

PREA AUDIT: AUDITOR'S FINAL REPORT JUVENILE FACILITY STANDARDS



Name of Facility: New Castle County Detention Center			
Physical Address: 963 Centre Road, Building #14, Wilmington, DE 19805			
Date report submitted: October 14, 2016			
Auditor information: Charles J. Kehoe			
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Date of facility visit: June 1 - 3, 2016			
Facility Information			
Facility Mailing Address: <i>(if different from above)</i>			
Telephone Number: (302) 993-3800			
The Facility is:	<input type="checkbox"/> Military	<input type="checkbox"/> County	<input type="checkbox"/> Federal
	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Municipal	<input checked="" type="checkbox"/> State
	<input type="checkbox"/> Private not for profit		
Facility Type:	<input checked="" type="checkbox"/> Detention (Juvenile)	<input type="checkbox"/> Correction	<input type="checkbox"/> Other
Name of PREA Compliance Manager: Adam Duffy		Title: Mgt. Analyst/PCM	
Email Address: adam.duffy@state.de.us		Telephone Number: (302) 633-3100	
Agency Information			
Name of Agency: Department of Services for Children, Youth, and Their Families, Division of Youth Rehabilitative Serv.			
Governing Authority or Parent Agency: <i>(if applicable)</i>			
Physical Address: 1825 Faulkland Road, Wilmington, DE 19805			
Mailing Address: <i>(if different from above)</i>			
Telephone Number: (302) 633-2600			
Agency Chief Executive Officer			
Name: Nancy Dietz	Title: DYRS Dir		
Email Address: nancy.dietz@state.de.us	Telephone Number:	(302) 633-2620	
Agency Wide PREA Coordinator			
Name: Darryl Dawson	Title:	Social Serv. Senior Administrator	
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AUDIT FINDINGS

NARRATIVE:

The PREA audit of the Delaware Department of Services for Children, Youth and Their Families, Division of Youth Rehabilitative Services (DYRS), New Castle County Detention Center (NCCDC or the facility) was conducted from June 1 - 3, 2016 in Wilmington, Delaware. The Designated Auditor (the auditor) was Charles J. Kehoe of Midlothian, Virginia.

The auditor wishes to extend his deepest appreciation to DYRS Director, Nancy Dietz; Social Services Senior Administrator/PREA Coordinator, Darryl Dawson; NCCDC Superintendent Mitchell Rock, Assistant Superintendent Iris Homer, Management Analyst/PREA Compliance Manager (PCM), Adam Duffy, and all the employees of the NCCDC for their professionalism, hospitality, and kindness.

The PREA Coordinator mailed the DYRS PREA policies and procedures and related documents, to the designated auditor several weeks before the audit.

The auditor contacted Just Detention International to inquire if that agency had received any information regarding DYRS. A check of their records showed no complaints on file regarding the agency.

The auditor arrived at the facility at 8:10 a.m. on Wednesday, June 1, 2016 and was greeted by Superintendent Rock, and Mr. Dawson. An Entrance Meeting was held at 8:30 a.m. with the administrative team. Ten members of the facility's administrative team, the DYRS Deputy Director, Jack McDonough, and the agency PREA Coordinator, Darryl Dawson, were in attendance and introduced to the auditor. The DYRS PREA Coordinator and the Superintendent welcomed the auditor and provided an overview of the facility. The auditor thanked the DYRS leadership, the PREA Coordinator, and the NCCDC staff for being involved in the PREA certification process. The auditor stated that many years ago he was part of the ACA Accreditation Audit team that conducted an audit at this facility and that it was nice to return to NCCDC. He then reviewed the audit process and the audit schedule. The PREA Coordinator gave the auditor the names of the employees and the residents in the facility so he could select those who would be interviewed. The auditor, the PREA Coordinator, the Superintendent, and the PCM also identified specialized staff and youth in special categories who would be interviewed.

The site review of the NCCDC began at 9:00 a.m., following the Entrance Meeting. Accompanying the auditor on the tour was Superintendent Rock, Assistant Superintendent Homer, PCM Adam Duffy, YRC III Francis Wilmer, and Mr. Dawson. All areas where residents could be found were inspected. The site review ended at 10:35 a.m.

Following the tour the auditor began the interviews.

The first day of the audit, there were 60 residents (49 males and 11 females) in the facility.

Twelve residents were selected for random interviews. The Superintendent and the PCM identified five (5) residents for special interviews; one resident who reported an abuse in the facility, two residents who were disabled or who had limited English proficiency, one resident who was identified as being gay, and one resident who was in isolation for behavioral issues. No resident was identified as disclosing a prior sexual victimization. The vast majority of the residents who were interviewed reported they had been previously detained at NCCDC. Some residents reported they had been detained as many as four (4) or more times.

One resident told the auditor that he had been sexually abused in the past, while he was in the

community, and that he did not report it to the staff at NCCDC. He stated it happened earlier in his life and he is not sure if it was ever reported. The resident could not provide a time frame when it happened or any specific information. The auditor told the resident he would have to report this to the superintendent and the Hotline. The resident said he understood. The auditor reported this to the Superintendent, the PCM, and one of the psychologists. The auditor then reported the allegation to the Hotline. The psychologist said she would see the resident the next day. The psychologist confirmed to the auditor that the resident was seen the next day.

NCCDC has 106 authorized positions of which 102 were filled and four (4) were vacant, at the time of the audit.

Interviews with residents revealed that they are well informed about PREA, their rights, and how to report an abuse. New admissions to the facility are informed about PREA during intake and orientation within a day or two after admission. Residents reported that PREA is discussed frequently in small group discussions and in "quiz show" type competitions. The residents reported that they felt safe in this facility and that they are treated well by the staff.

Ten direct care staff were randomly selected by the auditor from all shifts and interviewed. Nineteen interviews were conducted with staff or contractors in 12 specialized areas and included the Superintendent, the PREA Compliance Manager, higher level shift supervisors (2), medical and mental health professionals (2), staff who screen for risk of victimization, a staff member who supervises residents in isolation, an Incident Review Team member, designated staff members who monitor for retaliation (2), a non-security staff who could act as a first responder, and Intake staff members (2), the DSCYF Data Analyst, and a DSCYF Training Manager. Since this is a relatively small facility, some of the staff have multiple responsibilities so a few individuals were interviewed more than once if their duties covered more than one specialized area. The auditor interviewed the DYRS Director, the DYRS PREA Coordinator, the Agency Contract Administrator, the Human Resources staff, the DSCYF Data Analyst, and a DSCYF Training Manager earlier during previous audits of DYRS facilities. The auditor had also interviewed two Institutional Abuse Investigators who work for another division within the Department but conduct investigations at all DYRS facilities. These investigators were interviewed regarding NCCDC during the Ferris School audit.

In all, the auditor conducted 46 interviews during the NCCDC PREA audit.

During the site review, the auditor called the Child Abuse Hotline to see what would happen if a resident reported an abuse. The phone was answered quickly. When the person answered the phone, the auditor explained why he/she was calling. The person who answered the phone was familiar with PREA and the PREA Standards. This was the first time the auditor called the Hotline and the person answering the phone was aware of the Prison Rape Elimination Act. This is a very big improvement. As previously mentioned, the auditor also called the Hotline to make an actual report of a child abuse allegation that had occurred in the community some years ago.

The agency does contract with other facilities to take its residents and is in the process of updating contracts to insure the providers will comply with PREA Standards and to put a DYRS monitoring system into place for those contracts and facilities.

Cross-gender searches are not allowed in this facility. NCCDC staff have been trained to conduct cross gender searches in an exigent circumstance. During the random interviews, the auditor asked the staff to demonstrate how cross-gender searches and searches of a transgender or intersex resident would be conducted. The auditor was very impressed by how well the staff demonstrated these searches. The staff said they viewed the Moss video tape and had 90 minutes of instruction. The staff said the searches must be respectful and that a transgender resident would be asked if he/she had a preference as to who would search him/her.

Three (3) of the 12 residents interviewed said they could not remember the names of any agencies that would provide emotional support for a victim of sexual abuse, if needed. The other nine (9) residents named specific agencies and told the auditor how the Assistant Superintendent used a quiz show format to educate the residents on PREA issues and services. The auditor was very impressed with that innovative approach to educating residents about PREA.

The agency provides Instructor Lead Classroom and Online Staff Training which is very comprehensive. All random staff interviewed acknowledged, in writing, that they had received and understood the training and retraining they received within the last 12 months. Staff who have taken the online training acknowledge electronically that they received and understand the training. Five (5) training records and the curriculum were reviewed and documented.

During the interviews, direct care workers did describe, in detail, procedures for protecting residents from harm or threats of retaliation, the preservation of evidence, and the mandatory reporting requirements.

Allegations of sexual abuse are investigated by the Department of Services for Children, Youth, and Their Families, Office of Children's Services, Institutional Abuse Unit (IAU). This unit investigates all allegations of abuse, neglect, or dependency in licensed child care facilities, departmental facilities and DFS foster homes throughout the state. The Delaware State Police will also investigate allegations of sexual abuse at NCCDC. The investigators have received the basic PREA training and the specialized training required for investigators. The auditor reviewed three investigations of reported allegations in the thirteen months that preceded the audit. Two of the allegations involved resident-on-resident sexual harassment and the third incident alleged staff-on-resident sexual harassment. The initial case of resident-on-resident sexual harassment was reported in May of 2015 and was substantiated. Of the other two sexual harassment allegations, the resident-on-resident allegation was determined to be unfounded and the staff-on-resident was found to be unsubstantiated. The investigations were conducted internally and found to be thorough and completed in a timely fashion.

