  No  NA

#### 115.15 (c)

- Does the facility document all cross-gender strip searches and cross-gender visual body cavity searches?  Yes  No
- Does the facility document all cross-gender pat-down searches of female inmates? (N/A if the facility does not have female inmates.)  Yes  No  NA

#### 115.15 (d)

- Does the facility have policies that enables inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks?  Yes  No
- Does the facility have procedures that enables inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks,

or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks? X  Yes  No

- Does the facility require staff of the opposite gender to announce their presence when entering an inmate housing unit? X  Yes  No

#### 115.15 (e)

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

#### 115.15 (f)

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

#### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports policy authorizes cross-gender strip or cross-gender visual body cavity searches of inmates housed at ELK however, such searches are not facilitated at the facility. The Warden further self reports no cross-gender strip or cross-gender body cavity searches of inmates were conducted at ELK during the last 12 months.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 17, section 115.15(a) addresses 115.15(a). Additionally, FBOP PS 5521.06 entitled Searches of Housing Units, Inmates, and Inmate Work Areas, page 4, section 552.11(c)(1) and (2) addresses 115.15(a).

The non-medical staff involved in cross-gender strip or visual searches interviewee asserts the presence of hard contraband (e.g., weapon, drugs) secreted within a body cavity, taped to the body, etc. serves as a basis for the conduct of cross-gender strip or visual body cavity searches.

The auditor found no evidence of any cross-gender strip or visual body cavity searches during the last 12 months.

Pursuant to the PAQ, the Warden self reports the facility does not permit cross-gender pat-down searches of female inmates, absent exigent circumstances. During the facility tour, the auditor noted no female inmates are housed at ELK.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 17, section 115.15(b) addresses 115.15(b). Additionally, FBOP Program Statement 5521.06 entitled Searches of Housing Units, Inmates, and Inmate Work Areas, pages 2 and 3, section 552.11(b)(1) addresses 115.15(b).

Pursuant to the PAQ, the Warden self reports facility policy requires all cross-gender strip searches and cross-gender visual body cavity searches are documented. Additionally, policy requires all cross-gender pat-down searches of female inmates are documented however, as previously indicated, female inmates are not housed at ELK. Accordingly, this particular provision applicable to female inmates, is not applicable to ELK.

FBOP PS 5521.06 entitled Searches of Housing Units, Inmates, and Inmate Work Areas, page 4, section 552.11(c)(1) and (2) and pages 2 and 3, section 552.11(b)(1) address 115.15(c). With respect to the conduct of the cross-gender strip and/or body cavity search, the same will be documented in the inmate's central file. With respect to the cross-gender pat search of female inmates, the same will be documented in a memorandum, referred to the Lieutenant's Office, and subsequently referred to the PCM. This memorandum will include the subject inmate's name, staff member conducting the search, as well as, the circumstances precipitating the search.

Pursuant to the PAQ, the Warden self reports policies and procedures have been implemented at ELK enabling inmates to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks (this includes viewing via video camera). The Warden further relates policies and procedures require staff of the opposite gender to announce their presence when entering an inmate housing unit.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 17 and 18, section 115.15(d) addresses 115.15(d). Four specific methods of notification are articulated in this policy, as well as, one caveat regarding special circumstances.

IS ELK 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 4, section o also addresses 115.15(d).

During the facility tour, the auditor observed diligence and vigilance on the part of all staff to be aware of female staff in the housing units. Female staff consistently announced their presence while other male staff simultaneously effected the same announcement.

Ten of 20 random inmate interviewees assert female staff announce their presence when entering their housing unit. Of note, three additional interviewees assert staff announce gender most of the time when entering housing units and restrooms. All 20 interviewees assert they and other inmates are never naked in full view of female staff (not including medical staff such as doctors, nurses) when toileting, showering, or changing clothes.

Eleven of the 12 random staff interviewees assert they or other officers announce female staff presence when entering a housing unit. All interviewees assert inmates are able to dress, shower, and toilet without being viewed by staff of the opposite gender.

Given the auditor's observations as referenced above and the demographics referenced with respect to the random samples of inmates and staff, the auditor finds ELK substantially compliant with 115.15(d). It is also noted at least two random inmate interviewees assert the PA system gender announcement is made every shift.

Pursuant to the PAQ, the Warden self reports there is an FBOP policy prohibiting staff from searching or physically examining a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. According to the Warden, no such searches have been conducted during the audit period.

FBOP Program Statement 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 19, section 115.15(e) addresses 115.15(e). Additionally, FBOP Program Statement 5521.06

entitled Searches of Housing Units, Inmates, and Inmate Work Areas, pages 3 and 4, section 552.11(b)(2) addresses 115.15(e). The latter policy applies to pat searches of transgender/intersex inmates who request an exception to pat search by male staff. Generally, an approved exception is captured in a personal identifier denoted on the commissary card and a SENTRY notation, in writing, and communicated to staff.

All 12 random staff interviewees assert the facility does prohibit staff from searching or physically examining transgender/intersex inmates for the sole purpose of determining the inmate's genital status and they are aware of this requirement.

The seven transgender inmate interviewees assert they have not been placed in a housing area only for transgender/intersex inmates and they have no reason to believe they have been strip searched for the sole purpose of determining genital status.

Pursuant to the PAQ, the Warden self reports 100 percent of all correctional officer staff have received training on conducting cross-gender pat-down searches and searches of transgender/intersex inmates in a professional and respectful manner, consistent with security needs.

The auditor's review of ART lesson plans regarding Escort Procedures and PREA reveals substantial compliance with 115.15(f). Cross-gender pat down searches of transgender/intersex inmates and the conduct of visual searches are addressed. Additionally, the auditor's review of Training Acknowledgments reveals 33 staff completed the ART PREA course and they understand the same. The document is signed and dated by all participants.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 19, section 115.15(f) addresses 115.15(f). Training materials are maintained and updated by the FBOP Correctional Services Branch.

All 12 random staff interviewees assert the agency has a policy to train staff to conduct cross-gender pat down searches and searches of transgender/intersex inmates in a professional and respectful manner, consistent with security needs. All 12 interviewees assert they received this training either during Introduction to Correctional Techniques (ICT) training (prior to assuming duties with inmates) and/or annual In-Service PREA training. The training was provided either pursuant to lecture, online, or demonstration formats.

In view of the above, the auditor finds ELK substantially compliant with 115.15.

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

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

#### **115.16 (a)**

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

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

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

#### 115.16 (b)

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

#### 115.16 (c)

- Does the agency always refrain from relying on inmate interpreters, inmate readers, or other types of inmate assistance except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under §115.64, or the investigation of the inmate's allegations? X  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*)

Pursuant to the PAQ, the Warden self reports there are established procedures to provide disabled inmates 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.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 19, section 115.16(a) addresses 115.16(a). IS ELK 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 4, section n also addresses 115.16(a).

The Warden asserts PREA materials are printed in both English and Spanish and the auditor has confirmed the same as described in the narrative for 115.33(a). Additionally, a Spanish Speaking staff member is also available to provide Spanish translation for inmates during intake screening and admission and orientation (A&O). As reflected in the narrative for 115.16(b), ELK is also engaged in a contract with DT Interpreting and LanguageLine Solutions to provide telephonic translations to inmates who are not English proficient, blind, and deaf.

The PCM asserts there has been no need for use of these interpretation sources in excess of 12 months.

For inmates who cannot read or have limited reading skills, PREA information is presented verbally. For hearing-impaired inmates, PREA information is available in written formats. Accordingly, the auditor finds ELK is substantially compliant with 115.16(a), whereby a translator can provide on-site translation or telecommunication translation. For inmates with intellectual and/or psychiatric disabilities, information is presented by psychology services staff, if needed.

According to the Agency Head interviewee, each facility PCM reaches out to disability assistance offices in the local community as a resource for institution staff to provide effective communication accommodations when a need for such accommodation exists. Additionally, each institution establishes a contract with LanguageLine Solutions for those inmates who speak a language other than English.

Two inmate interviewees who presented with cognitive disabilities, one who presented with physical disabilities, and one limited English proficient (LEP) inmate interviewees assert the facility provides information about sexual abuse/harassment they can understand. Interviewees assert they access staff or inmate assistance, if necessary.

One blind, deaf, hard of hearing inmate asserts his disabilities are not addressed in terms of PREA education. He has had assistance in the past however, that assistance is no longer available.

In regard to the above, the auditor provided the name of this interviewee to the MA for referral to facility staff.

The chief psychologist researched this case and determined the inmate, in question, developed reduced sight since confinement at ELK. He had no sight problems with respect to reading at the time of his arrival when he was provided an A&O Handbook and PREA materials. Accordingly, it appears he was able to be fully informed regarding PREA matters.

In view of the above, the auditor finds no evidence suggesting non-compliance with 115.16(a).

Pursuant to the PAQ, the Warden self reports the agency has established procedures to provide inmates with limited English proficiency equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 20, section 115.16(b) addresses 115.16(b).

The auditor's review of documentation regarding DT Interpreting reveals substantial compliance with 115.16(a) and (b). Additionally, the auditor's review of a Blanket Purchase Agreement (BPA) with LanguageLine Solutions reveals substantial compliance with 115.16(b).

The auditor's review of a poster (English and Spanish) reveals information is provided regarding Zero Tolerance and reporting. Additionally, the auditor's limited review of a document entitled Sexually Abusive Behavior Prevention and Intervention: An Overview for Offenders (written in English and Spanish) provides a plethora of PREA-related information.

In addition to the above, the auditor's review of a document (prepared in English and Spanish) entitled Reporting Methods and Supportive Services for Sexual Abuse, reveals substantial compliance with 115.16. The auditor observed such posters throughout the facility.

Pursuant to the PAQ, the Warden self reports agency policy prohibits use of inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under 115.64, or investigation of the inmate's allegations. The Warden further advises the facility documents the limited circumstances, in individual cases, where inmate interpreters, readers, or other types of assistants are used. Reportedly, there were zero instances, within the last 12 months, wherein inmate interpreters, readers, or other types of inmate assistants have been used and it was not the case that an extended delay in obtaining another interpreter could compromise the inmate's safety, the performance of first-response duties, or the investigation of the inmate's allegations.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 20, section 115.16(c) addresses 115.16(c). IS ELK 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 4, section n also addresses 115.16(c).

Eleven of 12 random staff interviewees assert inmate interpreters/readers/assistants can be used to assist inmates with disabilities or LEP inmates when making an allegation of sexual abuse/harassment. Ten interviewees were able to identify one or more of the reasons for use of such resources, as defined in 115.16(c). The most common reasons cited are the avoidance of compromise to the inmate's safety and loss of evidence/compromise of the investigation. All 12 interviewees assert, to the best of their knowledge, this has not occurred during this audit period.

In view of the above, the auditor finds ELK substantially compliant with 115.16.

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

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

#### **115.17 (a)**

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

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

#### 115.17 (b)

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

#### 115.17 (c)

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

#### 115.17 (d)

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

#### 115.17 (e)

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

#### 115.17 (f)

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

### 115.17 (g)

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

### 115.17 (h)

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

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports agency policy prohibits hiring or promoting anyone who may have contact with inmates and prohibits enlisting the services of any contractor who may have contact with inmates who:

Has engaged in sexual abuse in a prison, jail, lock-up, community confinement facility, juvenile facility, or other institution;  
Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or  
Has been civilly or administratively adjudicated to have engaged in the activity described in the preceding bullet.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 20, section 115.17(a)(1-3) addresses 115.17(a).

The following represents a recapitulation of the auditor's on-site review of 16 random staff and contractor files, inclusive of promotion files. During the process, the auditor found that some Human Resource (HR) documentation is maintained at the facility for new hires (within the last 9-12 months) while documents older than 9-12 months are maintained at Grand Prairie, Texas. Thus, criminal record background check information is generally available at the facility for those staff hired within the last 9-12 months. However, the same documentation, inclusive of five year re-investigations, for those staff hired prior to the last year are maintained at Grand Prairie. Additionally, employment applications and applications for promotion are maintained at Grand Prairie. Any information relative to prior employer checks is maintained with the criminal record background checks at Grand Prairie. In view of redaction issues associated with the Freedom of Information/Privacy Act (FOI/PA), such information, as well as, the specifics regarding NCIC findings, are not available to the auditor.

In an effort to facilitate report timeliness and reasonable assurance for the auditor that all provisions of Standard 115.17 have been met, the auditor agreed to reliance on a written certification from the ELK HRM regarding relevant provisions. He certifies he specifically verified all of the following with respect to the randomly selected files. Thus, requisite reviews of documentation submitted by applicants prior to the hiring process, are certified by the ELK HRM. Additionally, the ELK HRM certifies his findings signify compliance with 115.17 provisions.

For context, three random staff were hired during the last 12 months. Eleven random files pertain to staff plus two medical contractor files that should have received at least one five-year reinvestigation. Finally, two staff promotions (also tenured staff) are included in this group.

The HRM's review of the three new employee files (hired within the last 12 months) reveals eQIP/JSTARS Waiver Requests were granted prior to the actual date of hire. In these cases, a limited background investigation is conducted to assess whether conditional appointment is appropriate based on FBOP standards, inclusive of PREA. The auditor thus finds ELK substantially compliant with 115.17(a).

The ELK HRM certifies all five year re-investigations for nine random staff, two contractors, and two staff promotions have been completed and no new disqualifying information has surfaced. Accordingly, the auditor finds ELK substantially compliant with 115.17(c), (d), and (e).

The ELK HRM certifies the three new hires within the last 12 months, as well as, the two promotion applicants, certified, within their application, they did not engage in sexual abuse as articulated in 115.17(a) (1-3). The auditor has been advised the three questions were not included in the promotion applications until June, 2019.

In addition to the above, the ELK HRM certifies there is no evidence of sexual harassment (with respect to the three applicants hired within the last 12 months) and prior institutional employer checks were initiated in these three cases pursuant to the initial criminal record background check. He further certifies no disqualifying evidence surfaced as a result of the same, relevant to the random staff. Thus, compliance with 115.17(a), (b), (c), and (f) is validated.

Pursuant to the PAQ, the Warden self reports agency policy requires the consideration of any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 20, section 115.17(b) addresses 115.17(b).

The Human Resources (HR) interviewee asserts the facility considers prior incidents of sexual harassment when determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates. Sexual harassment is addressed in the Pre-Employment Questionnaire (PEQ) however, it is not necessarily specific. The investigator may be privy to sexual harassment expectations. Of note, a similar PEQ is administered to contractors. That document is likewise referred to investigators.

Pursuant to the PAQ, the Warden self reports agency policy requires before new employees who may have contact with inmates are hired, a criminal background record check is conducted and consistent with federal, state, and local law, best efforts are made to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation for an allegation of sexual abuse. The Warden further self reports during the past 12 months, 53 persons who may have contact with inmates have had criminal background record checks completed. This equates to 100% of staff hired during this time frame.

Of note, as new hires may be pending completion of a full criminal background records check, a Waiver is issued by the reviewing authority after review of source information. Thus, the hire is conditional upon successful completion of the full criminal background records check.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 21, section 115.17(c)(1 and 2) addresses 115.17(c).

The HR interviewee asserts the agency performs criminal background record checks or considers pertinent civil or administrative adjudications for all newly hired employees who may have contact with inmates and all employees, who may have contact with inmates, who are considered for promotions. Such criminal background record checks are completed by Office of Personnel Management (OPM) contract investigators. This applies to contractors who may have contact with inmates, as well.

As there is an on-going record of employee behaviors between the entry on duty date and the first five-year re-investigation, managers and executive staff are reasonably assured of knowledge of additional relevant charges/convictions, etc. Of note, fingerprints are maintained by the FBI and accordingly, any new charges/convictions are reported to the FBOP and the Warden. This same procedure applies between five-year re-investigations.

Prior institutional employer checks are addressed in the narrative for 115.17(b).

Pursuant to the PAQ, the Warden self reports agency policy requires a criminal background record check is completed before enlisting the services of any contractor who may have contact with inmates. The Warden further self reports criminal background record checks were conducted relative to 36 contractors who might have contact with inmates.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 21, section 115.17(d) addresses 115.17(d).

Pursuant to the PAQ, the Warden self reports agency policy requires that either criminal background record checks be conducted at least every five years for current employees and contractors who may have contact with inmates, or that a system is in place for otherwise capturing such information for current employees.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 21, section 115.17(e) addresses 115.17(e).

The HR interviewee asserts the JSTARS and eQIP systems are used to request initial criminal background record checks for new employees and contractors. Grand Prairie tracks and requests five-year re-investigations with respect to both staff and contractors.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 21, section 115.17(f) addresses 115.17(f).

Auditor's Note: With respect to asking all current employees regarding the three questions articulated in 115.17(a) during interviews or written self-evaluations conducted as part of reviews of current employees, the auditor has determined the same is not applicable to the FBOP. Specifically, pursuant to the auditor's review of PS 3430.08 entitled "Performance", the final discussion of performance with the employee does not meet the definition of "interview and written self-evaluation" as articulated in the standard. The employee can grieve his/her performance rating at which time he/she can present documentary evidence, etc. in support of a requested rating change. During the final discussion of performance, the employee can sign or may not sign the written narrative.