Medical and mental health services are provided to the residents of the facility on site by a team including a physician (one day per week), the nurse practitioner, who is located at the facility five-days a week, and four nurses. The nurse practitioner supervises the nurses under a contract DYRS has with Christiana Care Hospital. Two psychologists are assigned to the facility full-time and are supervised by the Division of Prevention and Behavioral Health. In reviewing training records, the auditor found that the medical and mental health staff received the basic PREA training and the specialized training. This was confirmed during interviews and by documentation provided.

The auditor was impressed by the staffing ratio at this facility and the emphasis the staff have on constant supervision and lines of sight. The physical plant contributes to good supervision with good lines of sight, glazing in all areas of the facility, and with comprehensive camera coverage. NCCDC has a total of 130 cameras that have a retention period of 45 days.

Since the audit, the agency has taken monitoring and measuring compliance a step farther. On July 13, 2016, the Department hired a Professional Standards Administrator. This is a newly created position. This administrator comes to this job with vast experience in the completion of investigations in an institutional setting and in the community and also has a graduate degree in health law. The Professional Standards Administrator completed the basic PREA training, and the Web based Sexual Abuse and Sexual Harassment Investigator Training. The Division plan for all Division Sexual Abuse and Harassment Investigators is to complete a training class, to be taught by the new Administrator, to orient and review basic investigation techniques and interventions. In preparation for the class the Administrator is reviewing previous sexual abuse and sexual harassment investigation reports from 2015 and 2016 to gain an understanding of training needs.

Annually, the facilities' sexual abuse and sexual harassment investigators will be provided refresher training. Consistent with all reportable events, the sexual abuse and sexual harassment allegations and the final reports are submitted to the Professional Standards Unit as the incidents occur and investigations are completed.

The DYRS has an excellent procedure to collect data regarding sexual abuse and sexual harassment in DYRS facilities and in contracted facilities. DYRS has published four Annual Reports (2012 through 2015) that present data and information on the Division's continuous effort to comply with all the PREA standards. The Annual Reports are available on the Department's Web site.

When the on-site audit was completed, the auditor conducted an exit meeting at 3:15 p.m. on June 3, 2016. The DYRS Director, the Deputy Director, the PREA Coordinator, the Superintendent of the NCCDC and nine other members of the facility's administrative team were present. The auditor made some suggestions to the agency on how the facility could strengthen a few of its existing PREA procedures and protocols. While the auditor could not give the facility a final finding, as there were few issues needing further review, the auditor did give an overview of the audit and thanked the NCCDC administrators and staff for their hard work and dedication to the full implementation of the Prison Rape Elimination Act.

DESCRIPTION OF FACILITY CHARACTERISTICS:

The Department of Services for Children, Youth and Their Families, Division of Youth Rehabilitative Services (DYRS) provides services including detention, treatment, probation and aftercare services to youth in the State of Delaware who are committed to its care by the Family Court. DYRS is responsible for assessing the individual needs of youth and collaborates with their families, schools, community partners, and private residential programs. The Division's goal is to coordinate services and resources in an effort to rehabilitate youth and assist them in becoming positive citizens within their communities.

The New Castle County Detention Center (NCCDC) is a 64-bed, secure, juvenile detention facility serving pre-adjudicated males and females under the age of 18 years. NCCDC is located in New Castle County, not far from downtown Wilmington, and is situated on the larger DSCYF Campus which is home to the Department's Administrative Offices, the DYRS Residential Cottages, and the Ferris School for Boys. DSCYF offices and facilities are located in a business community directly across the street from the DuPont Corporate Business Park.

The facility is accredited by the American Correctional Association (ACA), a nationally recognized organization that sets standards for adult and juvenile correctional facilities. NCCDC has been ACA accredited since the mid-1990s. NCCDC is also participating in the Performance-based Standards program for Youth Correction and Detention Facilities. Performance-based Standards (PbS) is a data-driven improvement model grounded in research that holds juvenile justice agencies, facilities, and residential care providers to the highest standards for operations, programs and services.

The first day of the audit, there were 60 residents in the facility; all were awaiting a hearing in juvenile court. The facility does not have a post-dispositional detention program. The average length of stay in the facility is 27.8 days. Residents who are being tried as adults in Superior Court are also held in the facility and could have a longer average length of stay. The facility normally operates at about 90% of its design capacity.

Residents are assigned to housing units on the basis of the resident's intake screening, the outcome of the MAYSI 2 (a self-reporting screening tool designed for youth in juvenile detention facilities) and the facilities screening for risk of victimization and abusiveness. The intake screening and MAYSI 2 are completed during intake. The screening for risk of victimization and

abusiveness is conducted by one of the psychologists with 72 hours of intake. If a psychologist is not available, the screening can be done by the nurse. The psychologist will review the screening upon her return.

Housing units A, B, C, and D have 8 rooms each. Housing units E and F have 16 rooms. All the sleeping rooms are single occupancy. Only one room per housing unit has a toilet and sink all the other rooms are "dry rooms." If a resident needs to use the bathroom during the night, he/she pushes a buzzer in his/her room and the staff lets the resident out. The shower and toilet areas provide privacy for all residents. Only two residents are allowed out of their rooms during shower time. Staffing ratios are 1:8 during waking hours and 1:12 during sleeping hours.

Housing units have very good camera coverage with two cameras in eight-bed housing units and four cameras in the 16-bed housing units. The facility has a total of 130 cameras with a video retention period of 45 days. Cameras are not positioned so that cross-gender viewing of residents in the showers or toilet areas would ever be a problem. The Superintendent said he will be requesting an additional 20 cameras to further enhance supervision and observation of activities.

Mirrors also enhance supervision on the units. Each living unit has a telephone on the wall from which a resident could report an allegation of sexual abuse or sexual harassment to the child abuse Hotline. The PREA signage was on each unit informing residents how they can report an allegation of sexual abuse or sexual harassment. The notice of the audit was also posted throughout the facility. There were also signs in the medical area that informed residents of the services and contact information for Survivors of Abuse in Recovery (SOAR), the agency that provides emotional support. The auditor did not see these signs in the living units and recommended the facility place one SOAR poster in each living unit. Signs were posted immediately after the audit. There are also grievance boxes on the living units. Red grievance forms are for emergency grievances and PREA allegations. Residents were aware of the purpose of the red grievance form. The auditor reviewed the unit logs that documented the unannounced rounds are being conducted and documented.

If a resident is confined to his/her room for violation of a facility rule he/she is seen by the nurse and or/psychologist every day.

The education program is provided by public education teachers and credits are transferable to a resident's school in the community. The education program is a year-round academic program. There are six class classrooms and a gym in the academic area of the facility. Each classroom has a camera.

The facility has a large gym that is monitored with three cameras. The facility also has a large outdoor recreation area that is monitored by two (2) cameras.

Visitation takes place in the dining hall and in the gym. Private space is also available for meetings between attorneys, probation officers, outside counseling or support agencies, and the residents.

The sally port and intake areas are also monitored by cameras. The shower area in intake provides complete privacy.

Residents are not allowed in the laundry or kitchen areas.

The control room is located in the front of the building. The auditor observed video monitors that produce high quality images. The auditor also reviewed past recordings, in an administrator's office, of activities that had occurred over the previous weeks in housing units and other areas.

A new resident is given his/her initial PREA education during intake. The intake screening and MAYSI 2 are also administered during intake. The screening for risk of victimization and abusiveness is conducted by one of the psychologists with 72 hours of intake.

The NCCDC Web site describes the facility's Cognitive Behavior Training program as follows:

The Division of Youth Rehabilitative Services has implemented a uniform behavior management system, Cognitive Behavior Training (CBT), in all Secure Care facilities: New Castle County Detention Center, Stevenson House Detention Center, Ferris School for Boys, Grace Cottage, Snowden Cottage, and Mowlds Cottage.

CBT is an evidence-based practice that focuses on helping residents change their thinking patterns and make better choices in their lives. The goal of the program is to change behavior by helping residents examine the beliefs and thinking patterns that happen before they behave in an inappropriate way. Once the resident is aware of these thoughts, he/she can learn to change these thoughts and attitudes so that he/she can get along with others appropriately and be successful both within the facility and in society. The program provides residents with instruction in decision-making, anger management, interpersonal relationships, cooperation, hygiene and social skills. It is the Division's hope that once youth transition into the community, they will be able to apply these skills at home, school, the workplace, and other settings.

Residents have the opportunity to earn points throughout the day for demonstrating positive behavior called norms. The five main areas of norms are:

1. Ignoring inappropriate behaviors
Resident consistently maintains his/her own behavior as if things he/she is supposed to ignore do not exist.
2. Cooperation and participation
Resident consistently makes an effort to follow directions, accepts decisions, and helps others do so as well.
3. Appropriate talk
Resident maintains polite talk and voice tone.
4. Gestures (i.e., nonverbal behavior)
Resident consistently demonstrates effort to clean up after self and others, as well as to maintain overall cleanliness and order of the area.
5. Area (i.e., remaining in the assigned area, keeping the room neat)
Resident is very polite and respectful. Resident consistently demonstrates and maintains good physical gestures.

The residents earn "coupons" throughout the day for demonstrating positive behaviors, which they can redeem at the CBT store for items such as games and extra snacks.

Residents are also assigned weekly goals that seek to help them improve on a personal target behavior. Residents who attain their goals earn reinforcement at the end of the week in the form of a "plus party" in which residents have the opportunity to participate in special activities.

Consequences are implemented when norms are broken. If a norm is broken, the resident will receive time outs or Administrative Intervention. During this time, the resident cannot earn points or coupons, but if he/she complies immediately, he/she will return to the program at the end of the designated period. In addition, while on a time out the resident can complete assignments that help him/her understand how his/her thinking contributed to the behaviors that caused his/her consequences and how to change that behavior.

SUMMARY OF AUDIT FINDINGS:

Number of standards exceeded: 5
Number of standards met: 36
Number of standards not met: 0
Number of standards not applicable: 0

Standard Prevention Planning

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DYRS Zero Tolerance Policy states:

“DYRS has a zero tolerance for any incidence of sexual activity with youth in our care. DYRS commits to full compliance with the Prison Rape Elimination Act (PREA). Any type of forced or unwanted sexual activity, touching or sexual harassment between youth or any type of sexual activity or sexual harassment between staff and youth (including consensual) is criminal and prohibited” This policy is widely published in DYRS materials, including the Resident Handbook. The Zero Tolerance statement is also on the Web site in the agency’s 2015 Annual Report.

The agency has a full-time PREA Coordinator who oversees all PREA activities, including but not limited to, policy development, allegations and investigations, staff training, resident education, and standards compliance. The PREA Coordinator’s state classification is Social Services Senior Administrator. His duties also include agency-wide quality assurance and accreditation. He stated he has the time and support necessary to meet his PREA responsibilities.

NCCDC has a PREA Compliance Manager who oversees the PREA activities in the facility. These activities include, but are not limited to monitoring compliance with PREA policies and procedures, confirming PREA training requirements are met, participating in the staffing plan review, and ensuring shift supervisors and youth rehabilitation counselors are doing what is required under PREA. In addition to his PREA Compliance Manager duties, he also monitors for retaliation against a staff member who reports sexual abuse or sexual harassment or participates in a PREA investigation. (Another staff member monitors for retaliation against residents). In his DYRS role he serves as the Management Analyst for the facility. The PREA Compliance Manager stated that he receives assistance and support from the DYRS PREA Coordinator, the Superintendent and Assistant Superintendent. He states that DYRS also provides resources to support the full implementation of PREA.

Standard

§ 115.312 Contracting with other entities for the confinement of residents.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

During previous PREA audits, the auditor interviewed the DYRS Contract Administrator. She reported that the Department has 8 contract administrators and two managers. The DSCYF has contracts with 12 residential providers in and outside of Delaware that provide residential services for DYRS youth.

The DSCYF Operating Guidelines for Contracted Children and Family Programs and Services, Effective 9/1/2014 states in Section V. LAWS APPLICABLE TO THE OPERATION OF PROGRAMS AND SERVICES, paragraph D. under the title Prison Rape Elimination Act, “Providers shall comply with all applicable PREA Standards and any DSCYF Policies or Standards related to PREA for preventing, detecting, monitoring, investigating, and eradicating any form of sexual abuse within DSCYF contracted or

subcontracted Facilities/Programs/Offices. In addition to 'self-monitoring requirements' and submission to PREA state or federal audits, providers will allow DSCYF announced or unannounced, compliance monitoring to include 'on-site' monitoring. Failure to comply with PREA, including PREA Standards and DSCYF PREA related policies or standards may result in a loss of business until the provider comes into compliance with PREA standards and/or subsequent contract termination."

Later in the document, it also describes how allegations of sexual abuse are to be reported to DSCYF and includes a reporting form. In cases of alleged sexual abuse, the Department must be directly notified within 4 hours.

During the audit of Ferris School, the DYRS Contract Administrator updated the status of the DYRS contracted facilities. With one exception, all the DYRS contracted facilities have either been certified or are in a corrective action period. One facility had not scheduled an audit but was moving forward to scheduling a date for an audit. Following the audit, the auditor contacted the PREA Resource Center and was told that as long as the agency was moving in the direction of an audit, that DYRS could document compliance with the requirements of this standard.

The auditor was very impressed with how well organized the contract monitoring is in the DYRS. The Contract Administrator has real time information on the status of each contracted agency and requires immediate reporting of any allegation of sexual abuse or sexual harassment involving a Delaware youth. The auditor finds the agency exceeds the requirements of this standard.

Standard

§ 115.313 Supervision and monitoring

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DYRS regulations for NCCDC require a staffing ratio of 1:8 during waking hours and 1:12 during sleeping hours. The Superintendent stated that the facility has not deviated from the required staffing ratio. The Superintendent stated that the union contract provides that staff can be held over (i.e., "freeze staff") to ensure full compliance with the staffing plan.

The facility has not had any findings of inadequacy by any internal or external oversight body, state or Federal investigative agency, or any court. As previously stated, the facility has been accredited by the American Correctional Association since the mid-1990s. The Superintendent said the PREA Coordinator is involved all meetings regarding the staffing plan.

The Superintendent reported that the factors that impact on staffing are absences brought on by intermittent FMLA coverage, short-term disability, workers comp and light duty, military leave, and temporary administrative suspensions. When these factors are combined, as many as nine (9) staff could be off in a single day. Ratios are maintained by holding staff over, referred to as a "freeze." The Superintendent monitors compliance with the staffing plan by reviewing shift reports and discussing staffing issues during meetings with administrators and supervisors.

The auditor did observe good supervision practices throughout the facility during the audit.

The facility has comprehensive camera coverage and excellent sight lines. The auditor was impressed by the facility's 130 cameras, the location of the cameras, the quality of the images, and the 45-day video retention period.

The auditor interviewed two shift supervisors who make unannounced rounds two to three times per shift. The auditor reviewed the supervisors' unannounced rounds documentation in the log books. The supervisors said supervisors and other administrators stagger their unannounced rounds to prevent

staff from notifying other staff that the rounds are occurring. They added that supervisors and administrators are in and out of the units so often the staff never “call ahead” to alert other staff that unannounced rounds are happening.

DYRS Policy 2.13, Prison Rape Elimination Act (PREA) states:

1. “Supervisors and Program Managers are to conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. This practice shall be implemented on all shifts.
 - a. Any and all subordinate or ancillary staff are prohibited from alerting other staff members that these supervisory rounds are occurring unless such announcement is related to the legitimate operational functions of the facility.”

Standard

§ 115.315 Limits to cross-gender viewing and searches.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS Policy 3.10, Security and Control under the subject of “Unclothed and Clothed Searches” states that cross-gender searches are not permitted. The policy describes how staff of the same gender as the resident being searched are to conduct an unclothed search. The staff member is to stand in the doorway of the room the juvenile is in and instruct the juvenile on the removal of his or her clothing. That staff member is viewed by a second staff member who only watches that staff member and cannot see the resident. The second staff member can be of either gender. If a staff member suspects that a resident is hiding something in a body cavity, the staff member must notify the supervisor, who calls the administrator on duty (AOD). The AOD then calls the superintendent. The superintendent will notify the health care staff.

NCCDC procedure, “Security and Control” (NCCD-211), states searches are conducted by staff of the same gender as the resident being searched. If a cross-gender search is conducted in an exigent circumstance it must be documented in writing.

Nine of the 10 random staff interviewed by the auditor confirmed that they received training on cross-gender searches and searches of transgender and intersex youth in May of 2016 and demonstrated how this search would be conducted. One staff member was on sick leave during the training and was scheduled to take the training the next time it is offered. The staff were trained using the video developed by the Moss Group and available on the PREA Resource Center Web site. Written documentation was provided to the auditor that the staff had been trained and understood the procedures for cross-gender searches and searches of transgender residents.

The auditor observed staff announcing their presence when entering the housing units. There are signs posted on each housing unit door to remind staff to make the appropriate announcement. During random interviews with residents and staff, one resident out of 12 interviewed reported that female staff don’t always announce when they enter a housing unit. The auditor mentioned this at the exit meeting and said his observation is that the announcements are well done. The auditor finds the facility meets the standard. Following the audit, the PREA Coordinator informed the auditor that the DYRS had new signs printed to more clearly state the announcement protocol. The new signs were installed in the windows of each housing unit door. In addition, the facility also now requires an announcement to be made at the start of the overnight shift (10:00 p.m. – 6:00 a.m.) when a female will be supervising a housing unit overnight.

During the random interviews with residents, the residents reported that they are only searched by a staff member of the same gender and they are never naked if full view of any staff member of the opposite

gender.

Standard

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The auditor observed numerous posters throughout the facility that inform residents how to report an allegation of sexual abuse and sexual harassment. The posters and signs are in English and Spanish. During the audit at the Residential Cottages, the management analyst III reported the DSCYF has 12 contracts with interpreter services. DSCYF Policy 118, Language Access Policy, describes the agency's policy and procedures for enabling staff and residents to communicate when language may be a barrier. The policy provides for interpreter services and prohibits the use of other family members or clients from serving as interpreters. These contracts cover foreign language interpretation, sign language, and written foreign language interpretations. Provisions can also be made for residents who have visual, developmental or other disabilities.

Residents are given the brochure titled NCCDC Resident Safety Guide What You Need to Know About Sexual Abuse/Assault and Harassment and the resident handbook at Intake. These documents are printed in English and Spanish.

Standard

§ 115.317 Hiring and promotion decisions.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

HB 167 which was signed into law on May 8, 2014, made it unlawful for any public employer to inquire into or consider the criminal record of an applicant for employment during the initial application process, up to and including the first interview. After it is determined that the applicant is otherwise qualified and the employer has conditionally offered the applicant a position, then the employer may inquire into or consider an applicant's criminal record.

The Department of Services for Children, Youth and Their Families Policy #109, Criminal History Checks and Policy #313, Subsequent Arrests and/or Allegations of Child Abuse/Neglect describe the procedures that must be followed when hiring new staff at NCCDC and how subsequent arrests or allegations of child abuse or neglect will be addressed. All individuals who are candidates for employment in the DSCYF undergo an FBI criminal background check, a Delaware background, and a check of the Child Abuse Registry. Contractors and volunteers are required to undergo the same procedure. Persons with a criminal history of the listed behaviors are not eligible for employment. Those with civil or administrative violations, as listed in the standard, may also be barred from employment.