In regard to the employee's affirmative obligation to report, the same is articulated during annual refresher training (ART) and the employee signs for receipt and understanding of the training.

In addition to the above, the policy citation includes a disclaimer that "reviews" equate to the five-year re-investigations referenced in the narrative for 115.17(e).

The auditor has been advised the 115.17(a) questions are reflected in all promotion applications since June, 2019. The three 115.17(a) questions have been reflected in new employee applications for some time.

According to the interviewee, the three 115.17(a) questions are asked of prospective employees and contractors during the criminal background record check investigations.

With respect to promotions, hiring manager/executive staff vouchering and checks of employee disciplinary files, as well as, five-year re-investigation results are used to guard against any unsuitable candidates.

Additionally, the HR interviewee asserts the facility imposes upon the employee, a continuing affirmative duty to disclose any such previous misconduct. Staff sign for the Standards of Employee Conduct during ART.

Pursuant to the PAQ, the Warden self reports agency policy states material omissions regarding such misconduct, or the provision of materially false information, are grounds for termination.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 21, section 115.17(g) addresses 115.17(g).

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 21, section 115.17(h) addresses 115.17(h).

The HR interviewee asserts when a former employee applies for work at another institution and upon request from that institution, ELK HR staff provides information on substantiated allegations of sexual abuse or sexual harassment involving the former employee, unless prohibited by law.

In view of the above, the auditor finds ELK substantially compliant with 115.17.

## Standard 115.18: Upgrades to facilities and technologies

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

#### 115.18 (a)

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

#### 115.18 (b)

- If the agency installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology, did the agency consider how such technology may enhance the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012, or since the last PREA audit, whichever is later.)  
 Yes  No  NA

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports the facility has not made substantial expansions or modifications to existing facilities since August 20, 2012, or since the last PREA audit, whichever is later.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 21, section 115.18(a) addresses 115.18(a).

According to the agency head interviewee, all new facility designs and upgrades include an assessment of whether and how the same enhances protection of inmates against sexual abuse. In existing facilities, all

substantiated and unsubstantiated incidents are reviewed to determine if modifications to design or the addition or upgrade of technology would help prevent a similar occurrence in the future.

The Warden asserts there were no expansions or modifications to the physical plant since the last PREA audit.

Pursuant to the PAQ, the Warden self reports the facility has installed or updated video monitoring system(s), electronic surveillance system(s), or other monitoring technology since August 20, 2012, or since the last PREA audit, whichever is later.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 22, section 115.18(b) addresses 115.18(b).

According to the agency head interviewee, institution reviews are ongoing to determine if upgrades or additions to our existing technology would enhance the protection of inmates from incidents of sexual abuse. The technology serves as a deterrent, but also allows us to identify unreported victims and perpetrators of sexually abusive behavior. It also aids in successful criminal prosecutions.

The Warden asserts the system hasn't been upgraded, equipment added, or enhanced rather, equipment has been replaced.

The PCM asserts the video surveillance upgrades consisted of replacement of existing PTZ cameras and video storage components. No substantive changes were made to the video system.

During the facility tour, the auditor noted video surveillance within the FCI housing units was acceptable. However, many of the program and operational areas may require new installation at some point. To address blind spots, facility staff implemented a mirror system. Additionally, the auditor observed an adequate staffing pattern to facilitate inmate sexual safety.

The auditor's review of investigations (last 12 months) reveals no patterns of abuse/harassment in program/operational areas. Of note, staff supervision of inmates in those areas is adequate.

In view of the above, the auditor finds ELK substantially compliant with 115.18.

## RESPONSIVE PLANNING

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

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

##### 115.21 (a)

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

##### 115.21 (b)

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  Yes  No X  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.) X  Yes  No  NA

#### 115.21 (c)

- Does the agency offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate? X  Yes  No
- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible? X  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)? X  Yes  No
- Has the agency documented its efforts to provide SAFEs or SANEs? X  Yes  No

#### 115.21 (d)

- Does the agency attempt to make available to the victim a victim advocate from a rape crisis center? X  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? (N/A if the agency *always* makes a victim advocate from a rape crisis center available to victims.) X  Yes  No  NA
- Has the agency documented its efforts to secure services from rape crisis centers? X  Yes  No

#### 115.21 (e)

- As requested by the victim, does the victim advocate, qualified agency staff member, or qualified community-based organization staff member accompany and support the victim through the forensic medical examination process and investigatory interviews? X  Yes  No
- As requested by the victim, does this person provide emotional support, crisis intervention, information, and referrals? X  Yes  No

#### 115.21 (f)

- If the agency itself is not responsible for investigating allegations of sexual abuse, has the agency requested that the investigating agency 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.) X  Yes  No  NA

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

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

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports the facility is responsible for conducting administrative sexual abuse investigations (including inmate-on-inmate sexual abuse or staff sexual misconduct). According to the Warden, a combination of the Department of Justice (DOJ) Office of the Inspector General (OIG), Federal Bureau of Investigation (FBI), and the facility Special Investigative Agent (SIA) and/or Special Investigative Services (SIS) staff facilitate criminal investigations, dependent upon the circumstances, of sexual abuse at ELK. Generally, referrals to OIG occur following review of the Warden's referral to the FBOP Office of Internal Affairs (OIA). When conducting a sexual abuse investigation, the agency investigators follow a uniform evidence protocol.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 22, section 115.21(a) addresses 115.21(a).

Pursuant to the auditor's review of PAQ documentation, he determined there is no reference to expectations in one training protocol regarding a first responder's direction to the perpetrator of a sexual assault. Specifically, pursuant to 115.64(a), the first responder REQUESTS that the victim not destroy physical evidence as defined by the provision. The first responder ENSURES the perpetrator does not destroy physical evidence as defined in the aforementioned provision. The auditor found no references to ENSURING the perpetrator does not destroy physical evidence, in the Power Point Presentation.

As the auditor finds the FBOP policy to be commensurate with 115.64(a) (preservation of physical evidence) and staff responses as articulated in the following paragraph to generally follow the PS 5324.12 dictates, he does not find sufficient evidence to warrant a non-compliance finding. Accordingly, the auditor is requiring amendment of the aforementioned training document to coincide with the requirements of 115.64(a) and PS 5324.12.

The above corrective action must be completed on or before October 17, 2020. The PCM will forward to the auditor a copy of the amended document(s) and copies of training documentation reflecting new staff are being properly trained regarding 115.64. Of note, the laminated card carried by staff will also require amendment and accordingly, the PCM will provide a copy of the same to the auditor.

All 12 random staff interviewees assert they are aware of and understand the agency's protocol for obtaining usable physical evidence if an inmate alleges sexual abuse. Six of the 12 interviewees correctly identified all steps of the first responder duties as their role as first responders consists of evidence preservation. The same constitutes the primary protocol for obtaining usable physical evidence at ELK given the fact the SIS/OIG investigators, and specially trained staff on the evidence recovery team collect physical evidence.

Nine of 12 interviewees assert administrative investigations are facilitated by SIS investigators and criminal investigations are facilitated by OIG/FBI.

Pursuant to the PAQ, the Warden self reports youth are not confined at the facility and accordingly, the requirement that the protocol be developmentally appropriate for youth, is not applicable to ELK. The Warden further self reports the protocol was adapted from or is otherwise based on the most recent edition

of the DOJ'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.

FBOP Program Statement 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 22, section 115.21(b) addresses 115.21(b). This policy stipulates the Bureau's response to sexual abuse follows the DOJ's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents" dated April 2013, or the most current version.

The auditor's review of PAQ legal opinion memorandums reveals the uniform evidence protocol utilized by OIG and the FBI meets the letter of 115.21(b).

Pursuant to the PAQ, the Warden self reports all inmates who experience sexual abuse are afforded access to forensic medical examinations at an outside medical facility. Such examinations are generally facilitated at a nearby health center. Forensic medical examinations are offered without financial cost to the victim.

Where possible, examinations are conducted by sexual assault forensic examiners (SAFEs) or sexual assault nurse examiners (SANEs). Efforts to provide SANEs or SAFEs are documented. In the past 12 months, zero forensic medical examinations were conducted by a SAFE/SANE relative to ELK inmate(s) who were allegedly sexually abused.

FBOP Program Statement 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 22, section 115.21(c) addresses 115.21(c). A forensic examination is preceded by a general physical examination conducted at the facility and the victim is afforded the opportunity for a forensic examination as soon as possible.

IS ELK 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 4, section h also addresses 115.21(c).

The SAFE/SANE interviewee asserts the SAFE/SANE program entails completion of a specialized training curriculum (based on federal and state forensic examination protocols), inclusive of a testing procedure. All SAFE/SANEs are per-diem, on-call, and a nurse is always available.

As part of the state forensic protocol, education was provided to victims regarding sexually transmitted infection and prophylaxis was provided when deemed necessary. Treatment was provided pursuant to state standards and protocols.

The interviewee asserts the program was temporarily disbanded on or about April 6, 2020.

Pursuant to the PAQ, the Warden self reports the facility attempts to make a victim advocate (VA) from a rape crisis center available to the victim, either in person or by other means, and the efforts are documented. If and when a rape crisis center is not available to provide VA services, the facility provides a qualified staff member from a community-based organization or a qualified facility staff member.

The auditor's review of three TMS Class Sign-In Sheets regarding completion of the Forensic Medical Exams: An Overview for Victim Advocates and two FBOP certificates for completion of the same course by two ELK staff reveals substantial compliance with 115.21(d).

FBOP Program Statement 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 23, section 115.21(d) addresses 115.21(d). This policy stipulates if a rape crisis center is not available, properly trained psychology or chaplaincy services staff members may provide victim services locally.

IS ELK 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 4, section i also addresses 115.21(d).

The PCM asserts, if requested by the victim, a VA from the Youngstown Rape Crisis Center provides services pursuant to an Agreement between FBOP/ELK and The Rape Crisis and Counseling Center (Compass Family and Community Services). The VA can accompany and provide emotional support, crisis intervention, information, and referrals during the forensic medical examination process and investigatory interviews if requested by the victim.

Two of the four interviewees who reported a sexual abuse at ELK assert they did not avail themselves of offered telephone calls. Two of the four cases appear to be better defined as sexual harassment. In the two remaining cases, interviewees relate the facility did allow them to contact anyone. In summary, none of the fact patterns involved in these scenarios invoked victim advocacy services.

Pursuant to the PAQ, the Warden self reports that if requested by the victim, a victim advocate, qualified agency staff member, or qualified community-based organization staff member accompanies and supports the victim through the forensic medical examination process and investigatory interviews and provides emotional support, crisis intervention, information, and referrals. The Warden further asserts no such requests have been received during this audit period.

FBOP Program Statement 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 23, section 115.21(e) addresses 115.21(e). Such services are pre-authorized pursuant to the agreement referenced in the narrative for 115.21(d).

IS ELK 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 4, section i also addresses 115.21(e).

The PCM asserts he has had contact with The Rape Crisis and Counseling Center executives or administrators regarding VA qualifications. He is reasonably assured of VA qualifications.

Pursuant to the PAQ, the Warden self reports if the agency is not responsible for investigating administrative or criminal allegations of sexual abuse and relies on another agency to conduct these investigations, the agency has requested that the responsible agency follow the requirements of paragraphs 115.21(a through e) of the PREA standards.

FBOP Program Statement 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 23, section 115.21(f) addresses 115.21(f).

The Warden self reports that during this audit period, zero sexual abuse allegations were investigated by OIG or the FBI.

As mentioned throughout the narrative for 115.21, OIG protocols encompass all provisions of the standard.

In view of the above, the auditor finds ELK substantially compliant with 115.21.

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

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

#### **115.22 (a)**

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

#### **115.22 (b)**

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

#### 115.22 (c)

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

#### 115.22 (d)

- Auditor is not required to audit this provision.

#### 115.22 (e)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports the agency ensures an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. According to the Warden, in the last 12 months, eight allegations of sexual abuse were received and all were administratively investigated while zero were investigated as criminal matters. The Warden further self reports six of these eight administrative investigations were completed while two remain outstanding.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 24, section 115.22(a) addresses 115.22(a).

According to the agency head interviewee, an administrative or criminal investigation is completed for all allegations of sexual abuse or sexual harassment.

In general, OIG investigates potential criminal cases of staff-on-inmate sexual abuse. OIA and SIS (if delegated by OIA) investigate administrative cases of staff-on-inmate sexual abuse or sexual harassment. OIG, OIA, and SIS, in general, review the allegation(s) and predicated information. Substantiated allegation(s) for administrative investigations or criminal prosecutions are based on the corroboration of witness and victim statements, predicated information, along with physical evidence.

Pursuant to the PAQ, the Warden self reports the agency has a policy requiring allegations of sexual abuse and sexual harassment to be referred for investigation to an agency with the legal authority to conduct criminal investigations, including the agency if it conducts its own investigations, unless the allegation does

not involve potentially criminal behavior. The Warden further self reports agency policy regarding the referral of allegations of sexual abuse or sexual harassment for criminal investigation is published on the agency website or made publicly available via other means. The agency documents all referrals of allegations of sexual abuse/harassment for criminal investigation.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 24, section 115.22(b) addresses 115.22(b). FBOP PS 5508.02 entitled Hostage Situations or Criminal Actions Requiring FBI Presence, page 2, section 7 addresses the MOU between the FBOP and FBI regarding investigative responsibilities. The actual MOU is included in the PAQ documentation and clearly stipulates responsibilities.

28 Code of Federal Regulations (CFR) 45 stipulates DOJ employees are required to report misconduct, cooperate with investigations, and report such incidents to OIG. 28 CFR 29 addresses referral of investigations to other DOJ components. This information is synonymous with the narrative articulated at 115.21(a).

The investigative staff interviewee asserts agency policy does require that allegations of sexual abuse/harassment be referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. Such referrals are made to OIG/FBI and the SIS can also prepare a criminal case. Such referrals are generally facilitated by the FBOP OIA following SIS referral to OIA.

The auditor's review of the FBOP website reveals FBOP PS 5324.12 and the previously referenced policy noted in the narrative for 115.22(a) are posted on the same. Accordingly, the aforementioned verbiage is available on the website.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 24, section 115.22(c) addresses 115.22(c).

The auditor notes all FBOP Program Statements referenced in 115.21 and 115.22 are maintained on the FBOP website and ELK tab.

In view of the above, the auditor finds ELK substantially compliant with 115.22.

## TRAINING AND EDUCATION

### Standard 115.31: Employee training

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

#### 115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment? X  Yes  No
- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures? X  Yes  No
- Does the agency train all employees who may have contact with inmates on inmates' right to be free from sexual abuse and sexual harassment X  Yes  No
- Does the agency train all employees who may have contact with inmates on the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment? X  Yes  No

- Does the agency train all employees who may have contact with inmates on the dynamics of sexual abuse and sexual harassment in confinement? X  Yes  No
- Does the agency train all employees who may have contact with inmates on the common reactions of sexual abuse and sexual harassment victims? X  Yes  No
- Does the agency train all employees who may have contact with inmates on how to detect and respond to signs of threatened and actual sexual abuse? X  Yes  No
- Does the agency train all employees who may have contact with inmates on how to avoid inappropriate relationships with inmates? X  Yes  No
- Does the agency train all employees who may have contact with inmates on how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates? X  Yes  No
- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities? X  Yes  No

#### 115.31 (b)

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

#### 115.31 (c)

- Have all current employees who may have contact with inmates received such training? X  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? X  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? X  Yes  No

#### 115.31 (d)

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

#### Auditor Overall Compliance Determination

- X  **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*)

Pursuant to the PAQ, the Warden self reports the agency trains all employees who may have contact with inmates regarding the ten topics listed in 115.31(a).

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 24 and 25, section 115.31(a) addresses 115.31(a). IS ELK 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 2, section 5(b) also addresses 115.31(a).

The auditor's limited review of the FBOP Power Point Presentation entitled Sexually Abusive Behavior Prevention & Intervention Program reveals the requisite 10 topics are covered with narrative and slides. All requisite training [as applied to 115.31(a)] is available at ELK. The auditor's cursory review of the Instructor Notes for the Sexually Abusive Behavior Prevention and Intervention Program- ART 2020 also reveals substantial compliance with 115.31(a).

The auditor's review of Training Acknowledgments dated December 2, 2019 addressing PREA training reveals 33 staff completed the aforementioned training, they understand the subject-matter presented, and they printed/signed their name to the document. Additionally, documentation to the auditor, as previously described, reveals 10 staff completed requisite Introduction to Correctional Techniques (ICT) training on three separate dates.

All 12 random staff interviewees assert they have been trained regarding the 10 topics referenced in 115.31(a) during ICT and/or ART PREA training.

The auditor's review of rosters bearing training certifications for five random staff selected within the last 24 months reveals completion of the requisite training in accordance with 115.31(a). Nine random files pertain to staff hired prior to the instant audit period. However, of note, all random files reviewed reveal ART was provided during the audit period.