The DSCYF is part of a statewide system that receives notifications whenever an employee in the department is arrested in the state. The Delaware Justice Information System (DELJIS) notifies the DSCYF Criminal History Unit (CHU). The CHU passes the information on to the appropriate Division Director. In the case of an allegation of child abuse or child neglect, the Division of Family Services/Office of Children's

Services notifies the CHU.

With regard to paragraph (c) 3, the DYRS procedure states, "Upon completion of the interview process where a successful candidate is selected, the hiring manager will use the resume, application and the candidate's direct response to ascertain if he/she has previously worked in an institutional setting. If so, the hiring manager (sic) will have the responsibility inquire/collect (sic) information from that employer regarding substantiated allegations of sexual abuse or resignation during a pending investigation or allegation(s) of sexual abuse."

The DYRS also has a PREA Affirmation Form that applicants and contractors sign that states whether or not they have any convictions or administrative adjudications for the prohibited behaviors listed in the standard. Employees are also required to complete the PREA Affirmation form during annual evaluations and at the time of any promotion.

The DSCYF Human Resources Unit has a structure in place to ensure discipline concerns and counseling warnings regarding behaviors outlined by the PREA standards are captured in one confidential location. This information will be accessed whenever there is an inquiry from a future employer about a former employee at NCCDC. The Human Resources Unit will respond to the agency/facility requesting the information. "This procedure assures that what is reported represents the agency's best efforts to give full disclosure and act in good faith."

The auditor confirmed that all five-year criminal background checks were completed in 2015. The auditor also reviewed 5 personnel files and established that other background information had been completed and that staff had completed the PREA Affirmation form.

Standard

§ 115.318 Upgrades to facilities and technologies.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

As previously stated, NCCDC has 130 cameras. The Superintendent reported that he is requesting an additional 20 cameras to further expand the facility's monitor capability and enhance sexual safety. The cameras and monitors provide high quality images that easily identify people in the picture. Camera locations are reviewed annually as part of the overall staffing plan. The Control Room monitors all the cameras and is staffed around the clock. The auditor finds that the DYRS has made a considerable investment in video monitoring to ensure sexual safety and therefore exceeds the standard.

Standard Responsive Planning

§ 115.321 Evidence protocol and forensic medical examinations.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Allegations of sexual abuse are reported to the Child Abuse Hotline, per Policy #2.13. D. Investigations. The Institutional Abuse Unit investigates all allegations of child abuse and neglect. If the allegation could result in criminal prosecution, the Delaware State Police (DSP) is also called in to investigate. The DSP has confirmed it follows all the protocols as described in this standard. If a forensic exam is needed, the DSP would transport the victim to Christiana Care Hospital where a Sexual Assault Forensic Examiner (SAFE) would conduct a forensic exam.

The DYRS has a signed “Affirmation of Compliance with Forensic Examinations Standards for Sexual Assault” with the Christiana Care Hospital. Christiana Care Hospital confirms that, “The protocols employed by Christiana Care Hospital are appropriate for youth and adapted using the U.S. Department of Justice’s Office on Violence Against Women publication ‘A National Protocol for Sexual Assaults Medical Forensic Examinations Adults/Adolescents’ or similarly comprehensive and authoritative protocols.”

Christiana Care's forensic nurse examiner team was honored by the U.S. Department of Justice for its work caring for crime victims. The team received the Allied Professional Award in Washington, D.C. The team is made up of 24 nurses – all women – who also are trained in emergency trauma.

DYRS also has a Memorandum of Agreement (MOU) between the DYRS and Survivors Of Abuse in Recovery, Inc. (SOAR) that states SOAR will provide mental health professionals who will deliver outreach, advocacy, assessment, and psychotherapy services to DYRS youth who have been, or may have been, victims of sexual abuse in accordance with the definitions outlined in the PREA standards.

There is also a MOU between DSCYF, Division of Prevention and Behavioral Health Services (DPBHS) and the DYRS. The purpose of the MOU is to facilitate a collaborative partnership between the members of the Specialized Services Unit of the DPBHS and the DYRS’ 24-hour youth residential programs in order to comply with the Prison Rape Elimination Act (PREA).

During the audit of the Ferris School, the auditor interviewed two of the investigators from the Institutional Abuse Unit (IAU). The investigators described, in detail, the training they have received and continue to receive, how abuse referrals are made to the Child Abuse Hotline, how the IAU is notified, and how investigations are conducted. Investigations normally begin within 90 minutes of the time the Unit is notified. The investigators stated that the IAU follows the requirements of paragraphs (a) through (e) of this standard. The DSCYF has four levels of findings, 1) no evidence to substantiate, 2) unsubstantiated, 3) unsubstantiated with concerns, and 4) substantiated. The investigators said they work very closely with the DSCYF and DYRS administrators and the DSP in conducting all child abuse investigations, including sexual abuse.

Standard

§ 115.322 Policies to ensure referrals of allegations for investigations.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

In the DYRS PREA Policy it states, “All institutional abuse allegations that involve children in our facilities are screened and independently investigated by the DSCYF Institutional Abuse unit. If the incident rises to a criminal level, it is referred to the Delaware State Police.” DYRS Policy 2.13, Prison Rape Elimination Act (PREA), describes the agency protocols for conducting investigations, including the referral to the IAU and the DSP. This policy is available on the DYRS Web site under PREA on the menu bar.

In the DYRS Annual 2015 PREA Report, it is also stated, “Every reportable event, whether PREA related or not, is reviewed by the facility Superintendent, Division Director, and Deputy Director. If the incident involves child abuse in the facility, the Department’s Institutional Abuse Unit would investigate the incident to determine if there is sufficient evidence for further investigation. The facility superintendent also investigates to determine if proper policies and procedures were followed.”

The DYRS Policy also states, “Incidents alleging sexual harassment that are not accepted by the Institutional Abuse Unit for investigation, shall receive an internal administrative review in an efficient time frame. All issues regarding protection and/or prevention of retaliation shall also apply to harassment allegations. Each administrative unit is to identify two supervisory level staff that have

received training to assist this level of incident review.”

Interviews with the IAU investigators and the NCCDC investigators confirmed these procedures are understood and followed by all the parties.

Standard – TRAINING AND EDUCATION

§ 115.331 Employee training.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DYRS Center for Professional Development provides both Instructor Lead Training (ILT) and online training for employees. Training is provided to all new employees and refresher training is provided to current employees. DYRS Policy 2.13, subsection IV. A., Training, states the Division’s requirement that all staff working directly with or monitoring programs/services of youth in secure care and community services must receive PREA training.

NCCDC Policy 104, Prison Rape Elimination Act, Section IV. A. Training also states,

“Training:

1. All Department staff working directly with or monitoring programs/services of youth in secure care and community services must receive PREA training.
 - a. The Center for Professional Development will provide training to all new NCCDC employees during orientation.
 - b. NCCDC staff are to re-new this training every two years.
 - c. Training will include, but not be limited to, complaint recipient responsibility, how to report an incident, investigations, and how to access victim services.

A review of the training curriculum confirmed that all the required areas in the standard are covered in the training. During the random interviews with staff, the auditor asked specific questions of staff members about the training received. The auditor was impressed that the staff responded in considerable detail about specific procedures that demonstrated their understanding of the training.

The auditor reviewed five training records and also reviewed other documentation that the employees’ confirmed, in writing, that they have received the training and understood it. The training that was delivered was the ILT and online.

Standard

§ 115.332 Volunteer and contractor training.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

NCCDC Policy 106 states, “Volunteers serving on a continuous rotation shall participate in orientation training based on the orientation training provided to all new employees. Orientation will cover security and confidentiality issues. Volunteers shall be briefed on the residents they will be working with and be informed of any special procedures associated with the service or activity being undertaken. Volunteer

training shall be coordinated by the Volunteer Service Coordinator.

- i. All volunteers entering the building must sign the PREA Volunteer Acknowledgement Statement. (See attachment A).
- ii. All volunteers returning to provide a service or facilitate an activity on more than one occasion must attend the Division PREA training course in addition to the orientation required."

The auditor interviewed one contractor from Vision Quest, a contractual custodian, and a volunteer. All three individuals confirmed that they received detailed training on the agency's Zero Tolerance Policy, how to report an allegation of abuse and how to respond. The person from Vision Quest reported that she received her PREA training at the Ferris School and is now also doing a program at NCCDC. The custodian said he does not go in the housing units or in the kitchen or dining areas, but he had the training. Each person said he/she knew to whom he/she would report any allegation of sexual abuse or sexual harassment and that he/she would also call the Child Abuse Hotline. The PMC provided acknowledgements that volunteers signed to confirm they received and understood the PREA training. The PMC also provided additional documentation that other contractors, including the facility barbers, and volunteers have received and understood the PREA training.

Standard

§ 115.333 Resident education.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

NCCDC Policy 104, Prison Rape Elimination Act, Section IV. A. Training also states,

"Training:

"All youth in secure care shall receive PREA orientation and/or training.

- d. During the intake process, residents shall receive information explaining the zero tolerance rule regarding sexual abuse and harassment and how to report incident or suspicions of sexual abuse or sexual harassment.
- e. Within ten days of the intake the secure care program is responsible for implementing a more detailed tutoring (in person or a video) to include resident rights to be free from: 1) sexual abuse and sexual harassment; 2) free from retaliation for reporting such incidents; and 3) regarding agency policies and procedures for responding to such incidents i.e. definitions from this policy, how to access victim services, and the investigation process."

During the intake process, all new admissions are informed about the DYRS Zero Tolerance policy and how to report sexual abuse or sexual harassment. The new admission also sees the video, "What you need to know" and is provided with the NCCDC Resident Safety Guide, What You Need To Know About Sexual Abuse/Assault and Harassment. The Safety Guide provides information on a resident's right to be free from sexual abuse and sexual harassment, how a resident can protect himself from sexual abuse and sexual harassment, how to report an allegation of sexual abuse or sexual harassment, how to preserve evidence, what to do if the resident is sexually harassed, and agencies a resident can contact for victim's assistance and emotional support, if a resident has been abused.