Pursuant to the PAQ, the Warden self reports training is tailored to the gender of the inmates assigned to the facility. The Warden further self reports employees who are reassigned from facilities housing the opposite gender are given additional training.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 25, section 115.31(b) addresses 115.31(b).

During the facility tour, the auditor interviewed a staff member who had transferred to ELK from a facility wherein female inmates are housed. She advised she had been re-trained at ELK regarding PREA expectations. The auditor validated her statement pursuant to review of her training file.

The auditor finds training to be appropriate for the male gender inmates housed at ELK. The Warden further self reports employees who are reassigned from facilities housing the opposite gender are given additional training.

Pursuant to the PAQ, the Warden self reports 349 staff employed by the facility, who may have contact with inmates, were either trained or retrained in PREA requirements. This equates to 100% training completion.

Pursuant to the PAQ, the Warden self reports staff receive initial PREA training during ICT and annually during ART. Additionally, the prevalence of PREA posters and PREA email training flyers reveals substantial compliance with 115.31(c).

According to the Warden, employees who may have contact with inmates receive PREA refresher training on an annual basis. As 115.31(c) requires refresher training on a bi-annual basis and given the fact policy, interviews, and auditor review of relevant evidence demonstrate annual PREA training, the auditor finds ELK exceeds standard requirements with respect to 115.31(c).

Pursuant to the PAQ, the Warden self reports the agency documents that employees who may have contact with inmates understand the training they have received through employee signature or electronic verification.

The requirements of this provision, in terms of actual signatures of understanding, are addressed in the narrative for 115.31(a). Specifically, the auditor's review of PAQ information, as well as, random on-site review of staff files substantiates compliance with 115.31(d).

In view of the above, the auditor finds ELK exceeds 115.31 standard expectations.

## Standard 115.32: Volunteer and contractor training

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

#### 115.32 (a)

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

#### 115.32 (b)

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

#### 115.32 (c)

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

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports all contractors who have contact with inmates have been trained on their responsibilities under the agency's policies and procedures regarding sexual abuse/harassment prevention, detection, and response. The Warden further self reports 36 contractors and 59 volunteers, who have contact with inmates, have been trained in the agency's policies and procedures regarding sexual abuse/harassment prevention, detection, and response and all have been properly trained.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 26, section 115.32(a) addresses 115.32(a).

The auditor's review of the ART PREA lesson plan for contractor/volunteer training reveals substantial compliance with both 115.32(a) and (b). The same clearly reflects instruction regarding the facility's zero tolerance policy, PREA overview, definitions of sexual abuse/harassment behaviors, and reporting options.

Four contractor/volunteer (two contractor and two volunteer) interviewees assert they have been trained in their responsibilities regarding sexual abuse/sexual harassment prevention, detection, and response per agency policy and procedure. All four interviewees have provided services at ELK for at least four years. They assert they receive PREA training on an annual basis and the same consists of policy review, lecture, classroom discussion, and/or Power Point slides.

Pursuant to the PAQ, the Warden self reports the level and type of training provided to volunteers and contractors is based on the services they provide and level of contact they have with inmates. The auditor's review of relevant policy reveals all contractors and volunteers receive the same PREA training and the same is commensurate with standard expectations. The Warden further self reports all volunteers and contractors who have contact with inmates have been notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 26, section 115.32(b) addresses 115.32(b).

The aforementioned interviewees assert the FBOP's zero tolerance policy and approach towards sexual abuse/harassment, incident reporting expectations/options, documentation requirements, and a discussion of what behaviors an inmate might exhibit if being sexually abused/harassed are a few of the topics addressed during annual training.

The PCM asserts the PREAART lesson plan included in the PAQ information, is the same information provided to contractors/volunteers.

Pursuant to the PAQ, the Warden self reports the agency maintains documentation confirming that volunteers/contractors understand the training they have received.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 26, section 115.32(c) addresses 115.32(c).

The auditor's review of two Volunteer Training Affirmation forms reveals substantial compliance with 115.43(c). These documents are signed and dated by the volunteer, as well as, bearing the individual's printed name. The document reflects the participant understands the subject-matter of the training, inclusive of PREA.

In view of the above, the auditor finds ELK substantially compliant with 115.32.

## **Standard 115.33: Inmate education**

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

#### **115.33 (a)**

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

#### **115.33 (b)**

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

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

### 115.33 (c)

- Have all inmates received the comprehensive education referenced in 115.33(b)? X  Yes  No
- Do inmates receive education upon transfer to a different facility to the extent that the policies and procedures of the inmate's new facility differ from those of the previous facility? X  Yes  No

### 115.33 (d)

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

### 115.33 (e)

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

### 115.33 (f)

- In addition to providing such education, does the agency ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats? X  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*)

Pursuant to the PAQ, the Warden self reports inmates receive information at time of intake about the zero-tolerance policy and how to report incidents or suspicions of sexual abuse or sexual harassment. The Warden further self reports 1457 inmates were admitted to ELK during the last 12 months, of which 100% were provided the requisite information at intake.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 26 and 27, section 115.33(a) addresses 115.33(a). The FBOP Admission and Orientation (A&O) pamphlet on Sexually Abusive Behavior Prevention and Intervention is provided to each inmate at intake screening. This document addresses a plethora of PREA topics inclusive of zero tolerance, reporting incidents of sexual abuse/harassment, among other topics.

The PCM asserts the pamphlet is included in the A&O Handbook and each inmate signs for receipt of the same.

The intake staff interviewee asserts inmates are provided an Admission & Orientation (A&O) Handbook wherein the FBOP pamphlet on Sexually Abusive Behavior Prevention and Intervention is included, immediately upon arrival (at intake). This resource, minimally, provides information about the zero-tolerance policy and how to report incidents or suspicions of sexual abuse/harassment. Provision of the above resource to the inmate is documented on the Intake Screening Form.

Seventeen of 20 random inmate interviewees assert they received information about the facility's rules against sexual abuse/harassment. Of note, three interviewees assert they arrived at ELK prior to 2017.

The auditor's on-site review of 15 random inmate files reveals all inmates received requisite information on the date of arrival at ELK. Of note, three of the 15 files pertained to inmates who arrived at ELK prior to 2017.

The auditor notes random inmate files were reviewed with respect to two of the three inmates who responded they did not receive information about the facility's rules against sexual abuse/harassment. In both cases, requisite information was provided to the inmates on the date of arrival.

Pursuant to the PAQ, the Warden self reports 1287 inmates were admitted to ELK during the last 12 months whose length of stay was 30 days or more. According to the Warden, all of these inmates received comprehensive PREA education within 30 days of intake.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 27, section 115.33(b) addresses 115.33(b). Specific A&O PREA topics are identified in this policy provision, the same being comprehensive.

The intake staff interviewee asserts the facility ensures inmates are educated regarding their rights to be free from sexual abuse/harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents. This information is conveyed pursuant to the A&O Handbook, followed by more in-depth education by unit staff and psychology services staff, generally conducted within one week of arrival.

Seventeen of 20 random inmate interviewees assert they received 115.33(b) information between the day of intake and one week later. The auditor notes this is the same interview group referenced in the narrative for 115.33(a). Education is provided at intake as identified in 115.33(a) and within 30 days of intake at A&O.

The auditor's on-site review of 15 random inmate files reveals 13 inmates received requisite information on the date of arrival at ELK and within 30 days of arrival. Of note, three of the 15 files pertained to inmates who arrived at ELK prior to 2017.

The auditor notes random inmate files were reviewed with respect to two of the three inmates who responded they did not receive requisite information about 115.33(b) subject-matter and in both cases, requisite information was provided in a timely manner.

The auditor's review of 30 Institution A&O Program Checklists validates completion of the Sexual Abuse/ Assault presentation. Requisite topics were presented to participants and they signed for receipt of the same. Training was provided within 30 days of intake.

Pursuant to the PAQ, the Warden self reports all inmates received within the last 12 months have been properly educated. The Warden further self reports agency policy requires that inmates who are transferred from one facility to another be educated regarding their rights to be free from both sexual abuse/sexual harassment, retaliation for reporting such incidents, and on agency policies and procedures for responding to such incidents to the extent that the policies and procedures for the new facility differ from those of the previous facility.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 27, section 115.33(c) addresses 115.33(c).

Pursuant to the PAQ, the Warden self reports education is available in accessible formats for all inmates, including those specific groups listed in the verbiage of 115.33(d).

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 27, section 115.33(d) addresses 115.33(d).

Methods of training provision to groups of inmates described in 115.33(d) are delineated in the narrative for 115.16.

Pursuant to the PAQ, the Warden self reports the agency maintains documentation of inmate participation in PREA education sessions.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 28, section 115.33(e) addresses 115.33(e). Additionally, FBOP PS 5290.14 entitled Admission and Orientation Program, page 10, section g reflects proper documentation of inmate participation in institution A&O and intake screening.

With respect to the documentation identified in the narratives for 115.33(a-c), the auditor also reviewed the same when reviewing random inmate files. Conclusions are based on the completed documents.

Pursuant to the PAQ, the Warden self reports the agency ensures key information about the agency's PREA policies is continuously and readily available or visible through posters, inmate handbooks, or other written formats.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 28, section 115.33(f) addresses 115.33(f).

The auditor's review of one poster included in the PAQ information, previously mentioned in the narrative for 115.16(b), and the pamphlet mentioned in the narrative for 115.33(a), reveals substantial compliance with 115.33(f).

In view of the above, the auditor finds ELK substantially compliant with 115.33.

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

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

#### **115.34 (a)**

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

#### 115.34 (b)

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

#### 115.34 (c)

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

#### 115.34 (d)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports agency policy requires investigators are trained in conducting sexual abuse investigations in confinement settings.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 28, section 115.34(a) addresses 115.34(a).

The investigative interviewee asserts he has completed and he completes the specialty training identified throughout the narrative for 115.34(a) on an annual basis. Of note, the auditor's review of the

roster mentioned in the following paragraphs validates the same. The interviewee did complete the requisite specialty training.

The interviewee asserts this National Institute of Corrections (NIC) course was presented online. The same included videos, slides, Power Point, and encompassed multiple choice questions. SIS technicians (SIS techs) also complete the same course on an annual basis.

The auditor's review of an ELK roster of staff completions of a one hour NIC PREA Investigator specialty training course entitled PREA: Investigating Sexual Abuse in a Confinement Setting reveals four SIS techs and a lieutenant completed requisite specialty investigative training. The auditor's review of the training plan relative to this course reveals substantial compliance with 115.34.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 28, section 115.34(b) addresses 115.34(b).

The training curriculum and documentation of completion is addressed in the narrative for 115.34(a).

The investigative staff interviewee asserts specialty training topics include:

Techniques for interviewing sexual abuse victims;  
Miranda and Garrity rights;  
Sexual abuse evidence collection in confinement settings; and  
The criteria and evidence required to substantiate a case for administrative action or prosecution referral.

Pursuant to the PAQ, the Warden self reports the agency maintains documentation showing that investigators have completed the required training.

The Warden further self reports ELK currently employs four PREA Investigators and they have completed the required training.

A discussion regarding credentials appears in the narrative for 115.34(a).

In view of the above, the auditor finds ELK substantially compliant with 115.34.

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

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

#### **115.35 (a)**

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to detect and assess signs of sexual abuse and sexual harassment? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) X  Yes  No  NA
- 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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) X  Yes  No  NA
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to respond effectively and

professionally to victims of sexual abuse and sexual harassment? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) X  Yes  No  NA

- 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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) X  Yes  No  NA

#### 115.35 (b)

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

#### 115.35 (c)

- Does the agency maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) X  Yes  No  NA

#### 115.35 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.31? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners employed by the agency.) X  Yes  No  NA
- Do medical and mental health care practitioners contracted by or volunteering for the agency also receive training mandated for contractors and volunteers by §115.32? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners contracted by or volunteering for the agency.) X  Yes  No  NA

#### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports the agency has a policy related to the training of medical and mental health practitioners who work regularly in its facilities. According to the Warden, twenty-one medical and five mental health care full-time/part-time staff practitioners work regularly at the facility and have received the requisite training. Additionally, eight contract medical practitioners provide services to ELK inmates. This equates to 100% of staff medical and mental health care practitioners who work regularly at the facility and have received training.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 28 and 29, section 115.35(a) addresses 115.35(a).

The medical and mental health staff interviewees assert they completed requisite specialty PREA medical/mental health training. Both interviewees assert they have completed a four to five hour specialized online NIC training regarding the following:

- How to detect and assess signs of sexual abuse/harassment;
- How to preserve physical evidence of sexual abuse;
- How to respond effectively and professionally to victims of sexual abuse/harassment; and
- How and to whom to report allegations or suspicions of sexual abuse/harassment.

The interviewees also note the training is generally provided during initial on-boarding.

The PCM asserts all of the full/part-time staff medical/mental health and contract practitioners have completed specialty training. The auditor's review of a roster of 17 staff training completions relative to the PREA Medical and Mental Health Care: A Trauma Informed Approach course reveals substantial compliance with 115.35(a) and (c). Staff completing this training represented both medical and correctional services staff.

Additionally, six Training Confirmations reveal receipt and understanding of this requisite training.

The auditor's review of 34 Training Confirmations (dated 2013-2019) reveals full-time/part-time medical/mental health staff and contractors completed the requisite 115.35(a) training.

During the facility tour, the auditor questioned staff regarding contractor completion of the requisite specialty training and he was advised the contract optometrist had not completed the same. ELK staff did not provide any evidence to dispute the same and accordingly, the auditor finds ELK non-compliant with 115.35(a).

In view of the above, the auditor imposes a 180-day corrective action period, expiring on October 17, 2020, wherein ELK will demonstrate compliance with 115.35(a). To demonstrate such compliance, the contract optometrist will complete the requisite specialty training and the PCM will provide evidence of the same to the auditor. Additionally, in the event any other contract medical staff are brought on board at ELK, the PCM will likewise provide to the auditor certification of their completion of specialty medical training.

#### **April 22, 2020 Update:**

**The auditor has been provided a copy of a Training Confirmation (Specialized PREA Training for Health Services) document reflecting the contract optometrist completed the requisite 115.35(a) specialty PREA medical training on April 21, 2020. The auditor finds corrective action relative to 115.35(a) is complete. As previously mentioned, if additional medical/mental health contractors are hired, the PCM will provide evidence of completion of requisite PREA medical/mental health training to the auditor.**

**In view of the above, the auditor is reasonably assured the requirement of 115.35(a) pertaining to specialty training for contractors is institutionalized and corrective action is complete.**

Pursuant to the PAQ, the Warden self reports forensic examinations are not conducted at ELK. Additionally, the medical/mental health staff interviewees assert forensic examinations are not facilitated at ELK.

Accordingly, the auditor finds 115.35(b) not applicable to ELK.

Pursuant to the PAQ, the Warden self reports the agency maintains documentation showing medical and mental health practitioners have completed the required training.

Documentation of the requisite PREA training is addressed in the narrative for 115.35(a).

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 29, section 115.35(d) addresses 115.35(d).

The auditor's review of 2020 ICT/ART Training Acknowledgments reveals 22 full-time/part-time medical/mental health staff completed requisite 115.35(d) training on three dates in 2020. Additionally, eight ELK Contractor Orientation/Refresher Training documents also reveals completion of requisite training by the aforementioned contractors.

Of note, the auditor randomly reviewed the training files of one medical and one mental health practitioners, finding compliance with 115.35(d) as ICT and/or ART PREA courses were properly completed by the two staff.

In view of the above, the auditor finds ELK substantially compliant with 115.35.

## **SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS**

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

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

#### **115.41 (a)**

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

#### **115.41 (b)**

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

#### **115.41 (c)**

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

#### **115.41 (d)**

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability? X  Yes  No
  
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate? X  Yes  No

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

#### 115.41 (e)

- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, as known to the agency, prior acts of sexual abuse? X  Yes  No
  
- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, as known to the agency, prior convictions for violent offenses? X  Yes  No

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

#### 115.41 (f)

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

#### 115.41 (g)

- Does the facility reassess an inmate's risk level when warranted due to a referral?  
X  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to a request?  
X  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to an incident of sexual abuse? X  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness?  
X  Yes  No

#### 115.41 (h)

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

#### 115.41 (i)

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

#### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports the agency has a policy that requires screening (upon admission to a facility or transfer to another facility) for risk of sexual abuse victimization or sexual abusiveness toward other inmates.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 29 and 30, section 115.41(a) addresses 115.41(a).

The staff responsible for risk screening interviewee asserts she does screen inmates upon admission to ELK or transfer from another facility for risk of sexual abuse victimization or sexual abusiveness toward other inmates.

Fifteen of 20 random inmate interviewees assert they were asked the following questions upon arrival at ELK:

Whether they had been in jail or prison before;  
Whether they have ever been sexually abused;  
Whether they identify as lesbian, gay, bisexual; and  
Whether they think they might be in danger of sexual abuse at ELK.  
Thirteen interviewees assert they were asked these questions at intake.

In accordance with the Random Inmate Interview Questionnaire, questions 7 and 8 are asked only if the inmate arrived at ELK during the last 12 months and accordingly, those inmates constitute applicable cases. Four of the 20 interviewees arrived outside the 12 month parameter and accordingly, they were not asked the relevant question.

The auditor's review of 15 random 2015 through 2020 Intake Screening Forms reveals the PREA criteria addressed in the PREA Intake Objective Screening Instrument was considered in each case. The intake screening assessment was completed in a timely manner in each case.

Pursuant to the PAQ, the Warden self reports policy requires inmates be screened for risk of sexual victimization or risk of abusing other inmates within 72 hours of their intake. In the past 12 months, the Warden self reports 1410 inmates entered the facility (either through intake or transfer) whose length of stay in the facility was 72 hours or more who were screened for risk of sexual victimization or risk of sexually abusing other inmates, within 72 hours of entry into the facility. This equates to 100% of those screened pursuant to the criteria specified in the preceding sentence.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 30, section 115.41(b) addresses 115.41(b).

The staff responsible for initial risk screening interviewee asserts she completes initial risk screening for sexual victimization or risk of sexually abusing other inmates, within 24 hours of intake.

Pursuant to the PAQ, the Warden self reports the risk assessment is conducted using an objective screening instrument.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 30 and 31, section 115.41(c) addresses 115.41(c). Guidance regarding use of the PREA Intake Objective Screening Instrument and documentation of relevant PREA findings on the Intake Screening Form are articulated in this policy provision.

The auditor's review of the PREA Intake Objective Screening Instrument reveals the same is, for the most part, based on objective criteria.

The auditor's review of the PREA Intake Objective Screening Instrument reveals the intake screening considers, at a minimum, the following criteria to assess inmates for risk of sexual victimization:

1. Whether the inmate has a mental, physical, or developmental disability;
2. The age of the inmate;
3. The physical build of the inmate;
4. Whether the inmate has previously been incarcerated;
5. Whether the inmate's criminal history is exclusively nonviolent;
6. Whether the inmate has prior convictions for sex offenses against an adult or child;
7. Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming;
8. Whether the inmate has previously experienced sexual victimization;
9. The inmate's own perception of vulnerability; and
10. Whether the inmate is detained solely for civil immigration purposes.

The PCM asserts there are no inmates detained at ELK solely for civil immigration purposes.

The staff responsible for risk screening interviewee asserts the initial risk screening considers the following:

- History of sexual victimization;
- Recent sexual assault;
- Propensity for sexual abuse of other inmates;
- Appearance; and
- Inmate's assessment of personal vulnerability.

In regard to the process for conducting the initial victimization/abusiveness screening, the interviewee asserts the new arrival is taken into the screening room in Receiving and Discharge (R&D) behind a closed door. The office does have a window in the door. Inmates are escorted in one-at-a-time for a one-on-one interview and provided an A&O Handbook.

The case manager also advises she reviews source documents (central file, Pre-Sentence Investigation) and compares her findings against the statements of the inmate. If appropriate, she uses the information gleaned from sources to refresh the inmate's memory.

The auditor's review of the PREA Intake Objective Screening Instrument reveals the initial screening and reassessment, minimally, consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing inmates for risk of being sexually abusive. Prior convictions and administrative disciplinary actions are considered.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 31 and 32, section 115.41(e) addresses 115.41(e).

Pursuant to the PAQ, the Warden self reports the policy requires that the facility reassess each inmate's risk of victimization or abusiveness within a set time period, not to exceed 30 days after the inmate's arrival at the facility, based upon any additional, relevant information received by the facility since the intake screening. The Warden further self reports 1287 inmates who were admitted to the facility during the last 12 months were reassessed for their risk of sexual victimization or of being sexually abusive, within 30 days of admission, based upon any additional, relevant information received since Intake. Reportedly, this equates to 100% reassessments of all Intakes (who remained at the facility for at least 30 days from intake) during the last 12 months.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 32, section 115.41(f) addresses 115.41(f).

The staff responsible for risk screening interviewee asserts reassessment of risk levels is conducted within 28 days of arrival at ELK. The reassessment is noted on the activity log maintained in the central file.

Eight of 14 applicable random inmate interviewees [applicability described in the narrative for 115.41(a)] assert they were asked the questions articulated in 115.41(a) again since they have been at ELK. None of these interviewees were able to identify an exact date of reassessment however, suppositions ranged from generally within two weeks of arrival to one month of arrival.

The auditor's random review of 15 random inmate files reveals all reassessments were completed within 30 days of arrival at ELK. Of note, the auditor's review of random inmate files included three of the interviewees who advised they had not received a reassessment.

In view of the above, performance is acceptable in terms of 115.41(f).

Pursuant to the PAQ, the Warden self reports policy requires that an inmate's risk level be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 32, section 115.41(g) addresses 115.41(g).

The staff responsible for risk screening interviewee asserts she does reassess inmate risk levels as needed due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness.

The auditor was provided no evidence of inmates who were reassessed for risk of sexual victimization or abusiveness.

Pursuant to the PAQ, the Warden self reports the policy prohibits disciplining inmates for refusing to answer (or for not disclosing complete information related to) questions regarding:

Whether or not the inmate has a mental, physical, or developmental disability;  
Whether or not the inmate is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming;  
Whether or not the inmate has previously experienced sexual victimization; and  
The inmate's own perception of vulnerability.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 32, section 115.41(h) addresses 115.41(h).

The PCM asserts during the last 24 months, zero inmates have been disciplined for refusing to answer, or for not disclosing complete information in response to, questions regarding:

Whether or not the inmate has a mental, physical, or developmental disability;  
Whether or not the inmate is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming;  
Whether or not the inmate has previously experienced sexual victimization; and  
The inmate's own perception of vulnerability.

The staff responsible for initial risk screening interviewee asserts zero inmates have been disciplined for refusing to respond to or for not disclosing complete information related to the aforementioned issues.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 32, section 115.41(i) addresses 115.41(i).

According to the FBOP PC, ELK PCM, and staff who perform screening for risk of victimization and abusiveness interviewees, the agency has outlined who should have access to an inmate's risk assessment within the facility in order to protect sensitive information from exploitation. Such information is shared on a "Need to Know" basis only.

"Need to Know" varies based on the circumstances. Minimally, facility executive staff, the captain, unit team, psychology services, and medical are alerted in view of security concerns.

In view of the above, the auditor finds ELK substantially compliant with 115.41.

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

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

#### **115.42 (a)**

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

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

#### 115.42 (b)

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

#### 115.42 (c)

- When deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, does the **agency** consider, on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems (NOTE: if an agency by policy or practice assigns inmates to a male or female facility on the basis of anatomy alone, that agency is not in compliance with this standard)? X  Yes  No
- When making housing or other program assignments for transgender or intersex inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems? X  Yes  No

#### 115.42 (d)

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

#### 115.42 (e)

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

#### 115.42 (f)

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

## 115.42 (g)

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: lesbian, gay, and bisexual inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.) X  Yes  No  NA
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: transgender inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.) X  Yes  No  NA
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.) X  Yes  No  NA

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports the facility uses information from the risk screening to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 33, section 115.42(a) addresses 115.42(a).

The PCM asserts if risk factors are identified, cumulative decision-making by unit management staff, psychology services, and correctional services dictates housing assignments at ELK. Victims/aggressors may be housed in different housing units/cells on an individual basis and dependent upon the circumstances. Victims and aggressors are geographically separated.

According to the staff responsible for risk screening, the screening tool is used to determine PREA risk vs. non- PREA risk issues. If PREA concerns are identified, the case is referred to psychology services, they assess the case, and subsequently coordinate with the unit counselor and correctional services to determine housing. Programs are supervised.

The Warden asserts unit management, psychology services, correctional services, and medical services staff play a role in terms of housing, bed, work, education, and program assignments in an effort to keep separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

Pursuant to the PAQ, the Warden self reports the facility makes individualized determinations about how to ensure the safety of each inmate.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 33, section 115.42(b) addresses 115.42(b).

Pursuant to the PAQ, the Warden self reports the facility makes housing and program assignments for transgender and intersex inmates in the facility on a case-by-case basis.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 33, section 115.42(c) addresses 115.42(c).

The PCM asserts transgender and intersex inmate housing is dispersed throughout the facility. Affected inmate's health and safety, as well as, whether the placement presents management or security issues, are considered.

Four of the nine transgender/intersex inmate interviewees assert ELK staff ask questions about their safety throughout the year.

Eight of the nine interviewees assert they have not been placed in a housing area designated only for transgender/intersex inmates. One interviewee asserts he was housed with other LGBTI inmates upon arrival at the facility. Furthermore, they have no reason to believe they have been strip-searched for the sole purpose of determining genital status.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 33, section 115.42(d) addresses 115.42(d).

The PCM asserts transgender/intersex inmate placement and programming assignments are reviewed twice per year.

The staff responsible for facilitating follow-up transgender/intersex inmate reassessments asserts the same are completed at least twice each year to review any threats to safety experienced by the inmate.

The auditor's on-site review of four transgender inmate central files reveals compliance with 115.42(d).

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 33, section 115.42(e) addresses 115.42(e).

The PCM, staff responsible for risk screening interviewee, and, as previously mentioned in the narrative for 115.42(c), four of ten transgender inmate interviewees assert transgender/intersex inmate's views with respect to their own safety are given serious consideration in placement/programming assignments.

While several inmate interviewees assert they have not been asked relevant questions, the auditor's review of four inmate files as reflected in the narrative for 115.42(d), dictates otherwise.

In view of the above, the auditor finds ELK substantially compliant with 115.42(e).

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 33, section 115.42(f) addresses 115.42(f).

The PCM and staff responsible for risk screening assert transgender/intersex inmates are given the opportunity to shower separately from other inmates. The affected inmates request separate showering through the unit team. They provide a recommendation to the Warden and the Warden subsequently approves or denies the request. If approved, the direction is distributed downward to ensure all affected staff are acting in concert. Showers would be accommodated at a specified time.

Eight of the nine transgender inmate interviewees assert they can request separate showers. The remaining interviewee asserts SHU showers are not sufficiently private. During the facility tour, the auditor

observed unit showers are individual and all had a PREA shower curtain. Likewise, PREA shower curtains are included with the SHU cell showers.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 33, section 115.42(g) addresses 115.42(g).

According to the FBOP PC, the FBOP has no such facilities and staff in all FBOP facilities are keenly aware designated facilities, wings, etc. are unacceptable for the housing of lesbian, gay, bisexual, transgender, or intersex inmates unless the agency is subject to a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

The PCM asserts the facility is not subject to a consent decree, legal settlement, or legal judgment requiring that it establish a dedicated facility, unit, or wing for lesbian, gay, bisexual, transgender, or intersex inmates.

The transgender and gay inmate interviewees (eight of the nine transgender and one gay inmate interviewees) assert they have not been placed in a housing area designated only for transgender/intersex, lesbian, gay, bisexual inmates. During the facility tour and pursuant to interviews with both staff and inmates, the auditor found no dedicated housing areas as defined in 115.42(g).

In view of the above, the auditor finds ELK substantially compliant with 115.42.

## Standard 115.43: Protective Custody

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

#### 115.43 (a)

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

#### 115.43 (b)

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible? X  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Privileges to the extent possible? X  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Education to the extent possible? X  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible? X  Yes  No
- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the opportunities that have been limited? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.) X  Yes  No  NA
- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the duration of the limitation? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.) X  Yes  No  NA

- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the reasons for such limitations? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.) X  Yes  No  NA

#### 115.43 (c)

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

#### 115.43 (d)

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

#### 115.43 (e)

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

#### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports the agency has a policy prohibiting the placement of inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made and a determination has been made there is no available alternative means of separation from likely abusers. The Warden further asserts zero inmates at risk of sexual victimization were held in involuntary segregated housing within the last 12 months.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 33 and 34, section 115.43(a) addresses 115.43(a).

The Warden self reports agency policy prohibits placing inmates at high risk for sexual victimization or who have alleged sexual abuse in involuntary segregated housing in lieu of other housing areas, unless an assessment has determined there are no available alternative means of separation from potential abusers.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 34, section 115.43(b) addresses 115.43(b).

The staff who supervise inmates in segregated housing interviewee asserts when inmates are placed in segregated housing for protection from sexual abuse or after having incurred alleged sexual abuse, they have access to programs, privileges, and education. Due to the nature of the unit, privileges are limited to

telephone and recreation. The interviewee asserts education is accommodated pursuant to staff SHU visits. Likewise, the chaplain visits SHU and the auditor did observe sign-in logs. Orderly is the only available work opportunity and selection is limited.

The interviewee further asserts if the facility restricts access to programs, privileges, education, or work opportunities, the same is approved at a higher level of review and opportunities that have been limited, the duration of the limitations, and the reasons for such limitations are documented.

The PCM asserts during the on-site audit, zero inmates were maintained in SHU for risk of sexual victimization or alleged sexual abuse.

Pursuant to the PAQ, the Warden self reports in the past 12 months, zero inmates, at risk of sexual victimization, were assigned to involuntary segregated housing for longer than 30 days while awaiting alternative placement.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 34, section 115.43(c) addresses 115.43(c).

The Warden asserts inmate placement in involuntary segregated housing is accommodated only until an alternative means of separation from likely abusers can be arranged. Inmates, at high risk for sexual victimization or who have alleged sexual abuse, would be placed in this status for generally no more than 30 days.

The staff who supervise inmates in segregated housing interviewee asserts inmates are placed in involuntary segregated housing for investigation or until an alternative means of separation from likely abusers can be arranged. He further asserts inmates can be placed in involuntary segregated housing as a means of separation from likely abusers however, he has not experienced the same at ELK.

The PCM advises there were no inmates in segregated housing for risk of sexual victimization during the on-site audit.

Pursuant to the PAQ, zero inmates at risk of sexual victimization were held in involuntary segregated housing during the past 12 months.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 34 and 35, section 115.43(d) addresses 115.43(d).

Pursuant to the PAQ, the Warden self reports if an involuntary segregated housing assignment is made, the facility affords each such inmate a review every 30 days to determine whether there is a continuing need for separation from the general population.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 35, section 115.43(e) addresses 115.43(e).

The staff who supervise inmates in segregated housing interviewee asserts once an inmate is assigned to involuntary segregated housing, the facility reviews the inmate's circumstances every 30 days to determine if continued placement in involuntary segregated housing is needed.

In view of the above, the auditor finds ELK substantially compliant with 115.43.

## REPORTING

### Standard 115.51: Inmate reporting

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

### 115.51 (a)

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

### 115.51 (b)

- Does the agency also provide at least one way for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency?  Yes  No
- Is that private entity or office able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials?  Yes  No
- Does that private entity or office allow the inmate to remain anonymous upon request?  Yes  No
- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security? (N/A if the facility *never* houses inmates detained solely for civil immigration purposes)  Yes  No  NA

### 115.51 (c)

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

### 115.51 (d)

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

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports the agency has established procedures allowing for multiple internal ways for inmates to report privately to agency officials about:

Sexual abuse or sexual harassment;  
Retaliation by other inmates or staff for reporting sexual abuse and sexual harassment; and  
Staff neglect or violation of responsibilities that may have contributed to such incidents.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 35, section 115.51(a) addresses 115.51(a).

The auditor's review of pages 29 through 31 of the Sexually Abusive Behavior Prevention and Intervention: An Overview for Offenders document, section entitled "How Do You Report an Incident of Sexually Abusive Behavior" addresses reporting options for inmates. This provision addresses 115.51(a) and (b), inclusive of submission of an email report to a public or private entity or office that is not part of the agency pursuant to 115.51(b). The privacy features of the email report are articulated in this provision.

In addition to the above, the poster entitled "Every Person Has the Right to Be Free From Sexual Abuse" included in the PAQ packet, clearly describes reporting options for inmates.

Finally, the auditor's review of an A&O Handbook provision entitled Reporting Methods and Supportive Services for Sexual Abuse reveals substantial compliance as reflected above.

All 12 random staff interviewees were able to identify at least two methods wherein inmates can privately report sexual abuse/harassment, retaliation by other inmates or staff for reporting sexual abuse/harassment, or staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse/harassment. Cited methods of reporting are as follows: TRULINCS email to OIG; verbal report to staff; email to staff/regional office/central office; telephone call to OIG etc.; written cop out to staff; submit an administrative remedy; and third-party report.

Fifteen of 20 random inmate interviewees were able to identify at least one option for reporting sexual abuse/harassment.

Options cited were: TRULINCS email to OIG/SIS/facility staff; submission of a cop out; verbal report to staff; third party report; make a telephone call to OIG; and write to OIG/FBI/FBOP. The most common options cited were the TRULINCS and verbal report to staff.

Inmates cited TRULINCS, family, and friends as reporting options to individuals not affiliated with ELK.

Pursuant to the PAQ, the Warden self reports the agency provides at least one way for inmates to report sexual abuse/harassment to a public or private entity or office that is not part of the agency. The Warden further self reports the agency does have a policy requiring inmates detained solely for civil immigration purposes be provided information on how to contact relevant consular officials and relevant officials of the Department of Homeland Security.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 35, section 115.51(b) addresses 115.51(b). Such reports can be made directly to the OIG by email.