The staff member also explains how to file an emergency grievance using the Red form. During the admission/intake process, the staff work from a script to ensure the exact same information is presented consistently to each new resident.

Within a 10 days (usually not more than 48 hours), new residents are given a more detailed orientation on PREA and are asked questions to ensure they understand what they have been told about PREA.

During random interviews, residents described what the Zero Tolerance Policy means and several ways to report sexual abuse and sexual harassment. They also said they understood their right to be free from sexual abuse and sexual harassment. The residents told the auditor that a few weeks before the audit, the Assistant Superintendent started a contest between the housing units using the television Jeopardy game show format. The residents who mentioned this approach said it was very popular with the residents and a good way for the residents to learn about specific things about PREA. The winning housing unit had a pizza party and the second place unit had ice cream sundaes. The auditor found this to be a very innovative approach to resident education.

The auditor reviewed five (5) residents' files and observed written confirmation that the residents had received the training and printed materials.

The auditor observed posters throughout the facility that informed residents about PREA and how to report sexual abuse and sexual harassment. This signage is in both English and Spanish.

Because the NCCDC provides a comprehensive and innovative approach to resident education the auditor believes this facility exceeds the standard.

Standard

§ 115.334 Specialized training: Investigations.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The Management Analyst/PCM and a Youth Residential Counselor III serves as the internal investigators for NCCDC. Documentation was provided that confirmed they completed the National Institute of Corrections (NIC) online course, "PREA: Investigation Sexual Abuse in a Confinement Setting" course. The investigators also completed the PREA training required of all staff.

Allegations of sexual abuse are investigated by the IAU and, when needed, by the DSP. The DYRS PREA Policy states, "Incidents alleging sexual harassment that are not accepted by the Institutional Abuse Unit for investigation, shall receive an internal administrative review in an efficient time frame. All issues regarding protection and/or prevention of retaliation shall also apply to harassment allegations."

During the interview with the auditor, the investigator described how he would conduct an investigation into an allegation of sexual harassment and how he would assist the IAU and the DPS during an investigation of sexual abuse.

Standard**§ 115.335 Specialized training: Medical and mental health care.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

During the audit, the facility provided documentation that the health care and mental health providers, including the eye doctor and dentist, had received the basic PREA training required of all NCCDC staff and the NIC Specialized Training for Medical and Mental Health professionals. During the interviews with specialized staff, the psychologist and the nurse confirmed that they have been trained.

Standard Screening for Risk of Sexual Victimization and Abusiveness**§ 115.341 Obtaining information from residents.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS has a Memorandum of Understanding with the Division of Prevention and Behavioral Health Services (DPBHS) to comply with PREA. "The primary goal is to identify youth at risk for being sexually victimized, as well as those at risk for sexually victimizing others in order to limit such risk."

Under the MOU the DPBHS clinicians will meet with residents within one (1) business day of admission. The clinician will also review available information regarding the new admission obtained during intake and review Family and Child Tracking System (FACTS) information in the FACTS database. The clinician will use the information from the file review and interview with the resident to identify risk factors that include age, prior sexual history, current charge and offenses history, non-conforming appearance or mannerisms, sexual orientation, level of emotional and cognitive development, physical size, mental illness or disability, physical disability, intellectual or developmental disabilities, the youth's own perception of vulnerability and any other specific information about the youth that may indicate heightened need for supervision, additional safety precautions, or separation from other youth. The MAYSI-2 Questionnaire, the UCLA PTSD Index for DSM IV, and the APS-SF Adolescent Questionnaire are also administered.

At the time of admission, the intake staff person is required to state whether he/she perceives the resident to be gender non-conforming. DYRS PREA Policy 2.13, Section IV-B-2-a states, "A subjective judgement shall be made by the program's initial intake staff person to include a one sentence note to staff, stating if the youth's presentation conforms or does not conform to their gender." Documentation was provided that this statement is being made at the time of admission.

DYRS Policy 2.20, Section IV-B-2 also states "Information regarding a youth's sexual orientation or gender identity/expression shall be shared with other staff only on a need-to-know basis and when determined to be therapeutically necessary to ensure the youth's safety." Random interviews confirmed that staff understand they are not to disclose information regarding a resident's assessments or any information regarding a resident's sexual history to anyone who does not have a need to know. Access to information in the FACTS system is limited to authorized personnel only.

The psychologist said that at the NCCDC, being a juvenile detention facility, intakes can occur anytime during the day and night and any day during the week. To insure all new admission receive the risk screening for victimization and abusiveness and a preliminary mental health screening within 72 hours, as required by the standard, the nurses have been trained to administer these assessments. NCCDC Policy

104, Prison Rape Elimination Act, Section IV. B.2 states:

"Classification or assessment tools will be utilized to determine supervision needs of youth for the protection of victims and those known to be perpetrators .

- a. A subjective judgment shall be made by the program's initial intake staff person to include a one sentence note to staff, stating if the youth's presentation conforms or does not conform to their gender. This statement will be documented in a FACTS 'Progress Note'. The title of this progress note must read "PREANOTE".
- b. All youth will undergo a mental health assessment by a Licensed Psychologist or Registered Nurse within 24 hours of their arrival. An email will be sent by the Psychologist to the Superintendent and Assistant Superintendent stating if the youth is or is not a PREA risk and what recommendations, if any, are needed.
 - In the absence of the psychologists; the Nursing staff will complete a minor assessment and determine if the youth presents a PREA risk."

Assessments are updated weekly at the Collaborative Awareness Meeting (CAT). The CAT meeting is co-chaired by the two psychologists. NCCDC Policy 104 states, "Each week at the CAT (Collaborative Awareness Team) meeting, all youth who are PREA risks will be discussed and any changes to their housing arrangements will be decided. This will be documented in the CAT meeting minutes. Movement of a youth will be documented in a FACTS progress note by a supervisor or YRC III." The psychologist is also sending a daily PREA status update that lists all residents with PREA risks.

The auditor selected five residents' files and found the initial PREA assessments were conducted when the resident was admitted to the facility. The auditor also reviewed the mental health and risk assessments for victimization and abusiveness conducted by the psychologist within 72 hours. The facility also documented follow-up assessments. One youth who had been admitted to the facility on January 21, 2016 has a reassessment on May 20, 2016. The auditor was very impressed by the comprehensiveness of the assessment process.

Standard

§ 115.342 Placement of residents in housing, bed, program, education, and work assignments.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS Policy 2.20-IV-E.1.a. and 1. d. e. f. g. state that the information obtained from the assessment is used to make housing, bed, program, education and work assignments with sexual safety being one of the primary goals.

- a. "DYRS shall use all information obtained in intake and referral documentation and the Mental Health Assessment to make housing, bed, program, education, and work assignments for youth with the goal of keeping all youth safe and free from sexual abuse and sexual assault."
- c. "LGBTQI youth may be isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other youth safe, and then only until an alternative means of keeping all youth safe can be arranged."
- d. "LGBTQI youth shall not be placed in particular housing, bed or other assignments solely on the basis of such identification or status, nor shall DYRS consider lesbian, gay, bisexual, transgender, or intersex identification or status as an indicator of likelihood of being sexually abusive."

- e. "In deciding whether to assign a transgender or intersex youth to a facility for male or female youth, and in making other housing and programming assignments, DYRS shall consider on a case-by-case basis whether a placement would ensure the youth's health and safety, and whether the placement would present management or security problems."
- f. "Placement and programming assignments for each transgender or intersex youth shall be reassessed by the interdisciplinary team at least twice each year to review any threats to safety experienced by the youth."
- g. "A transgender or intersex youth's views with respect to his/her own safety shall be given serious consideration."

Policy 2.20 – IV – F. Bathroom/Shower states "Transgender and intersex youth shall be given the opportunity to shower and use the bathroom separately from other youth." All showers afford residents privacy.

NCCDC has one housing unit that can be used for residents whose behavior requires closer supervision. This unit is similar to all other units in design and residents receive regular services that all residents receive. If a resident's behavior is a risk to other residents or the staff, he/she can be confined to his/her room. The maximum time a resident would be in his/her room would be 48 hours. Under extreme circumstances, a resident who was the victim of sexual abuse could be placed in his/her room, but this form of "protective supervision" would be the last choice and only used if other options were determined not to be feasible. In that case the resident would not be in his/her room for more than 48 hours.

DYRS Policy 2.20-IV-E.1.c. states, "During any period of isolation, DYRS staff shall not deny youth daily large-muscle exercise and any legally required educational programming or special education services. Youth in isolation shall receive daily visits from medical staff or a behavioral health services clinician/provider. Youth shall also have access to other programs and work opportunities to the extent possible."

Subparagraph h. and i. state, "If a youth is isolated pursuant to paragraph (c) of this section, the facility shall clearly document:

- The basis for the facility's concern for the youth's safety; and
 - The reason why no alternative means of separation can be arranged
- i. Every 30 days, the facility shall afford each youth described in paragraph (c) of this section a review to determine whether there is a continuing need for separation from the general population."

At the time of the audit there were no youth confined to their rooms for disciplinary reasons or for protection. The auditor interviewed a staff member who supervises youth in isolation. The staff member stated that a resident would not be held in his/her room longer than 48 hours and that during that time the resident would have complete access to program and services on the unit. He also stated the resident would be seen by the psychologist or nurse on a daily basis. Teachers would also bring school work to the resident. This information was confirmed during the interview with the Superintendent who added that NCCDC is working with the Performance-based Standards program to reduce the amount of isolation/room confinement time.