The PCM asserts these procedures enable receipt of inmate reports of sexual abuse/harassment to agency officials that allow the inmate to remain anonymous upon request. The TRULINCS report to OIG falls upon OIG to report back to the Warden.

Ten of 20 random inmate interviewees assert they are allowed to make a report without giving their name. As mentioned in the narrative for 115.33, the auditor finds inmates have sufficient resources from which to receive PREA information.

Pursuant to the PAQ, the Warden self reports the agency has a policy mandating that staff accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties. The Warden further self reports staff are required to immediately document verbal reports, although policy requires prompt documentation.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 35, section 115.51(c) addresses 115.51(c).

Eleven of 12 random staff interviewees assert when an inmate alleges sexual abuse/harassment, he can do so verbally, in writing, anonymously, and from third parties. All 12 interviewees assert they document verbal reports. Nine interviewees assert they document such reports immediately following receipt of the same.

Fifteen of 20 random inmate interviewees assert they can make reports of sexual abuse/harassment in person and in writing and someone else (e.g., friend or relative) can make the report for them without mentioning their name.

Pursuant to the PAQ, the Warden self reports the agency has established procedures for staff to privately report sexual abuse and sexual harassment of inmates. The Warden further self reports staff are encouraged to report sexual abuse to any level they feel comfortable with including local, regional, central office, and OIG. Finally, the auditor's review of FBOP PS 3420.11 entitled Standards of Employee Conduct, pages 5 and 6, section 4 addresses staff reporting options.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 35 and 36, section 115.51(d) and FBOP PS 3420.11 entitled Standards of Employee Conduct, pages 5 and 6, section 4 address 115.51(d).

As articulated in the narrative for 115.31, staff are trained regarding reporting requirements and options during ICT and ART.

All 12 random staff interviewees are able to articulate two methods to facilitate private reporting of sexual abuse/harassment of inmates. Options cited are verbal report to operations lieutenant behind closed doors or via telephone, email, contact OIG/FBI/OIA, and/or submission of a written report.

In view of the above, the auditor finds ELK substantially compliant with 115.51.

## Standard 115.52: Exhaustion of administrative remedies

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

#### 115.52 (a)

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

#### 115.52 (b)

- Does the agency permit inmates to submit a grievance regarding an allegation of sexual abuse without any type of time limits? (The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.) (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the agency always refrain from requiring an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA

#### 115.52 (c)

- Does the agency ensure that: An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.)  Yes  No  NA

- Does the agency ensure that: Such grievance is not referred to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) X  Yes  No  NA

#### 115.52 (d)

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

#### 115.52 (e)

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

#### 115.52 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) X  Yes  No  NA
- After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.) X  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.) X  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.) X  Yes  No  NA

- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) X  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.) X  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.) X  Yes  No  NA

### 115.52 (g)

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

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports the agency has an administrative procedure dealing with inmate grievances regarding sexual abuse.

FBOP PS 1330.18 entitled Administrative Remedy Program, pages 13-16, sections 115.52(b) through 115.52(g), addresses 115.52(a).

Pursuant to the PAQ, the Warden self reports agency policy or procedure allows an inmate to submit a grievance regarding an allegation of sexual abuse at any time regardless of when the incident is alleged to have occurred. Agency policy does not require an inmate to use an informal process, or otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

FBOP PS 1330.18 entitled Administrative Remedy Program, page 13, section b(1) through (4) addresses 115.52(b).

As known by correctional practitioners, one of the primary goals in terms of PREA standards, is the promotion of reporting of sexual abuse/harassment incidents by inmates. Accordingly, inmate knowledge of requirements is of significant importance.

Standards 115.52(b) and (c) require the following:

1. The agency shall not impose a time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse;
2. The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse;
3. The agency shall not require an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse;
4. Nothing in this section shall restrict the agency's ability to defend against an inmate lawsuit on the ground that the applicable statute of limitations has expired;

Standard 115.52(c) requires the following:

5. An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint; and
6. Such a grievance is not referred to a staff member who is the subject of the complaint.

Auditors rely heavily upon the Auditor Compliance Tool (ACT) when facilitating the audit process. The ACT is readily available to all correctional practitioners on the PREA Resource Center website. The following verbiage is reflected in the ACT in the sections for 115.52(a) and (b):

"Inmate handbook to determine that relevant information is provided."

That specific verbiage suggests the six caveats articulated above re: 115.52(b) and (c) are to be provided to inmates.

Given the fact policy is clear regarding the requirements of 115.52(b) and (c), zero grievances were filed within the last 12 months regarding sexual abuse, and inmates are aware they can file grievances as a method of reporting sexual abuse, the auditor finds insufficient basis for an adverse finding with respect to these provisions. However, given the distinct differences between the language articulated in policy and provision of that information to inmates, the auditor strongly recommends the verbiage of 115.52(b) and (c) be added to either the A&O Handbook or A&O lesson plan, or both. This information may be critical to inmate confidence in the safeguards of the PREA program.

Pursuant to the PAQ, the Warden self reports agency policy and procedure allows an inmate to submit a grievance alleging sexual abuse without submitting it to the staff member who is the subject of the complaint. Additionally, agency policy and procedure requires that an inmate grievance alleging sexual abuse may not be referred to the staff member who is the subject of the complaint.

FBOP PS 1330.18 entitled Administrative Remedy Program, page 14, section c(1) and (2) addresses 115.52(c).

Pursuant to the PAQ, the Warden self reports agency policy and procedure requires that a decision on the merits of any grievance or portion of a grievance alleging sexual abuse are made within 90 days of the filing of the grievance. In the past 12 months, zero grievances were filed wherein sexual abuse was alleged. In the event an extension is necessary, the agency notifies the inmate, in writing, of the same, inclusive of notice as to the date by which a decision will be made.

FBOP PS 1330.18 entitled Administrative Remedy Program, page 14, section d(1-4) addresses 115.52(d).

Two of the four inmates who reported a sexual abuse interviewees assert the investigations of their allegations have not yet been concluded. None of the interviewees assert they know if the facility is supposed to advise them of any decision regarding grievances within 90 days of submission. There is no evidence the interviewees submitted a grievance in follow-up to their report of sexual abuse.

Pursuant to the PAQ, the Warden self reports agency policy and procedure permits third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, to assist inmates in filing requests for administrative remedy relating to allegations of sexual abuse and to file such requests on behalf of inmates. The Warden further self reports agency policy and procedure requires if the inmate declines to have third-party assistance in filing a grievance alleging sexual abuse, the agency documents the inmate's decision to decline. Zero grievances alleging sexual abuse filed by inmates in the past 12 months wherein the inmate declined third-party assistance, are reported pursuant to the PAQ.

FBOP PS 1330.18 entitled Administrative Remedy Program, pages 14 and 15, section e(1-3) addresses 115.52(e).

Pursuant to the PAQ, the Warden self reports the agency has a policy and established procedures for filing an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse. Agency policy and procedure for emergency grievances alleging substantial risk of imminent sexual abuse requires an initial response within 48 hours. The Warden self reports 0 emergency grievances alleging substantial risk of imminent sexual abuse, were filed in the last 12 months. Agency policy and procedure

regarding emergency grievances alleging substantial risk of imminent sexual abuse requires a final agency decision is issued within five days.

FBOP PS 1330.18 entitled Administrative Remedy Program, pages 15 and 16, section f(1) and (2) addresses 115.52(f).

Pursuant to the PAQ, the Warden self reports the agency has a written policy limiting its ability to discipline an inmate for filing a grievance alleging sexual abuse, to occasions where the agency demonstrates the inmate filed the grievance in bad faith. The Warden further self reports in the last 12 months, zero grievances were filed alleging sexual abuse and resulting in disciplinary action by the agency against the inmate for having filed the grievance in bad faith.

FBOP PS 1330.18 entitled Administrative Remedy Program, page 16, section g addresses 115.52(g).

In view of the above, the auditor finds ELK substantially compliant with 115.52.

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

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

#### **115.53 (a)**

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations? X  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? (N/A if the facility *never* has persons detained solely for civil immigration purposes.) X  Yes  No  NA
  
- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible? X  Yes  No

#### **115.53 (b)**

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

#### **115.53 (c)**

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

Pursuant to the PAQ, the Warden self reports the facility provides inmates with access to outside victim advocates for emotional support services related to sexual abuse by:

Giving inmates mailing addresses and telephone numbers (including toll-free Hotline numbers where available) for local, state, or national victim advocacy or rape crisis organizations;  
Not giving inmates mailing addresses and telephone numbers (including toll-free Hotline numbers where available) for immigrant services agencies for persons detained solely for civil immigration purposes; and  
Enabling reasonable communication between inmates and these organizations in as confidential a manner as possible.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 36, section 115.53(a) addresses 115.53(a). IS ELK 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 3, section i also addresses 115.53(a).

The auditor's review of page 31 of the Sexually Abusive Behavior Prevention and Intervention: An Overview for Offenders, section entitled "Counseling Programs for Victims of Sexually Abusive Behavior" addresses general directions for post sexual abuse counseling services. This policy addresses contact with facility psychology services or chaplaincy staff, as well as, contact with the local rape crisis center (RCC). The address and telephone number for The Rape Crisis and Counseling Center with Compass Family and Community Services is clearly articulated in the aforementioned document, provided to each new admission at intake.

The auditor's review of an Agreement between FBOP/ELK and The Rape Crisis and Counseling Center with Compass Family and Community Services clearly reveals compliance with 115.53(a) and (c).

In response to whether they know if there are services available outside the facility for dealing with sexual abuse if they needed them, eight of 20 random inmates interviewed pursuant to the random inmate interview questionnaire, responded in the affirmative. Five of those interviewees were able to identify a service available to them. One interviewee mentioned victim advocates and two interviewees asserted counselors were the primary providers.

Ten interviewees assert the facility provides mailing addresses and telephone numbers for the outside services, many alluding to posters. Additionally, ten interviewees assert the numbers are free to call and calls to the service(s) can be facilitated anytime.

All four interviewees who reported a sexual abuse/harassment incident at ELK assert the facility does provide mailing addresses and telephone numbers for outside services. In fact, two of the four interviewees assert the relevant information is posted on unit bulletin boards. The same scenario is noted with respect to the questions whether the numbers are free to call and when they can call.

The auditor clearly finds, based on the evidence presented and observed, ELK inmates are provided multiple forms of information from which to be informed regarding 115.53(a) information.

Pursuant to the PAQ, the Warden self reports the facility informs inmates, prior to giving them access to outside support services, of the extent to which such communications will be monitored. The Warden also self reports the facility informs inmates, prior to giving them access to outside support services, of the mandatory reporting rules governing privacy, confidentiality, and/or privilege that apply to disclosures of

sexual abuse made to outside VAs, including any limits to confidentiality under relevant federal, state, or local law.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 36, section 115.53(b) addresses 115.53(b).

The auditor's review of page 31 of the Sexually Abusive Behavior Prevention and Intervention: An Overview for Offenders, section entitled "Counseling Programs for Victims of Sexually Abusive Behavior" addresses general directions for post sexual abuse counseling services. The telephone number and address for The Rape Crisis and Counseling Center with Compass Family and Community Services is clearly articulated therein. The auditor notes the same does not provide any specificity regarding mandatory reporting laws as related to the inmate's communication with staff from the aforementioned entity.

However, an attachment to the aforementioned document reveals specific examples of when information the inmate provides to victim advocate agency staff, may be monitored or forwarded to authorities. This attachment is entitled Reporting Methods and Supportive Services for Sexual Abuse.

During the facility tour, the auditor observed this document posted behind glass on each unit bulletin board. Clearly, inmates have every opportunity to be informed about 115.53(b) subject-matter.

Of the 20 random inmate interviewees, seven assert what they say to people from the services mentioned in the narrative for 115.53(a) remains private. Three interviewees assert the conversations with staff from these services may be listened to or shared with someone else and three interviewees assert criminal-related content is a basis for listening to and sharing conversations with someone else.

Of the four inmate interviewees who reported an incident of sexual abuse/harassment at ELK, three related they can communicate with staff from the above services in a confidential manner. Two of these interviewees assert conversations with them can be told to or listened to by someone else when the content of the call involves criminal or self-injurious behavior.

Pursuant to the PAQ, the Warden self reports the facility maintains a Gratuitous Services Agreement with a community service provider that is able to provide inmates with emotional support services related to sexual abuse. The Warden further self reports the facility maintains a copy of the agreement.

As noted above, confidential emotional support is provided through The Rape Crisis and Counseling Center with Compass Family and Community Services. The auditor's review of the Agreement reveals substantial compliance with 115.53.

In view of the above, the auditor finds ELK substantially compliant with 115.53.

## Standard 115.54: Third-party reporting

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

#### 115.54 (a)

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

Pursuant to the PAQ, the Warden self reports the facility provides a method to receive third-party reports of inmate sexual abuse or sexual harassment. Pursuant to the auditor's review of the FBOP website (www.bop.gov), any inmate sexual abuse/sexual harassment reporter may report to facility staff, as well as, the FBOP PC and FBOP Office of Internal Affairs (OIA). The addresses are identified with respect to the last two options.

The Warden further self reports the facility publicly distributes information on how to report inmate sexual abuse or sexual harassment on behalf of inmates. The PCM asserts PREA posters are hung in the front lobby and visiting room of each facility.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 37, section 115.54(a) addresses 115.54(a).

During the facility tour and observation of the FCI Front Lobby/Visiting Room and FSL Lobby/Visiting Room, the auditor did note PREA posters were visible. Accordingly, relevant information is available to visitors for consumption.

In view of the above, the auditor finds ELK substantially compliant with 115.54.

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

### Standard 115.61: Staff and agency reporting duties

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

##### 115.61 (a)

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

##### 115.61 (b)

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

### 115.61 (c)

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

### 115.61 (d)

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

### 115.61 (e)

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

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports the agency requires all staff to report immediately and according to agency policy:

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;  
Any retaliation against inmates or staff who reported such an incident; and  
Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 37 and 38, section 115.61(a) addresses 115.61(a).

Ten of 12 random staff interviewees assert they are required to report the following:

Any knowledge, suspicion, or information they receive regarding an incident of sexual abuse/harassment that occurred in a facility, whether or not it is part of the agency;  
Any retaliation against inmates or staff who reported such an incident; and  
Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

The ten interviewees assert they immediately report the above to the operations lieutenant.

Pursuant to the PAQ, the Warden self reports that apart from reporting to designated supervisors or officials and designated local service agencies, agency policy prohibits staff from revealing any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 38, section 115.61(b) addresses 115.61(b).

The PCM self reports access to information regarding reports of sexual abuse is limited to a "Need to Know" basis.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 38, section 115.61(c) addresses 115.61(c).

The medical/mental health staff interviewees assert that at the initiation of services to an inmate, they do disclose the limitations of confidentiality and their duty to report. That duty to disclose limitations is driven by policy, credential, and ethical guidelines. The advisement is documented in the respective progress notes.

In addition to the above, they are required to report any knowledge, suspicion, or information regarding an incident of sexual abuse/harassment to a designated supervisor or official immediately upon learning of it. Each interviewee asserts they would report to the operations lieutenant, minimally.

The mental health staff interviewee asserts she did receive a sexual abuse allegation from an inmate and she reported the same to the operations lieutenant.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 38, section 115.61(d) addresses 115.61(d).

The Warden asserts no inmates under the age of 18 are housed at ELK. With respect to vulnerable adults, the OIG would make any requisite reports to responsible authorities.

According to the FBOP PC, if a vulnerable adult alleged sexual abuse occurred at ELK, facility staff would report the allegation to the designated state or local services agencies pursuant to applicable mandatory reporting laws.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 38, section 115.61(e) addresses 115.61(e).

The Warden asserts all allegations of sexual abuse/harassment (including those from third-party and anonymous sources) are reported directly to investigator(s) as he (Warden) effects such notifications and referrals.

The auditor's review of random sexual abuse/harassment investigations, as described in the narrative for 115.71, reveals allegations were forwarded to the investigator.

In view of the above, the auditor finds ELK substantially compliant with 115.61.

## Standard 115.62: Agency protection duties

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

#### 115.62 (a)

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

### Auditor Overall Compliance Determination

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

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

Pursuant to the PAQ, the Warden self reports when the agency or facility learns an inmate is subject to substantial risk of imminent sexual abuse, it takes immediate action to protect the inmate (e.g., it takes some action to assess and implement appropriate protective measures without unreasonable delay). The Warden further self reports in the last 12 months, there was zero instances wherein the facility determined an inmate was at substantial risk of imminent sexual abuse.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 38 and 39, section 115.62(a) addresses 115.62(a).

The agency head interviewee asserts the victim is immediately safeguarded by separating him from the immediate danger. Actions vary dependent upon the severity of the threat. If the possible threat comes from another inmate, the inmate's housing assignment/work assignment may be changed or, as a last resort, the inmate may be placed in SHU. If the threat is from a staff member, other options exist in addition to the above, inclusive of a change in the employee's work assignment or removal from the facility while the investigation is being conducted.

The Warden asserts when it is learned an inmate is subject to a substantial risk of imminent sexual abuse, he is removed from the danger zone. The danger threat is triaged collectively by correctional services, psychology services, unit management staff, and the PCM. Subsequently, a decision is made relative to safety on the compound. If transfer of the potential victim is warranted as a last resort, the Warden may attempt to facilitate a Warden-to-Warden transfer.

All 12 random staff interviewees assert when they learn an inmate is at risk of imminent sexual abuse, the potential victim is removed from the danger zone and monitored. All random staff interviewees assert this action is accomplished immediately following learning of the situation.

In view of the above, the auditor finds ELK substantially compliant with 115.62.

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

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

#### **115.63 (a)**

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

#### **115.63 (b)**

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

#### **115.63 (c)**

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

#### **115.63 (d)**

- Does the facility head or agency office that receives such notification ensure that the allegation is investigated in accordance with these standards? X  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*)

Pursuant to the PAQ, the Warden self reports the agency has a policy requiring that, upon receiving an allegation an inmate was sexually abused while confined at another facility, the head of the facility must notify the head of the facility or appropriate office of the agency or facility where sexual abuse is alleged to have occurred. The Warden further self reports in the last 12 months, two allegations were received at ELK wherein an inmate was abused while confined at another facility. The Warden effected the requisite notification to the Warden at the affected institution within 72 hours.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 39, section 115.63(a) addresses 115.63(a).

The auditor's on-site review of the two written notifications regarding inmates who reported sexual abuse while confined at another facility reveals substantial compliance with 115.63.

Pursuant to the PAQ, the Warden self reports agency policy requires the facility head provides such notification as soon as possible, but no later than 72 hours, after receiving the allegation.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 39, section 115.63(b) addresses 115.63(b).

Pursuant to the PAQ, the Warden self reports the facility documents that it has provided such notification within 72 hours of receiving the allegation.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 40, section 115.63(c) addresses 115.63(c).

Pursuant to the PAQ, the Warden self reports the agency requires that allegations received from other facilities/agencies are investigated in accordance with the PREA standards. The Warden further self reports in the last 12 months, one allegation of sexual abuse was received from another facility regarding an incident alleged to have occurred at ELK.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 40, section 115.63(d) addresses 115.63(d).

The agency head interviewee asserts agencies make 115.63(d) referrals directly to the facility Warden. On other occasions, referring agencies may contact the FBOP PC as they may not be familiar with institutional contact procedures. In such cases, the FBOP PC directly refers the matter to the facility Warden.

The Warden asserts when he is notified (from the Warden at another facility or agency) of an incident of sexual abuse/harassment allegedly occurring at ELK, he contacts the ELK SIS to initiate a full investigation. He would report back to the referring Warden as to the outcome.

The Warden asserts one such investigation was conducted within the last 12 months.

The auditor's on-site review of the investigation in this matter reveals substantial compliance with 115.63(d).

In view of the above, the auditor finds ELK substantially compliant with 115.63.

## **Standard 115.64: Staff first responder duties**

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

## 115.64 (a)

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

## 115.64 (b)

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

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports the agency has a first responder policy for allegations of sexual abuse. The Warden further self reports agency policy requires, upon learning of an allegation that an inmate was sexually abused, the first correctional officer staff to respond to the report shall be required to:

1. Separate the alleged victim and abuser;
  2. Preserve and protect any crime scene until appropriate steps can be taken to collect the evidence;
  3. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
  4. If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
- In the past 12 months, there were six allegations an inmate was sexually abused.

In these incidents, there were six instances wherein the first correctional officer to respond to the report separated the alleged victim and abuser. There were no instances wherein staff were notified within a time period allowing for collection of physical evidence.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 40, section 115.64(a)(1-4) addresses 115.64(a).

The correctional officer first responder interviewee accurately described the first responder responsibilities as articulated at 115.64(a) while the non-correctional officer first responder interviewee failed to identify "ensuring the perpetrator does not destroy physical evidence." The interviewee asserts he/she tells the victim not to destroy physical evidence.

The auditor notes four inmates were interviewed who reported sexual abuse/harassment incidents at ELK. Of those four incidents, the auditor reviewed one investigation and pursuant to interview results, he determined the fact patterns of two allegations constitute sexual harassment.

In response to whether sexual abuse interviewees feel staff responders addressed the allegation quickly, one of the sexual abuse interviewees asserts staff did act quickly and appropriately.

The auditor's on-site review of random investigations reveals no evidence of policy or provision deviation.

Pursuant to the PAQ, the Warden self reports agency policy requires if the first responder is not a correctional officer, the responder shall be required to request the alleged victim not take any actions that could destroy physical evidence, and then notify correctional officer staff. The Warden further self reports, of the allegations made that an inmate was sexually abused within the last 12 months, zero non-correctional officers were the first responders.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 40, section 115.64(b) addresses 115.64(b).

The auditor notes, pursuant to his observation and investigation, all correctional officers and non-correctional officers receive the same first responder training.

Six of 12 random staff interviewees correctly identified all steps of 115.64(a) first responder duties. Given the totality of the evidence presented throughout the 115.64 narrative, the auditor finds ELK substantially compliant with the same.

## Standard 115.65: Coordinated response

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

#### 115.65 (a)

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

#### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports the facility has developed a written institutional plan to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 40-42, section 115.65(a) addresses 115.65(a). The requisite plan is generally described in this provision. Additionally, the facility plan is articulated in a memorandum dated January 23, 2020.

Finally, the facility plan is articulated in IS ELK 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 2 and 3, sections 5(c-k).

The auditor's review of the One Source checklist reveals the same captures the provisions and requirements for requisite staff and departments in response to sexual abuse incidents. The Report of Incident also addresses some of the 115.65 requirements and questions.

The Warden asserts the facility has a plan to coordinate actions among staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse. The same is articulated in PS 5324.12 and IS ELK 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program. Specific logistics are addressed in the One Source document. Staff are trained annually regarding these procedures.

In view of the above, the auditor finds ELK substantially compliant with 115.65.

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

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

#### **115.66 (a)**

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

#### **115.66 (b)**

- Auditor is not required to audit this provision.

### **Auditor Overall Compliance Determination**

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

Pursuant to the PAQ, the Warden self reports the agency has entered into or renewed a collective bargaining agreement or other agreement since August 20, 2012 or since the last PREA audit, whichever is later.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 42, section 115.66(a) addresses 115.66(a).

The agency head interviewee asserts Article 30(g) of the Master Agreement permits the agency to remove an employee from an institution when an allegation adversely affects the agency's confidence in the employee or the security of the institution. The employee may be removed from the institution setting "pending an investigation and resolution of the matter, in accordance with local laws, rules, and regulations."

In view of the above, the auditor finds ELK substantially compliant with 115.66.

## Standard 115.67: Agency protection against retaliation

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

#### 115.67 (a)

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

#### 115.67 (b)

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

#### 115.67 (c)

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

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes? X  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? X  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? X  Yes  No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need? X  Yes  No

#### 115.67 (d)

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

#### 115.67 (e)

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

#### 115.67 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports the agency has a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other staff and inmates. The Warden further self reports the agency designates staff member(s) or charges department(s) with monitoring for possible retaliation. At ELK, the AWP/PCM is designated as the Retaliation Monitor.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 42, section 115.67(a) addresses 115.67(a).

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 42, section 115.67(b) addresses 115.67(b).

According to the Agency Head interviewee, the institution PCM monitors staff and inmates to ensure there is no retaliation for alleging or reporting sexually abusive behavior. For inmates, this monitoring includes housing and cell assignments, work assignments, programming changes, and disciplinary action. For staff, the monitoring includes reassignment of work, posts, performance evaluations, and shift changes.

In regard to allegations of sexual abuse/harassment, the Warden asserts retaliation monitoring for inmates may include, contingent upon the circumstances, removal of the perpetrator or victim from the general population, to include recommendation for transfer dependent upon the circumstances. The victim and perpetrator, dependent upon the circumstances, may be moved to different housing units, thereby resulting in some physical separation. Additionally, provision of emotional support to victims and imposition of Central Inmate Monitoring (CIM) separations are other options.

In regard to staff perpetrators, they may be removed from inmate contact. The staff perpetrator may be placed in a non-inmate contact post. Minimally, removal of the perpetrator from the area where the victim is housed or located may be an appropriate strategy. The perpetrator may be placed in an alternative post or could be placed on administrative leave commensurate with protocol(s).

While the PCM is designated as the staff member who oversees retaliation monitoring, the chief psychologist implements day-to-day operations. The designated staff member charged with retaliation monitoring interviewee asserts his role in the retaliation monitoring process is that of reviewing victim changes in behavior, habits, and adjustment. If changes are noted, housing unit changes/facility transfer recommendations generally geared towards the perpetrator/removal of alleged perpetrators from the general population/ and provision of emotional support services to the victim, may be viable strategies.

With respect to staff victims or potential victims, Employee Assistance Program (EAP) participation may be recommended. Additionally, change of post(s)/shift(s) may be implemented.

He initiates contact with the victim within 24 hours of the report of sexual abuse and meets with victims, minimally, at 30/60/90 day intervals and if retaliation is suspected, he meets with them more frequently. Such meetings are documented in the Psychology Data System (PDS) relative to inmates. Staff monitoring notes are documented in a memorandum and referred to the PCM.

During the course of the on-site audit, the auditor did not find any inmates housed in involuntary segregated housing at high risk for sexual victimization.

Three of the four inmate interviewees who reported a sexual abuse at ELK assert they feel protected enough against possible revenge from staff or other inmates because they reported what happened to them. As previously mentioned, in two of the four cases, the fact pattern is descriptive of sexual harassment. The auditor's review of one sexual abuse investigative packet clearly reveals retaliation monitoring was implemented, completed, and properly documented. A second sexual abuse investigation had not been completed at the time of the on-site audit.

The auditor's review of Safeguarding documentation maintained in the investigative packet referencing the aforementioned sexual abuse case, reveals the investigation was substantiated and retaliation monitoring was completed.

Pursuant to the PAQ, the Warden self reports the facility monitors the conduct and treatment of inmates or staff who reported sexual abuse and of inmates who were reported to have suffered sexual abuse to see if there are any changes that may suggest possible retaliation by inmates or staff. The Warden further self reports the facility monitors the conduct or treatment for 90 days or more, if necessary. The facility acts promptly to remedy any such retaliation.

As reflected above, the facility continues such monitoring beyond 90 days if the initial monitoring indicates a continuing need. Reportedly, there were zero times an incident of retaliation occurred in the last 12 months.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 43, section 115.67(c) addresses 115.67(c).

The retaliation monitoring interviewee asserts he monitors work/housing/program assignment changes, frequency or increase in accrual of disciplinary charges, inmate isolation, and hygiene. Excessive housing/job changes, increase in receipt of misconduct reports, avoidance, drug usage, and decrease in hygiene may be indicators of potential retaliation.

In regard to staff victims of retaliation, decrease in performance efficiency, increases in call-offs, tardiness in reporting to work, and avoidance are potential indicators of retaliation.

As previously indicated, he monitors inmates and others for at least 90 days. The interviewee also asserts monitoring can be extended based on a perceived threat of retaliation. There is no maximum length for monitoring.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 43, section 115.67(d) addresses 115.67(d).

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 43, section 115.67(e) addresses 115.67(e).

When an inmate who cooperates with an investigation expresses a fear of retaliation, the Agency Head interviewee asserts he (inmate) receives the same benefits and treatment as articulated in the narrative for 115.67(b) above. Such protection can take the form of changing housing or work assignments, transfers, changing work supervisors, or other actions that prevent retaliation.

In view of the above, the auditor finds ELK substantially compliant with 115.67.

## Standard 115.68: Post-allegation protective custody

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

#### 115.68 (a)

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

#### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports the agency has a policy prohibiting the placement of inmates who allege to have suffered sexual abuse in involuntary segregated housing unless an assessment of all available alternatives has been made and a determination has been made there is no available alternative means of separation from likely abusers. The Warden self reports zero inmates alleged to have suffered sexual abuse were held in involuntary segregated housing in the last 12 months for one to 24 hours awaiting completion of assessment.

The Warden also self reports, in the last 12 months, zero inmates, who allege to have suffered sexual abuse, were assigned to involuntary segregated housing for longer than 30 days while awaiting placement. If an involuntary segregated housing assignment is made, the facility affords each such inmate a review every 30 days to determine whether there is a continuing need for separation from the general population.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 43, section 115.68(a) addresses 115.68(a).

The Warden self reports agency policy prohibits placing inmates at high risk for sexual victimization or who have alleged sexual abuse in involuntary segregated housing in lieu of other housing areas, unless an assessment has determined there are no available alternative means of separation from potential abusers.

Inmate placement is accommodated only until an alternative means of separation from likely abusers can be arranged. Inmates, at high risk for sexual victimization or who have alleged sexual abuse, would be placed in this status only if needed and until alternate housing can be arranged. Placement would vary, if warranted. Generally, such placement would not exceed 30 days.

There has not been any recent (within the last 12 months) circumstances in which segregated housing was used to protect an inmate who alleged to have suffered sexual abuse. Generally, inmates are not placed in SHU under these circumstances for voluntary protective custody or investigation.

The narrative for 115.43 reveals staff who supervise inmates in segregated housing interviewee statements are also applicable to 115.68(a).

The PCM asserts there are no inmates confined in segregated housing for risk of sexual victimization or who allege to have suffered sexual abuse.

In view of the above, the auditor finds 115.68 not applicable to ELK as there are no current post-allegation protective custody cases nor past cases within the last 12 months. Since there are no apparent violations of 115.68, the auditor finds ELK substantially compliant with the same.

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

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

##### 115.71 (a)

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

##### 115.71 (b)

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

##### 115.71 (c)

- Do investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data? X  Yes  No
- Do investigators interview alleged victims, suspected perpetrators, and witnesses? X  Yes  No

- Do investigators review prior reports and complaints of sexual abuse involving the suspected perpetrator? X  Yes  No

#### 115.71 (d)

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

#### 115.71 (e)

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

#### 115.71 (f)

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse? X  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? X  Yes  No

#### 115.71 (g)

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

#### 115.71 (h)

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

#### 115.71 (i)

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

#### 115.71 (j)

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

#### 115.71 (k)

- Auditor is not required to audit this provision.

#### 115.71 (l)

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

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports the facility has a policy related to criminal and administrative agency investigations.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 43 and 44, section 115.71(a) addresses 115.71(a).

The investigative staff interviewee asserts he initiates an investigation immediately upon notification of an allegation, if he is on-site. He would report to the facility to initiate a sexual abuse investigation during non-regular business hours. Dependent upon the circumstances, he may report to the facility for a sexual harassment allegation(s). However, he normally relies on the operations lieutenant and any on-site SIS technicians to initiate sexual harassment investigations reported during non-regular business hours.

In regard to anonymous or third-party reports of sexual abuse/harassment, the investigation proceeds as any other investigation.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 44, section 115.71(b) addresses 115.71(b).

The auditor's review of PAQ information reveals training provided to FBI agents, as well as, OIG agents is sufficient to meet the intent of 115.71(b). This point is validated pursuant to numerous reviewers.

In addition to the above, the auditor notes SIS/SIA staff specialty training is addressed in the narrative for 115.34.

The investigative staff interviewee asserts he did receive training specific to conducting sexual abuse investigations in confinement settings. The same was an online NIC course entitled PREA: Investigating Sexual Abuse in a Confinement Setting. The same consisted of a four to six hour video and Power Point Presentation, culminating with a test. Both the SIS lieutenant and SIS technicians complete the training on an annual basis.

Of note, the auditor validated the SIS staff completions of the requisite specialty training as articulated in the narrative for 115.34.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 44, section 115.71(c) addresses 115.71(c).

As mentioned in the narrative for 115.71(b), PAQ evidence reveals substantial compliance with 115.71 from a criminal perspective.

The investigative staff interviewee asserts the investigative process is as follows:

Receipt of report of allegation;

Follow-up with the operations lieutenant or SIS technician(s) as to whether staff first responder duties were completed (one minute);  
Coordinate evidence collection team activities, if appropriate (five minutes);  
Follow-up regarding status of forensic examination, if applicable (five minutes);  
Ensure victim statement is secured (one to five minutes);  
SIS lieutenant examines crime scene, bags and tags evidence (if applicable to the situation and pursuant to direction from OIG) and photographs the crime scene (ten minutes);  
Review video, conduct telephone monitoring, and review files. Assess potential inmate/staff witnesses pursuant to review of video (20 minutes to three hours);  
Print rosters (30 minutes to one hour);  
In-depth interview of victim and commence inmate and staff interviews (two hours);  
Conduct re-interviews, if necessary (one hour);  
Interview perpetrator or suspected perpetrator (zero minutes to two hours);  
Write report (two hours).