Standard Reporting

§ 115.351 Resident reporting.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

- Does Not Meet Standard (requires corrective action)

DYRS Policy 2.13 – IV. C. 2. Reporting by DYRS Youth describes the means youth can use to report sexual abuse or sexual harassment, threats of retaliation, or staff neglect that may have contributed to a sexual abuse or sexual harassment allegation.

NCCDC Policy 104.III.C.2 states:

“Reporting by NCCDC Youth:

- a. A youth can report sexual misconduct, abuse or harassment to their probation officer or other staff, family member, nurse, case manager, psychologist, teacher, child abuse hotline, emergency grievance, or the police.
- b. The Child Abuse Hotline number is programmed into the youth GTL phones. Any youth confidentially access and report an allegation to the hotline 24 hours a day, 7 days a week. The hotline number is programmed into the youth GTL phones and only have to dial *7735.
- c. Youth can also report sexual abuse or harassment through the Emergency Grievance process. Any PREA related incident that is documented on the Emergency Grievance is immediately given to an administrator. If an administrator is not available, it should be given to a Supervisor. If a Supervisor is not available, it should be given to a YRC III or Lead Staff who will have to contact an Administrator for further instruction. The Emergency Grievance is heard immediately and investigated.
 1. The Emergency Grievance form printed in RED. This alerts the staff that form needs to be handed to an Administrator, Supervisor or YRC III.
 2. The forms are located on each of the living units and in the Education area.
- d. If the youth fears for his/her safety in their current setting, he/she can request a temporary transfer to Stevenson House or another housing unit. This request can be made through the Emergency Grievance process.
- e. Retaliation from youth or staff will result in disciplinary action and subject to the full progression of sanctions and/or referral for criminal prosecution.
- f. Consensual sexual activity between youth does not fall within the PREA definition or reporting procedures. However, sexual contact and harassment is prohibited in all Division programs and contracts. These contacts shall be addressed in the behavioral management programs, given appropriate medical follow-up and compliance to all reporting procedures.

If the program administrator has demonstrated that a youth has: 1) filed a PREA grievance in bad faith; or 2) made a verbal report about a PREA matter in bad faith, the program may discipline a youth via the Cognitive Behavior Treatment (CBT) program. A copy of this incident shall be kept on file by the program's Compliance Manager and the PREA Coordinator.”

The auditor observed phones in the living units that are directly connected to the Child Abuse Hotline. The residents said they have unimpeded access to the phones. During the site review, the auditor called the Child Abuse Hotline using a phone on a living unit. The Hotline staff answered the phone very quickly. When the auditor told the person on the Hotline that this was a PREA audit and the auditor was testing the system, the person on the Hotline stated she was familiar with PREA. Residents have been told they can remain anonymous when making calls. All the phones have labels with the instructions as follows, “To make a report of Sexual Abuse/Harassment you can call the Institutional Abuse Hotline on any Telephone on the Pod or Cluster by dialing *7735 Follow the instructions once you place your call.” The instructions are in English and Spanish. This number is also listed in the NCCDC Resident Safety Guide with other ways to

report sexual abuse or sexual harassment.

During the interviews with random staff, the interviewees reported that staff can accept verbal, written, and anonymous reports from residents, and third party allegations from residents' families and others.

All the residents also reported that they are aware that they can make reports verbally, in-writing, anonymously, or via a third party. Residents also said staff would make writing instruments available to them if they wanted to make a written report. Residents also described how they can report sexual abuse or sexual harassment by calling the Child Abuse Hotline, by telling a staff member, or by telling a third party (i.e., parent, attorney, probation officer, etc.).

Staff reported they can privately report sexual abuse and sexual harassment by calling the Child Abuse Hotline. This is also stated in DYRS Policy 2.13 – IV. C. 2. d.

Residents are not held in this facility solely for civil immigration purposes.

Standard

§ 115.352 Exhaustion of administrative remedies

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

NCCDC Policy 104.III.C.2 states:

“Youth can also report sexual abuse or harassment through the Emergency Grievance process. Any PREA related incident that is documented on the Emergency Grievance is immediately given to an administrator. If an administrator is not available, it should be given to a Supervisor. If a Supervisor is not available, it should be given to a YRC III or Lead Staff who will have to contact an Administrator for further instruction. The Emergency Grievance is heard immediately and investigated.

1. The Emergency Grievance form printed in RED. This alerts the staff that form needs to be handed to an Administrator, Supervisor or YRC III.
2. The forms are located on each of the living units and in the Education area.”

The grievance option is also noted in the NCCDC Resident Safety Guide and in NCCDC Resident Handbook.

Standard

§ 115.353 Resident access to outside support services and legal representation.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS Policy 2.13 – IV. E. Victim Services states, “In addition to or in place of the counseling services provided by the DPBH clinicians in our facilities, all youth shall be made aware of community agencies, addresses and contact numbers of mental health practitioners that provide emotional support services related to sexual abuse. The Division shall enter into a Memorandum of Agreement with one or more such agencies to ensure statewide service agreement.”

The DYRS provides access to outside victim advocates for emotional support services. DYRS has a written

Memorandum of Agreement with Survivors of Abuse in Recovery (SOAR) which describes in detail the responsibilities of each agency in providing emotional support services to victims of sexual assault.

Information for SOAR is made available in the brochure NCCDC Resident Safety Guide What You Need To Know About Sexual Abuse/Assault and Harassment, which the facility provides to each new resident. Telephone and Internet contact information is also provided on the brochure for SOAR, Brandywine Counseling and Community Services, Delaware Guidance Services, Delaware Renaissance, and AIDS Delaware.

All residents reported that they have access to parents, guardians, and family members through visitation and phone calls and access to their attorneys, as needed.

During the site review, the auditor did not see any posters in the housing units that informed residents how to access outside support services, but there were posters in the medical area and the previously mentioned brochure listed the names and phone numbers of five agencies, including SOAR. Nine out of 12 residents interviewed by the auditor named at least one of the agencies listed on the brochure as a resource to go to for emotional support or victim's assistance. As part of the resident education effort, the Assistant Superintendent has taken a "game show" approach to educating the residents on the services that are available for emotional support and victim's assistance. The auditor believes this approach has a significant impact on resident's learning about PREA and available services.

Shortly after the audit, the PREA Coordinator contacted SOAR requesting additional posters that would describe their services and contact information. The auditor was told the posters are now displayed on the housing units.

Standard

§ 115.354 Third-party reporting.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

Visitors to NCCDC are informed of the Child Abuse Hotline phone number through the brochure, What you need to know about Sexual Assault, Harassment, and Abuse, and posters displayed throughout the facility that describe how third party reporters can report an allegation of sexual abuse and sexual harassment.

On the DYRS Web site, under the Prison Rape Elimination Act tab, it states, "*To report any sexual abuse or sexual harassment allegations regarding DYRS youth, call Delaware Child Abuse Hotline: 1-800-292-9582 or your local law enforcement agency.*"

A resident is also informed, during orientation, that he/she can report sexual abuse or sexual harassment to his/her parents, family members, trusted staff, probation officers, or attorney and ask the person to call the Hotline.

Standard Official Response Following a Resident Report

§ 115.361 Staff and agency reporting duties.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS Policy 2.13 – IV. C. states, "All staff are required to report any allegations and instances of Non-

consensual Sexual Acts, Abusive Sexual Contact, and Sexual Harassment to the Child Abuse Hotline (800)292-9582.” Staff reported they are also required to report any retaliation for reporting sexual abuse or sexual harassment.

NCCDC staff said they receive training on mandatory reporting and applicable mandatory child abuse reporting laws. Staff are also aware that they are prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary to make investigation, treatment, security, and management decisions.

The medical and mental health staff interviewed said they are mandated reporters and that they tell residents of the limitations of confidentiality.

The superintendent stated that he or his designee will immediately report any allegation of sexual abuse to the Division Director or her designee and to the IAU. The superintendent or his designee will also promptly report any allegation of sexual abuse to the alleged victim’s parent(s) or legal guardian (unless there is documentation that parent(s) should not be notified). If the resident is under the jurisdiction of the child welfare system or the juvenile court, the resident’s caseworker, probation officer, and attorney will notified.

When an allegation of sexual abuse or sexual harassment is made, including third party and anonymous reports, to the Child Abuse Hotline, the Hotline staff will immediately notify the Institutional Abuse Unit. The IAU immediately initiates an investigation.

Standard

§ 115.362 Agency protection duties.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS Policy 2.13 – IV. C. 2. e. states, “If the youth fears for his/her safety in their current setting, he/she can request a temporary transfer to another location (another housing unit or cluster). This request can be made through the facility procedures governing this type of request (or PREA implicated youth reports). For pre-trial facilities, the Superintendent or designee can also temporarily transfer the youth to another location if they feel the youth's safety is in jeopardy. In post adjudication programs, the option of placing the youth on a protective status (with additional staff) may be used when housing options cannot be utilized.”

NCCDC Policy 104.IV.C.2.d. states, “If the youth fears for his/her safety in their current setting, he/she can request a temporary transfer to Stevenson House or another housing unit. This request can be made through the Emergency Grievance process.”

The superintendent and all random staff interviewed said that when a staff member learns that a resident is subject to a substantial risk of imminent sexual abuse immediate steps will be taken to remove the resident who fears for his/her safety from the threat. In the case of NCCDC, the resident could be moved to Stevenson House or a different housing unit. Given the design of the facility, the staff have several options.

The superintendent stated there have been no incidents where youth have been in imminent risk of sexual abuse at NCCDC.

Standard**§ 115.363 Reporting to other confinement facilities.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS Policy 2.13 – IV.C.3. states, "Upon receiving an allegation that a youth was sexually abused while confined to another facility, the administrator of the facility that received the allegation shall notify the administrator of the facility or appropriate office of the agency where the alleged abuse occurred and shall notify the appropriate investigative agency.