In regard to physical evidence collected by the interviewee, based on his level of training and position description, he may collect clothing, property, bodily fluids, statements from staff and inmates, files, photographs, video, telephone monitoring logs, and emails. DNA is tested by FBI/State Police crime labs. The SIS lieutenant would also review files and rosters regarding prior reports of sexual abuse.

The auditor's on-site review of six random sexual abuse/harassment investigations reveals substantial compliance with 115.71(c). Since these cases were administratively investigated and collection of physical evidence was not warranted based on the circumstances of the fact patterns, the same was not completed and documented. However, all other components of the provision were completed.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 44, section 115.71(d) addresses 115.71(d).

The investigative staff interviewee asserts he may conduct compelled interviews pursuant to investigative protocol. Contact between the US Attorney (USAO)/OIG/FBI investigators and sis lieutenant would occur prior to the conduct of such compelled interviews.

The auditor's review of investigations, as previously described, reveals compelled interviews were not facilitated by the facility investigator in any cases reviewed.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 44, section 115.71(e) addresses 115.71(e).

The investigative staff interviewee asserts he judges the credibility of an alleged victim, suspect, or witness on an individual basis, not status as a staff member or inmate. Credibility is based on the premise of "truthful until proven otherwise." There is no predetermination.

The interviewee further asserts he would not, under any circumstances, require an inmate who alleges sexual abuse to submit to a polygraph examination or truth-telling device as a condition for proceeding with an investigation.

None of the four inmates who reported a sexual abuse interviewees assert they were required to take a polygraph examination as a condition of proceeding with a sexual abuse investigation.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 44 and 45, section 115.71(f) addresses 115.71(f).

The investigative staff interviewee asserts he watches video, if available and applicable to the fact pattern, and assesses evidence, comparing the same against staff conduct expectations and ethics/policy, to determine whether staff actions or failure to act contributed to the sexual abuse.

The interviewee does document administrative investigations in written reports, synthesizing the following:

Allegation Synopsis (Executive Digest);  
Finding "substantiated, unsubstantiated, or unfounded";  
History of referrals;  
Policy violations;  
Witness list;  
Factual information- all statements, credibility analysis, and physical evidence assessment;  
Medical findings;  
Evidence relied upon to support conclusion; and  
Conclusion.

The auditor's on-site review of six completed sexual abuse/harassment investigation reports reveals substantial compliance with 115.71(f).

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 45, section 115.71(g) addresses 115.71(g).

The PCM asserts there were no sexual abuse/harassment criminal investigations within the last year.

The investigative staff interviewee asserts criminal investigations are documented. They are essentially a mirror image of the administrative report.

The interviewee asserts there were no criminal sexual abuse/harassment investigations within the last year.

Pursuant to the PAQ, the Warden self reports substantiated allegations of conduct that appear to be criminal are referred for prosecution. The Warden further self reports zero substantiated allegations of conduct that appeared to be criminal were referred for prosecution since the last PREA audit as two were declined.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 45, section 115.71(h) addresses 115.71(h). PAQ documentation regarding criminal investigative procedures addresses prosecution referral.

The investigative staff interviewee asserts allegations are referred for prosecution when the fact pattern is determined to be commensurate with criminal statute and the evidence standard meets the "preponderance" standard.

Pursuant to the PAQ, the Warden self reports the agency retains all written reports pertaining to the administrative or criminal investigation of alleged sexual abuse or sexual harassment for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 45, section 115.71(i) addresses 115.71(i).

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 45, section 115.71(j) addresses 115.71(j).

The investigative staff interviewee asserts when a staff member, victim, or perpetrator leave either employment prior to the conduct of a compelled interview or confinement prior to a completed investigation into the incident, the investigation does not end.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 45, section 115.71(l) addresses 115.71(l).

The Warden asserts the FBOP OIA makes the determination to refer a case to OIG. OIG selects an investigator and the SIS lieutenant maintains close contact regarding the status and progress of the investigation.

The FBOP PC relates local facility staff and FBOP OIA staff facilitate the majority of investigations of sexual abuse. If OIG is conducting the sexual abuse investigation, they provide updates to the facility and at the conclusion of their investigation, they inform OIA of the outcome.

The PCM asserts he maintains communication with OIG/FBI special agents regarding sexual abuse/harassment investigations.

The investigative staff interviewee asserts he is the liaison between outside investigative agencies and the facility, providing any assistance necessary or requested.

In view of the above, the auditor finds ELK substantially compliant with 115.71.

## Standard 115.72: Evidentiary standard for administrative investigations

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

#### 115.72 (a)

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

#### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports the agency imposes a standard of a preponderance of the evidence or a lower standard of proof when determining whether allegations of sexual abuse or sexual harassment are substantiated.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 45, section 115.72(a) addresses 115.72(a).

The investigative staff interviewee asserts a preponderance of the evidence is required to substantiate allegations of sexual abuse/harassment. In other words, there is more evidence supporting that the alleged incident happened vs. it didn't happen.

The auditor's on-site review of six completed sexual abuse/harassment investigations reveals substantial compliance with 115.72(a).

In view of the above, the auditor finds ELK substantially compliant with 115.72.

## Standard 115.73: Reporting to inmates

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

#### 115.73 (a)

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

### 115.73 (b)

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

### 115.73 (c)

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

### 115.73 (d)

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

### 115.73 (e)

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

### 115.73 (f)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

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

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

Pursuant to the PAQ, the Warden self reports the agency has a policy requiring that any inmate who makes an allegation he suffered sexual abuse in an agency facility is informed, verbally, or in writing, as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation by the agency. The Warden further self reports five criminal and/or administrative investigations of alleged sexual abuse were completed by the facility during the last 12 months and all five inmates were notified, verbally or in writing, of the results of the investigation.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 45 and 46, section 115.73(a) addresses 115.73(a).

The Warden and investigator assert the SIS lieutenant makes written notification to alleged inmate sexual abuse victims whenever the investigation is determined to be substantiated, unsubstantiated, or unfounded.

Three of the four inmates who reported a sexual abuse interviewees assert the facility is required to notify them when their sexual abuse allegation is determined to be substantiated, unsubstantiated, or unfounded. One interviewee asserts he believes such notifications are required.

A synopsis of the nature of these allegations is reflected throughout this report.

The auditor's on-site random review of six alleged sexual abuse investigations reveals written notifications were provided to the inmate in each case.

Pursuant to the PAQ, if an outside entity conducts such investigations, the agency requests the relevant information from the investigative entity in order to inform the inmate of the outcome of the investigation. The Warden self reports zero criminal investigations of sexual abuse allegation(s) were conducted during the last 12 months.

Pursuant to the PAQ, the Warden self reports following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the facility subsequently informs the inmate (unless the agency has determined the allegation is unfounded) whenever:

the staff member is no longer posted within the inmate's unit;

the staff member is no longer employed at the facility;

the agency learns the staff member has been indicted on a charge related to sexual abuse within the facility;  
or

the agency learns the staff member has been convicted on a charge related to sexual abuse within the facility.

The Warden further self reports there has been zero substantiated or unsubstantiated complaint(s) (i.e. not unfounded) of sexual misconduct committed by a staff member against an inmate at ELK within the last 12 months.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 46, section 115.73(c) addresses 115.73(c).

The auditor notes the previously mentioned four inmates who reported a sexual abuse interviewees assert their sexual abuse incidents were inmate-on-inmate. Accordingly, provision 115.73(c) does not apply to their set of circumstances.

Pursuant to the PAQ, the Warden self reports following an inmate's allegation he has been sexually abused by another inmate in an agency facility, the agency subsequently informs the alleged victim whenever:

The agency learns the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

The agency learns the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 46, section 115.73(d) addresses 115.73(d).

The auditor notes the previously mentioned four inmates who reported a sexual abuse interviewees assert they have received no notifications regarding their inmate-on-inmate abusers, as prescribed in 115.73(d). Of note, two of these allegations were sexual harassment, in nature. Additionally, there is no evidence alleged abusers were either indicted or convicted as articulated in 115.73(d).

Accordingly, there are no notifications. The auditor has been provided no written notifications meeting the criteria established in 115.73(d).

Pursuant to the PAQ, the Warden self reports the agency has a policy that all notifications to inmates described pursuant to 115.73 are documented.

The Warden further self reports in the last 12 months, five written notifications were provided to inmate victims.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 46, section 115.73(e) addresses 115.73(e).

The auditor's review of six notifications in follow-up to sexual abuse investigations (2019) reveals substantial compliance with 115.73(a) and (e). The inmate signs and dates the document, signifying receipt.

In view of the above, the auditor finds ELK substantially compliant with 115.73.

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

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

##### 115.76 (a)

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

##### 115.76 (b)

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

##### 115.76 (c)

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

##### 115.76 (d)

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

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports staff is subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.

FBOP PS 3420.11 entitled Standards of Employee Conduct, pages 6 and 7, section 5(b) addresses 115.76(a).

Pursuant to the PAQ, the Warden self reports zero facility staff members have violated agency sexual abuse or sexual harassment policies during the last 12 months.

FBOP PS 3420.11 entitled Standards of Employee Conduct, pages 6 and 7, section 5(b) also addresses 115.76(b).

Pursuant to the PAQ, the Warden self reports 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. The Warden further self reports in the last 12 months, zero facility staff have been disciplined, short of termination, for violation of agency sexual abuse or sexual harassment policies.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 47, section 115.76(c) addresses 115.76(c).

Pursuant to the PAQ, the Warden self reports all terminations for violations of sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, are reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies. The Warden further self reports in the last 12 months, zero staff from the facility 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.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 47, section 115.76(d) addresses 115.76(d).

In view of the above, the auditor finds ELK substantially compliant with 115.76.

## Standard 115.77: Corrective action for contractors and volunteers

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

#### 115.77 (a)

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

### 115.77 (b)

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

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports any contractor or volunteer who engages in sexual abuse is prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. In the last 12 months, zero contractors or volunteers have been reported to law enforcement agencies and relevant licensing bodies for engaging in sexual abuse of inmates.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 47, section 115.77(a) addresses 115.77(a).

Pursuant to the PAQ, the Warden self reports the facility takes appropriate remedial measures and considers whether to prohibit further contact with inmates in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 47, section 115.77(b) addresses 115.77(b).

The Warden asserts in the case of any violation of agency sexual abuse/harassment policies by a contractor or volunteer, facility access would be terminated pending the result of an investigation. Further contact with inmates would be denied and if the violation is substantiated, removal from contact with inmates is permanent.

In view of the above, the auditor finds ELK substantially compliant with 115.77.

## Standard 115.78: Disciplinary sanctions for inmates

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

### 115.78 (a)

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

#### 115.78 (b)

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

#### 115.78 (c)

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

#### 115.78 (d)

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

#### 115.78 (e)

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

#### 115.78 (f)

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

#### 115.78 (g)

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

#### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports inmates are subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse. The Warden further self reports inmates are subject to disciplinary sanctions only pursuant to a formal disciplinary process following a criminal finding of guilt for inmate-on-inmate sexual abuse.

In the last 12 months, the Warden self reports there were two administrative findings of inmate-on-inmate sexual abuse that occurred at the facility. There were zero criminal findings of guilt for inmate-on-inmate sexual abuse that occurred within the facility during the last 12 months.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 48, section 115.78(a) addresses 115.78(a).

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 48, section 115.78(b) addresses 115.78(b).

The Warden asserts inmates are subject to transfer and loss of good conduct time [imposed by the discipline hearing officer (DHO)], to name a few sanctions. The DHO imposes such sanctions following an administrative disciplinary hearing.

The DHO considers mental disability or mental illness when imposing sanctions/recommended sanctions. Such determinations are made in accordance with policy.

The auditor's review of two sexual abuse investigations reveals the perpetrator admitted to the act. The disciplinary packets reveal substantial compliance with 115.78.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 48, section 115.78(c) addresses 115.78(c).

Pursuant to the PAQ, the Warden self reports the facility offers therapy, counseling, or other interventions designed to address and correct the underlying reasons or motivations for abuse. The Warden further self reports the facility does consider whether to require the offending inmate to participate in such interventions as a condition of access to programming or other benefits.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 48, section 115.78(d) addresses 115.78(d).

The mental health interviewee asserts the facility offers voluntary therapy, counseling, or other intervention services designed to address and correct the underlying reasons or motivations for sexual abuse. She offers the same as part of treatment.

Pursuant to the PAQ, the Warden self reports the agency disciplines an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 48, section 115.78(e) addresses 115.78(e).

The Warden, via PAQ memorandum, asserts there has been zero substantiated allegations of inmate-on-staff sexual contact during the last 12 months. Accordingly, there are no 115.78(e) disciplinary actions covering that time frame.

Pursuant to the PAQ, the Warden self reports the agency prohibits disciplinary action for a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred, even if an investigation does not establish evidence sufficient to substantiate the allegation.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 48, section 115.78(f) addresses 115.78(f).

The PCM asserts during the last three years, there has been no occasion wherein an inmate was disciplined for falsely reporting a sexual abuse incident or lying.

Pursuant to the PAQ, the Warden self reports the agency prohibits all sexual activity between inmates. The Warden further self reports the agency disciplines inmates for such activity only if it determines the sexual abuse activity is coerced.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 48 and 49, section 115.78(g) addresses 115.78(g).

In view of the above, the auditor finds ELK substantially compliant with 115.78.

## MEDICAL AND MENTAL CARE

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

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

##### 115.81 (a)

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

##### 115.81 (b)

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

##### 115.81 (c)

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

##### 115.81 (d)

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

##### 115.81 (e)

- Do medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18? X  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*)

Pursuant to the PAQ, the Warden self reports all inmates at this facility who have disclosed any prior sexual victimization during a screening pursuant to 115.41, are offered a follow-up meeting with a medical or mental health practitioner. The Warden further self reports the follow-up meeting is offered within 14 days of the intake screening.

In the past 12 months, 100 percent of inmates who disclosed prior victimization during screening were offered a follow-up meeting with a medical or mental health practitioner. Medical and mental health staff maintain secondary materials (e.g., form, log) documenting compliance with the above required services.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 49, section 115.81(a/c) addresses 115.81(a/c).

The three inmates who disclosed sexual victimization at risk screening interviewees assert they were offered follow-up meetings with mental health/medical relative to their disclosure of prior sexual victimization. Two of the three interviewees availed themselves of meetings with mental health staff.

The staff responsible for initial risk screening interviewee asserts if a screening indicates an inmate has experienced prior sexual victimization, whether in an institutional setting or in the community, a mental health referral is initiated. Typically, the meeting occurs within 24 hours of referral.

The chief psychologist reports in one case randomly identified by the auditor wherein historical sexual abuse was reported during screening on January 23, 2020, the inmate was seen for follow-up by psychology services staff on January 27, 2020.

In the second random case, the inmate reported historical sexual abuse during screening on February 4, 2020 and he was seen for follow-up by psychology services staff on February 10, 2020.

In the third case, the inmate reported historical sexual abuse on January 27, 2020 and was seen for follow-up by psychology services staff on the same date.

Pursuant to the PAQ, the Warden self reports all prison inmates who have previously perpetrated sexual abuse, as indicated during the screening pursuant to 115.41, are offered a follow-up meeting with a mental health practitioner. The Warden further self reports the follow-up meeting is offered within 14 days of intake screening.

According to the Warden, during the last 12 months, 100% of inmates meeting this definition were offered a follow-up meeting with a mental health practitioner. Reportedly, mental health staff maintain secondary materials (e.g., form, log) documenting compliance with the above required services.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 49, section 115.81(b) addresses 115.81(b).

The staff who perform screening for risk of victimization and abusiveness interviewee asserts if a screening indicates an inmate previously perpetrated sexual abuse, a follow-up meeting is offered. Generally, the meeting occurs within 24 hours of the date of referral.

Pursuant to the PAQ, the Warden self reports information related to sexual victimization or abusiveness that occurred in an institutional setting is not strictly limited to medical and mental health practitioners but may be shared with other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law. The Warden further relates the information shared with other staff is strictly limited to informing security and management decisions, including treatment plans, housing, bed, work, education, and program assignments, or as otherwise required by federal, state, or local law.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 49, section 115.81(d) addresses 115.81(d). This provision addresses an exception in terms of information sharing.

The auditor notes 115.81(d) information is generally available pursuant to the Psychology Data System (PDS).

The auditor notes 115.81(d) information is generally available pursuant to PDS. The chief psychologist may share such information with the PCM, AWO, captain, unit manager, etc. to facilitate inmate safety decision-making.

Pursuant to the PAQ, the Warden self reports medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 50, section 115.81(e) addresses 115.81(e).

The medical and mental health interviewees assert they do obtain informed consent from inmates before reporting about prior sexual victimization that did not occur in an institutional setting. The mental health interviewee asserts the informed consent is documented in PDS.

Inmates under the age of 18 are not housed at ELK.

In view of the above, the auditor finds ELK substantially compliant with 115.81.

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

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

#### **115.82 (a)**

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

#### **115.82 (b)**

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

#### **115.82 (c)**

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

#### **115.82 (d)**

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

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services. The Warden further self reports the nature and scope of such services are determined by medical and mental health practitioners according to their professional judgment. Medical and mental health staff maintain secondary materials (e.g., form, log) documenting the timeliness of emergency medical treatment and crisis intervention services that were provided, the appropriate response by non-health staff in the event health staff are not present at the time the incident is reported, and the provision of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 50 and 51, section 115.82(a) addresses 115.82(a).

The auditor's review of the One Source incident checklist document reveals substantial compliance with 115.82. The same is specific in terms of action steps to be taken, ensuring compliance with 115.82(a).

The medical/mental health staff interviewees assert inmate victims of sexual abuse receive timely and unimpeded access to emergency medical treatment and crisis intervention services. According to the medical staff interviewee, such services commence immediately upon report, between the hours of 6:00AM and 10:00PM. During non-regular business hours, the operations lieutenant coordinates medical care with medical staff.

The nature and scope of services are determined according to the interviewee's professional judgment.

Two of the four inmates who reported a sexual abuse interviewees assert they had a chance to see a medical or mental health doctor/nurse in a timely fashion after reporting sexual abuse. In the two remaining cases, interviewees assert they did not believe they needed to see medical/mental health staff as the incidents were comprised of threatening in one scenario and touching in the other (no penetration). The former interviewees advise they were seen by ELK medical/mental health practitioners.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 51, section 115.82(b) addresses 115.82(b).

Correctional officer and non-correctional officer first responder interviewees' articulation of first responder duties is reflected in the narrative for 115.64(a).

The One Source document clearly captures immediate notification of medical/mental health providers and follow-up steps taken.

Pursuant to the PAQ, the Warden self reports inmate victims of sexual abuse while incarcerated are 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. Medical and mental health staff maintain secondary materials (e.g., form, log) documenting timeliness of emergency medical treatment and crisis intervention services that were provided, the appropriate response by non-health staff in the event health staff are not present at the time the incident is reported, and the

provision of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 51, section 115.82(c) addresses 115.82(c).

The medical staff interviewee asserts victims of sexual abuse are offered timely information about and access to emergency contraception and sexually transmitted infection prophylaxis. The same is coordinated between the hospital at which the forensic examination is administered and ELK.

None of the four inmates who reported a sexual abuse interviewees assert they were provided information about, and access to, emergency contraception and/or sexually transmitted infection prophylaxis. Of note, all interviewees assert the same was not necessary as the incident was described as touching or not physical.

Pursuant to the PAQ, the Warden self reports treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 51, section 115.82(d) addresses 115.82(d).

The auditor notes none of the four inmates who reported a sexual abuse interviewees assert they were charged for treatment services connected with their reported incident.

In view of the above, the auditor finds ELK substantially compliant with 115.82.

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

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

#### **115.83 (a)**

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

#### **115.83 (b)**

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

#### **115.83 (c)**

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

#### **115.83 (d)**

- Are inmate victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if "all-male" facility. *Note: in "all-male" facilities, there may be inmates who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*)  Yes  No X  NA

### 115.83 (e)

- If pregnancy results from the conduct described in paragraph § 115.83(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if “all-male” facility. *Note: in “all-male” facilities, there may be inmates who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*)  Yes  No  NA

### 115.83 (f)

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

### 115.83 (g)

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

### 115.83 (h)

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

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports the facility offers medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 51, section 115.83(a) addresses 115.83(a).

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 51, section 115.83(b) addresses 115.83(b).

The mental health staff interviewee asserts evaluation and treatment of inmates who have been victimized entails solicitation of general information surrounding the abuse, a determination regarding the patient's history of mental health issues, assessment as to where they are emotionally, education of the patient regarding available services, and assessment of history of prior sexual victimization.

According to the medical staff interviewee, he/she conducts a clothed medical assessment. He/she asks scripted questions to determine relevant medical needs. Vitals are taken and logged and he/she subsequently makes a recommendation based on his/her findings.

The four inmate interviewees who reported sexual abuse at ELK during the last 12 months assert medical/mental health staff discussion with them regarding follow-up services, treatment plans, or referrals for continued care, was not necessary in their individual scenarios. The auditor's review of some of the relevant investigations, validates their statements. One interviewee asserts mental health staff did advise him to see them if he needed their services.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 51, section 115.83(c) addresses 115.83(c).

Both the medical and mental health staff interviewees assert evaluation and treatment are offered consistent with the community level of medical care.

Pursuant to the PAQ, the Warden self reports female inmates are not housed at ELK and the same is commensurate with auditor observations. Accordingly, the auditor finds 115.83(d) and (e) not applicable to ELK.

Pursuant to the PAQ, the Warden self reports inmate victims of sexual abuse while incarcerated are offered tests for sexually transmitted infections as medically appropriate.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 52, section 115.83(f) addresses 115.83(f).

The PCM asserts forensic examinations were not facilitated in any sexual abuse case during the last 12 months.

One of the four inmates who reported a sexual abuse interviewees at ELK asserts he was offered tests for sexually transmitted infections however, he declined the same as it was not necessary. The relevant tests were not required in the remaining three cases as there was no penetration or the allegation fact pattern was more descriptive of sexual harassment.

Pursuant to the PAQ, the Warden self reports treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 52, section 115.83(g) addresses 115.83(g).

The auditor's review reveals treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

None of the four inmates who reported a sexual abuse interviewees assert they had to pay for any treatment related to their incident of sexual abuse.

Pursuant to the PAQ, the Warden self reports the facility attempts to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history, and offers treatment when deemed appropriate by mental health practitioners.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 52, section 115.83(h) addresses 115.83(h).

The mental health staff interviewee asserts he/she conducts a mental health evaluation of all known inmate-on-inmate sexual abusers and offers treatment, if appropriate. Policy requires completion of the evaluation within 60 days however, the same is generally completed within two weeks of learning of such abuse history.

Throughout the on-site audit, the auditor found no evidence of deviation from the requirements of 115.83(h).

In view of the above, the auditor finds ELK substantially compliant with 115.83.

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

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

#### 115.86 (a)

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

#### 115.86 (b)

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

#### 115.86 (c)

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

#### 115.86 (d)

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

#### 115.86 (e)

- Does the facility implement the recommendations for improvement, or document its reasons for not doing so? X  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*)

Pursuant to the PAQ, the facility conducts a sexual abuse incident review at the conclusion of every criminal or administrative sexual abuse investigation, unless the allegation has been determined to be unfounded. The Warden further self reports in the last 12 months, five criminal and/or administrative investigations of alleged sexual abuse were completed at the facility. The auditor notes one of these investigations was determined to be unfounded.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 52, section 115.86(a) addresses 115.86(a).

The auditor reviewed a blank Institution Executive Staff Review (IESR) form and finds the same to be commensurate with 115.86.

The auditor's on-site review of six random administrative investigations and five IESRs associated with the investigations reveals substantial compliance with all 115.86 provisions. The auditor notes one investigation that was not followed by an IESR, was unfounded.

Pursuant to the PAQ, the Warden self reports the facility ordinarily conducts a sexual abuse incident review within 30 days of the conclusion of the criminal or administrative sexual abuse investigation. The Warden further self reports in the last 12 months, four criminal and/or administrative investigations of alleged sexual abuse were completed at the facility and followed by a sexual abuse incident review within 30 days, excluding only "unfounded" incidents. As previously mentioned in the narrative for 115.86(a), one of the five investigations was deemed to be unfounded.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 53, section 115.86(b) addresses 115.86(b).

Pursuant to the PAQ, the Warden self reports the sexual abuse incident review team includes upper-level management officials and allows for input from line supervisors, investigators, and medical or mental health practitioners.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 53, section 115.86(c) addresses 115.86(c).

The Warden asserts the facility has a sexual abuse incident review team (IESR) and the team includes upper level management officials and allows for input from line supervisors, investigators, and medical or mental health practitioners.

Pursuant to the PAQ, the Warden self reports the facility prepares a report of its findings from sexual abuse incident reviews, including but not necessarily limited to, determinations made regarding the following:

- Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
- Consider whether the incident or allegation was motivated by race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, or intersex identification;
- Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
- Assess the adequacy of staffing levels in that area during different shifts;
- Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
- Prepare a report of its findings, including, but not necessarily limited to, determinations made pursuant to the above and any recommendations for improvement and submit such report to the facility head and PCM.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 53, section 115.86(d) addresses 115.86(d).

The Warden asserts the IESR team uses the information gleaned from reviews to enhance the PREA program and response to reports of sexual abuse/harassment. The Warden, PCM, and incident review team interviewee asserts the team considers all factors referenced above.

The PCM and IESR interviewees assert when an IESR is conducted, a report is prepared, including any findings from the review, determination(s), and any recommendations for improvement. The PCM is a member of the IESR team and reports are forwarded to him for review. He has not observed any trends. The PCM asserts he makes recommendations to the Warden and FBOP PC if trends are identified. Additionally, the executive staff attempt to implement any recommendations identified in the IESR report, if feasible, documenting reasons for not following the same.

Pursuant to the PAQ, the Warden self reports the facility implements the recommendations for improvement or documents its reason for not doing so.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 53, section 115.86(e) addresses 115.86(e).

In view of the above, the auditor finds ELK substantially compliant with 115.86.

## Standard 115.87: Data collection

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

#### 115.87 (a)

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

#### 115.87 (b)

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

#### 115.87 (c)

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

#### 115.87 (d)

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

#### 115.87 (e)

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

## 115.87 (f)

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

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports 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.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 54 and 55, section 115.87(a/c) addresses 115.87(a/c).

Pursuant to the PAQ, the Warden self reports the agency aggregates the incident-based sexual abuse data at least annually.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 55 section 115.87(b) addresses 115.87(b).

The auditor's cursory review of 2017 and 2018 annual PREA reports on the FBOP website reveals annual aggregation of incident-based sexual abuse data for ELK.

Pursuant to the PAQ, the Warden self reports the agency maintains, reviews, and collects data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

BOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 55, section 115.87(d) addresses 115.87(d).

Pursuant to the PAQ, the Warden self reports the agency obtains incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates.

BOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 55, section 115.87(e) addresses 115.87(e).

Of note, ELK does not contract with any private, state, or county facilities for the confinement of ELK inmates.

Pursuant to the PAQ, the Warden self reports, upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

BOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 55, section 115.87(f) addresses 115.87(f).

In view of the above, the auditor finds ELK substantially compliant with 115.87.

## Standard 115.88: Data review for corrective action

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

**115.88 (a)**

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas? X  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis? X  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole? X  Yes  No

**115.88 (b)**

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

**115.88 (c)**

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

**115.88 (d)**

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

**Auditor Overall Compliance Determination**

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

Pursuant to the PAQ, the agency reviews data collected and aggregated pursuant to 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, and training, including:

Identifying problem areas;  
Taking corrective action on an ongoing basis; and  
Preparing an annual report of its findings from its data review and any corrective actions for each facility, as well as, the agency as a whole.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 56, section 115.88(a) addresses 115.88(a).

The auditor's review of the FBOP Annual PREA Reports for 2017 and 2018 reveals substantial compliance with 115.88. All requirements of 115.88(a-d) are met.

The Agency Head asserts if the incident-based sexual abuse data shows patterns, such as LGBTI inmates being targeted or a significant number of assaults occurring in a particular area of an institution, then our policies, procedures, or training may be modified.

For example, we noted that almost 38% of "Substantiated" cases in calendar year 2018 involved inmate witnesses. This resulted in continued emphasis during inmate education, of the zero tolerance policy and reporting incidents of sexually abusive behavior to staff when they are observed.

Additionally, 45% of perpetrators in "Substantiated" cases admitted to all or some part of the sexually abusive behavior. This was notable and was attributed to both inmate witnesses providing details to investigators and also investigators receiving training in conducting thorough investigations for evidence that could not be disputed.

The FBOP PC asserts the agency does review data collected and aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies and training. The data is compiled into a report and submitted to the Director on an annual basis.

The agency maintains compliance with the Freedom of Information Act (FOIA) and all other laws, rules, and regulations. Investigative, medical, and psychological data are securely maintained. The annual report does not contain identifying information.

The agency/facilities take corrective action on an ongoing basis, as needed, based on the data. Of note, PREA investigation reports and ancillary documentation are electronically generated however, a safely secured filing cabinet is located in the investigator's office.

The agency does prepare an annual report of findings from its data review and any corrective actions for each facility, as well as, the agency as a whole.

The PCM asserts ELK staff electronically key information into the system and regional office/central office PCs maintain/distribute the information.

Pursuant to the PAQ, the Warden self reports the annual report includes a comparison of the current year's data and corrective actions with those from prior years. The Warden further self reports the annual report provides an assessment of the agency's progress in addressing sexual abuse.

The auditor's review of data collected pursuant to 115.87 and narratives reflected in the 2017 and 2018 cumulative annual reports, reflects substantial compliance with 115.88(b). The cumulative annual reports, in question, clearly address a comparison of data for the years 2017 and 2018. The data collected pursuant to 115.87 is included within the annual reports. Enhancements enacted as the result of various reviews and audits, information gleaned from reviews conducted pursuant to 115.86, and PREA audits/reviews conducted during the year, are discussed in the annual reports. Finally, a synopsis is included in the annual reports, addressing the "State of PREA" within the FBOP.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 56, section 115.88(b) addresses 115.88(b).

Pursuant to the PAQ, the Warden self reports the agency makes its annual report readily available to the public at least annually through its website. The Warden further self reports the annual reports are approved by the agency head.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 56, section 115.88(c) addresses 115.88(c).

The auditor's review of the FBOP website reveals substantial compliance with 115.88(c). Specifically, annual reports are posted on the website and the same are signed by the FBOP Director or Acting Director.

According to the Agency Head, he reviews all PREA Annual Reports. He reviews the annual report for the prior calendar year before placement on the website.

Pursuant to the PAQ, the Warden self reports when the agency redacts material from an annual report for publication, the redactions are limited to specific materials where publication would present a clear and specific threat to the safety and security of the facility. The Warden further self reports the agency indicates the nature of the material redacted.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 56, section 115.88(d) addresses 115.88(d).

According to the FBOP PC, the FBOP complies with FOIA and all other applicable laws, rules, and regulations. No information wherein victims or perpetrators are identified or information that could potentially threaten the security of the facility, is included in the annual report. If redaction is necessary, the nature of the redacted material is articulated.

In view of the above, the auditor finds ELK substantially compliant with 115.88.

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

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

#### 115.89 (a)

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

#### 115.89 (b)

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

#### 115.89 (c)

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

#### 115.89 (d)

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

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Warden self reports the agency ensures incident-based and aggregate data are securely retained.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 56, section 115.89(a) addresses 115.89(a).

It is noted the FBOP PC clearly addressed secure retention of data (pursuant to 115.87) in the narrative for 115.88(a), above. The same statement applies to perpetual secure retention of data on an annual basis since the date of the last PREA audit.

Pursuant to the PAQ, the Warden self reports agency policy requires aggregated sexual abuse data from facilities under its direct control and private facilities, with which it contracts, be made readily available to the public, at least annually, through its website.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 56, section 115.89(b) addresses 115.89(b).

As previously indicated, the auditor verified compliance with this provision pursuant to review of the FBOP website.

Pursuant to the PAQ, the Warden self reports before making aggregated sexual abuse data publicly available, the agency removes all personal identifiers.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, pages 56 and 57, section 115.89(c) addresses 115.89(c).

The auditor has found no personal identifiers in the previously mentioned annual reports verbiage, as well as, demographics.

Pursuant to the PAQ, the Warden self reports the agency maintains sexual abuse data collected pursuant to 115.87 for at least 10 years after the date of initial collection, unless federal, state, or local law requires otherwise.

FBOP PS 5324.12 entitled Sexually Abusive Behavior Prevention and Intervention Program, page 57, section 115.89(d) addresses 115.89(d).

The auditor noted no deviation from the requirements of 115.89(d) in terms of evidence retention.

In view of the above, the auditor finds ELK substantially compliant with 115.89.

## 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.*) X  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.*) X  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?  
X Yes  No

#### 115.401 (i)

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

#### 115.401 (m)

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

#### 115.401 (n)

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

#### Auditor Overall Compliance Determination

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

The auditor notes during the pre-audit phase, facility staff were very facilitative in terms of forwarding the majority of requested documents and addressing questions. This greatly enhanced the efficiency of the audit process as most concerns were already addressed prior to the facility tour and interviews.

In addition to the above, the efforts of psychology services staff, in terms of staff and inmate interview scheduling, was exceptional. Interviews flowed in rapid succession, allowing for subsequent thorough document review and follow-up. The auditor notes the chief psychologist is also a key player in the PREA program and he was an exceptional resource for the audit team.

### 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. The review period is for prior audits completed during the past three years PRECEDING THIS AUDIT. 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.) X  Yes  No  NA

**Auditor Overall Compliance Determination**

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

NA

## AUDITOR CERTIFICATION

I certify that:

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

### Auditor Instructions:

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

**K. E. Arnold**

**May 4, 2020**

**Auditor Signature**

**Date**

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

<sup>2</sup> See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.  
PREA Audit Report - V6.