- a. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.
- b. The facility administrator shall document that notification to both the other agency administrator and the investigative agency has been made. Documentation must also show that YRS Director and the Division's PREA Coordinator have been notified."

The interview with the Superintendent confirmed that the Superintendent was aware of his responsibility to report any allegation of sexual abuse that was made by a resident at NCCDC that occurred at another juvenile facility to that facility's superintendent and the appropriate child abuse agency in the state where the allegation occurred. He also stated the reporting would be documented. The Superintendent also said there is a point of contact list for DYRS private provider agencies that could be used if an abuse was reported at an.

Standard**§ 115.364 Staff first responder duties.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

All random staff interviewed by the auditor knew what to do if a resident reported to him/her that the resident had been sexually abused. Staff described specific steps he/she would take to ensure the resident's safety, report the allegation to the supervisor, protect the evidence and notify the Hotline. The auditor reviewed the training PowerPoint that describes how a first responder should react to a report of sexual abuse and found that it meets all the requirements. Documentation was provided that the training was delivered to staff, contractors, and volunteers.

Interviews with non-security staff confirmed that they were also aware of what to do and what to tell the residents to do and not to do.

Standard**§ 115.365 Coordinated response.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The facility has established coordinated response flow charts that clearly describe how staff in the various areas will respond (security, investigations, health care, mental health, etc.) when an allegation of sexual abuse is made. One chart follows a scenario of staff-on-resident sexual abuse. The other chart follows a resident-on-resident sexual abuse. There is also a first responder checklist that provides a narrative that describes what specific staff will do. First responders can check off when specific tasks are completed. Interviews with staff in the various areas established that the parties had reviewed the flow chart and the checklist and understand their role and the overall coordinated response. The PREA Coordinator reported to the auditor that non-security staff were also trained in the coordinated response plan following the audit.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The Division Director reported that the Department has not entered into or renewed a collective bargaining agreement since August 20, 2012. However, Department policy says an employee can be suspended, with pay, if there is an allegation of sexual abuse or sexual harassment. The collective bargaining agreement states, "In the case of a suspension, except for serious violations where an employee's continued presence on the job presents a potential danger to persons or property, or would severely interfere with operations, if a grievance is initiated the employee shall not be suspended until after completion Step 3 of the grievance procedure."

A substantiated case of sexual abuse of a resident could result in termination. There was one allegation of staff-on-resident sexual harassment that was investigated and determined to be unsubstantiated. The employee was temporarily assigned to another post pending the investigation.

Standard**§ 115.367 Agency protection against retaliation.**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS Policy 2.13 – IV. C. 2.f. states "Retaliation from youth or staff will result in disciplinary action and subject to full progression of sanctions and/or referral for criminal prosecution."

The PCM is responsible for monitoring for retaliation against staff who report sexual abuse or sexual harassment or who cooperate in a PREA investigation. If a staff member is the target of the retaliation, the PCM would initiate the contact with the staff member and inform the employee that he will be monitoring

him/her. He would monitor for unrequested shift changes, poor evaluations, discipline reports, leave denials, shift change denials, etc. He would also work with the Human Resources Liaison to assist the staff member. The PCM said he could have the staff member who was the target of the retaliation moved to another post or to a different shift, or temporarily transferred to another facility on the campus. He said the monitoring would continue as long as the employee was feeling concerned, but for not less than 90 days.

The YRC III, who also serves as a PREA investigator, would monitor for retaliation against a resident who reported an allegation of sexual abuse or sexual harassment or who participated in an investigation. The YRC III reported that, following an abuse or harassment allegation, he would initiate the contact with the resident and would monitor for retaliation for 90 days, longer if needed. At a minimum, contacts would be made weekly. The YRC would monitor for behavior reports or sanctions that reflect retaliation or intimidation or denial of rights. He said he would also observe the resident's interactions with staff and peers, and talk with the victim frequently.

If retaliation was suspected, the resident could be moved to another housing unit or another facility. The perpetrator could also be moved to another unit or facility.

If a staff member was suspected of doing the retaliation, he/she could be suspended with pay pending the investigation or moved to a non-contact post.

There have been no incidents of retaliation reported at the NCCDC.

Standard

§ 115.368 Post-allegation protective custody.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The Superintendent stated that there have been no reported cases of sexual abuse that required the resident to be restricted to his/her room. He stated that if room confinement was used for a victim of sexual abuse, it would be used only as the last resort and only when all other less restrictive measures were determined or shown to be inadequate to protect the victim. If room confinement was used it would only be used until alternative housing could be arranged. Given the design of the facility and the housing options the facility offers, it is very unlikely the facility would have to isolate a victim of sexual abuse. The Superintendent stated that room confinement would not go beyond 48 hours.

Standard Investigations

§ 115.371 Criminal and administrative agency investigations.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

NCCDC Policy 104.IV.D.1. states:

“Secure Care

- a. Crime Scene Protection (refer to DYRS Policy 5.20 – Preservation of Evidence).
- b. All matters that involve the allegation of any sexual contact as defined in this policy will be reported to the Child Abuse Hotline.
- c. For matters which could result in a criminal action, Institutional Abuse will conduct a

- joint investigation with the Delaware State Police or New Castle County Police.
- d. The staff sexual misconduct will be reported to the Child Abuse Hotline to address all matters involving staff actions that may not be of a criminal nature, yet still violates PREA, such as conversations or correspondence of a romantic or sexual nature. A joint investigation will be conducted by the Facility Administrators and Institutional Abuse.
 - e. For all incidents that occur in Delaware's state operated facilities, the State will pursue personnel actions that honor due process and decision making that is in the best interest of the child.
 - f. Upon completion of an investigation, the facility administrator will make a recommendation for training and/or disciplinary action as necessary, after consulting with the Human Resource Unit.
 - g. Acts deemed to be a criminal offense, as recognized by the Child Abuse Hotline, will be referred to the Delaware State Police.
 - h. Incidents alleging sexual harassment that are not accepted by the Institutional Abuse Unit for investigation, shall receive an internal administrative review in an efficient time frame. All issues regarding protection and/or prevention of retaliation shall also apply to harassment allegations. Each administrative unit is to identify two supervisory level staff that have received training to assist this level of incident review.
 - i. Upon notification from Institutional Abuse or Law Enforcement, the program administrator will ensure that the youth is notified of the outcome of the case via the NCCDC Notification of Investigation Form (Attachment E)."

All allegations of sexual abuse are investigated by the DSCYF Institutional Abuse Unit (AIU) and the Delaware State Police (DSP). Both agencies use investigators who have received the specialized training and follow the protocols required in the standards. The DSCYF and the DSP have a Memorandum of Understanding that describes the responsibilities of each agency in the investigation of a sexual abuse.

As previously mentioned, during the audits of the Residential Cottages and Ferris School, the auditor interviewed the investigators from the AIU who confirmed they have received the investigator training and additional training that goes beyond that required by the standard.

If an allegation is investigated as a criminal case, the DSP will work with the prosecutor to move the case forward. The AIU collaborates with the DSP in the investigation of sexual abuse cases in state facilities. The DYRS will not conduct compelled interviews without the authorization of the prosecutor or the DSP.

The investigators said an investigation will not terminate solely because the source of the allegation recants the allegation or leaves the facility.

Residents know they cannot be required to take a polygraph exam as a condition of an investigation moving forward. This was confirmed during random interviews.

Administrative investigations, especially involving allegations of sexual harassment are not investigated by the DSP and rarely by the IAU. The NCCDC investigators are responsible for investigating allegations of sexual harassment and whether staff actions or failures to act contributed to an abuse or harassment. As previously mentioned, the internal investigators completed the NIC training for Investigators.

The auditor was told by the IAU investigators that they were in the process of investigating an allegation of resident-on-resident sexual abuse at the NCCDC that was reported to have happened just prior to the audit. The preliminary investigation indicated that two residents attempted to sexually abuse another resident. The auditor was told that the DSP had not been involved in the investigation up to that point. Based on the interview with the IAU investigators, it appeared this investigation was moving forward very efficiently and would be concluded in a timely fashion. A report will be submitted to the DYFS Director.

As previously stated, there were three allegations of sexual harassment that had been concluded in the 13

months prior to the audit. One was an allegation of staff-on-resident sexual harassment and the two others were resident-on-resident sexual harassment. One resident-on-resident sexual harassment case was substantiated, resident-on-resident sexual harassment allegation was determined to be unfounded, and the staff-on-resident sexual harassment was found to be unsubstantiated. All the investigations were thorough and completed in a timely fashion.

All investigations are documented in written reports. The retention schedule of the reports is consistent with the standards and what is required by Delaware law.

Standard

§ 115.372 Evidentiary standard for administrative investigations.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The AIU investigators stated the DSCYF uses the “preponderance of the evidence” standard in determining whether allegations of sexual abuse or sexual harassment are substantiated. This is applicable to the entire agency. For criminal prosecution, the standard is “beyond a reasonable doubt.”

Standard

§ 115.373 Reporting to residents.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS Policy 2.13 – IV. D.1.i states, “Upon notification from the Institutional Abuse Unit or law enforcement agency, the program administrator will ensure that the youth is notified of the outcome of the case via the Notification Form.”

The DYRS has two notification forms that residents sign when they are informed about the progress of an investigation (Notification of Investigation Status) and when the investigation is ended.

Given that the investigation noted above was in the early stages, the Superintendent had not yet provided the Notification of Investigation Status to the resident who was the focus of the investigation involving a staff member. The other cases involved allegations of sexual harassment. The alleged victims were verbally informed of the outcome of the investigations.

Standard Discipline

§ 115.376 Disciplinary sanctions for staff.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS Policy 2.13 – IV. D.1.d states, “The staff sexual misconduct will be reported to the Child Abuse Hotline to address all matters involving staff actions that may not be of a criminal nature, yet still violates PREA, such as conversations or correspondence of a romantic or sexual nature.”

DYRS Policy 2.13 – IV. D.1.e. states, “For all incidents that occur in Delaware’s state operated facilities, the State will pursue personnel actions that honor due process and decision making that is in the best interest of the child.”

DYRS Policy 2.13 – IV. D.1.f. states, “Upon completion of an investigation, the facility administrator will make a recommendation for training and/or disciplinary action as necessary, after consulting with the Human Resources Unit.”

DSCYF Policy #309, Removal of Employees from the Workplace states:

“It is the policy of the Department to minimize the risk to employees and the public by removing employees from the workplace when their continued presence may pose a risk to the safety or security of residents, other employees, and the public or jeopardizes the public's confidence.

Allegations of events that may lead to immediate removal from the workplace will include, but not be limited to, the following:

1. Criminal Charges which, if convicted, could result in a recommendation of prohibited or unsuitable for continued employment by the Department.
2. The employee is being investigated for alleged child abuse/neglect.
3. Threats of violence.
4. Suspected Drug/Alcohol abuse.
5. Physical or sexual abuse against a resident.
6. Theft or other illegal activity.

When an employee has been charged with criminal misconduct as a result of activity related to the workplace or the employee is being investigated for alleged child/abuse neglect, there shall be an administrative investigation conducted by the Manager/Supervisor in conjunction with Human Resources, to determine whether the conduct meets the just cause standard for discipline. Such investigation shall be separate and detached from the criminal proceeding and/or Division of Family Services investigation of abuse/neglect. The decision to discipline must be based on the outcome of the administrative investigation and be separate from the criminal charges since the standard of proof to establish just cause is lower than the criminal standard for conviction.”

DSCYF Policy #313 describes the steps that can be taken to separate an employee who has been involved in a substantiated case of child abuse, including sexual abuse. Termination is one option that is available to the Department in cases of substantiated sexual abuse or sexual harassment. The Department will notify licensing agencies, if appropriate.

As previously reported, there were no substantiated cases of staff-on-resident sexual abuse or sexual harassment at the time of the audit.

Standard

§ 115.377 Corrective action for contractors and volunteers.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DSCYF policies are applicable to contractors and volunteers as they would be for paid staff. Any allegation of sexual abuse or sexual harassment that rises to the level of a criminal act will be investigated by the IAU and the DSP. Volunteers and contractors would be immediately separated from the facility. The Department

will notify licensing agencies, if appropriate.

NCCDC Policy 106.III.G. states:

“Termination of Volunteers: The NCCDC Superintendent may curtail, postpone or discontinue the services of a volunteer or volunteer organization when substantial reasons for doing so exist. Any of the following reasons may warrant this action:

1. Breach of confidentiality.
2. Unlawful conduct or breach of facility rules and regulations.
3. Physical or emotional illness.
4. Inability to cooperate with the staff.
5. Activities that threaten the order or security of NCCDC or the safety of the volunteer.
6. Erratic or unreliable attendance.
7. Unsatisfactory service.”

Standard

§ 115.378 Interventions and disciplinary sanctions for residents.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS Policy 2.13 – IV.C.2.i. states, “If the program administrator has demonstrated that a youth has: 1) filed a grievance in bad faith; or 2) made a verbal report about a PREA matter in bad faith, the program may discipline a youth via the Cognitive Behavior Treatment (CBT) program. A copy of this incident shall be kept on file by the program’s Compliance Manager and the PREA Coordinator.”

The auditor was told that the disciplinary process will consider the nature and circumstances of the abuse committed, the resident’s disciplinary history, sanctions imposed for comparable offenses, and whether a resident’s mental disabilities or mental illness contributed to his behavior when determining what type of sanction, if any, should be imposed.

If the allegation of resident-on-resident sexual abuse is substantiated, the Criminal Division of the Department of Justice would decide if the case will be prosecuted.

If the allegation is substantiated, but the State Prosecutor chooses not to pursue prosecution, the program may discipline a youth via the Cognitive Behavior Treatment (CBT) program.

The psychologist told the auditor that a resident-on-resident abuser would be evaluated but further treatment services would depend on the resident’s pre-adjudication status. The psychologist said there would be a consultation between her Division and the DYRS as to the most appropriate treatment strategy for the abuser.

Standard Medical and Mental Care

§ 115.381 Medical and mental health screenings; history of sexual abuse.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

If the intake assessment indicates that the new resident has experienced prior sexual victimization he will be seen by the nurse and the psychologist within 72 hours, but more likely within one business day.

If the intake assessment identifies the new resident as a previous perpetrator, he will be also seen by the psychologist within 72 hours, but, again, more likely within one business day.

As previously stated, information related to a resident's history of victimization or abusiveness that occurred in an institutional setting, or in the community, shall be strictly limited to medical and mental health practitioners and other staff who have a need to know.

The nurse and psychologist stated they do not obtain informed consent from residents before reporting information about prior sexual victimization because they are mandatory reporters under the law. This is explained to the resident before the start of any evaluation or examination.

Standard

§ 115.382 Access to emergency medical and mental health services.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The DYRS has a Memorandum of Agreement with Christiana Care Hospital that states the services the hospital will provide to any resident from the facility who is a victim of sexual abuse. The Hospital has SAFE/SANE staff available. The Hospital will also ensure that the victim is offered emotional support services through a victim advocacy agency. As previously mentioned, DYRS has an MOU with SOAR. The nurse said the Hospital would keep the NCCDC medical staff informed per the MOU.

The Hospital will provide 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.

Treatment services are provided to the victim without financial cost, regardless of whether the victim names the abuser or cooperates in the investigation.

Standard

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

A resident who is a victim of sexual abuse will receive continuing medical and mental health services, as

determined by the medical staff and the psychologists. The evaluation and treatment of the victim will include follow-up services, treatment plans, and referrals for continued care following transfer to or placement in other facilities or release from custody.

The nurse and the psychologist said the level of care provided to the residents at NCCDC exceeds the standards of care in the community.

A victim/resident of sexual abuse will receive tests for sexually transmitted infections and as medically appropriate, 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.

Resident/victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. If pregnancy results from the sexual abuse, the resident/victim shall receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services.

Services will be provided without cost to the victim and the abuser.

The resident who is identified as the abuser will be seen by a psychologist at NCCDC on the next business day, if not sooner. A reassessment for risk of victimization and/or abusiveness will be conducted. The psychologist said the DYRS would refer a NCCDC resident who requires specialized sex offender treatment to another facility depending on the adjudication status.

Standard Data Collection and Review

§ 115.386 Sexual abuse incident reviews.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

NCCDC Policy 104.IV.D.3. states:

“Incident Review Teams (Secure Care)

- a. NCCDC will conduct a sexual abuse incident review within thirty (30) days of the report of the independent Institutional Abuse Investigation or when directed if the official investigation extends beyond forty-five (45) days. All extensions must be approved by the Division Director.
- b. The purpose of the review is to consider whether the allegation or investigation indicates a need for the following:
 - 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, status or perceived status, or gang affiliation, or was motivated or otherwise caused by other group dynamics at the facility.
 - 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 made available or improved to supplement supervision by staff.
- c. A sexual abuse incident review will occur in all cases where allegations are accepted for investigation by the Institutional Abuse Unit and considered for all internal

administrative reviews (not accepted for IA investigation). As a matter of training and in the absence of real allegations, NCCDC shall complete at least one mock review annually by the incident review team. A copy of the review shall be kept by the NCCDC PREA Compliance Manager.

- d. The sexual abuse incident review team will consist of upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners.
- e. The sexual abuse review team will prepare a report of its findings and any recommendations for improvement and submit such report to the facility head, PREA Compliance Manager, Deputy Director and Division Management Analyst.
- f. NCCDC shall implement the recommendations for improvement or shall document its reasons for not doing so, in the submitted report.”

The Assistant Superintendent was interviewed as an Incident Review Team member and confirmed that these procedures will be followed at the conclusion of a sexual abuse investigation. She said the team would review the reports from the IAU and the DPS and the reports provided by the NCCDC internal investigators. She said the team would include the Superintendent, the PRC, at least one NCCDC investigator, and the nurse practitioner. Other staff would be added as needed.

DYRS Policy 2.13 also states, “As a matter of training and in the absence of real allegations, each administrative unit shall complete at least one mock review annually by the incident review team. A copy of the review shall be kept by each unit's PREA Compliance Manager and Coordinator.”

Standard

§ 115.387 Data collection.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

During the audit of the Ferris School, the auditor interviewed the Management Analyst III. The auditor had interviewed the Analyst on previous audits, as well. On that occasion, the Analyst reviewed with the auditor how the DYRS captures data for every juvenile facility in the Division and all contracted facilities. The data is collected using four (4) different forms. One form collects information on the incident, one collects information on the victim, one form collects information on the abuser, and the fourth form collects information on an adult perpetrator. The data is aggregated and quarterly reports are published and distributed. The DYRS has collected this data since 2008. The data provides the basis for the DOJ Survey of Sexual Violence, as requested. The auditor was given a copy of the 2015 Survey of Sexual Victimization. The auditor finds that the DYRS exceeds the requirements of the standard.

Standard

§ 115.388 Data review for corrective action.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

DYRS has published four Annual Reports (2012 through 2015) that summarize all the data collected and aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and

response policies, practices and training. The annual reports include all DYRS facilities and all contracted facilities that provide services for the DYRS.

There were two unfounded allegations (one in a DYRS facility and one in a contracted facility) in 2013 and three unfounded allegations (two in a DYRS facilities and one in a contracted facility) in 2014. In 2015, there were two unfounded allegations (both in private facilities) and three substantiated allegations (two in DYFS facilities and one in a private facility).

The annual report is signed by the Director of DYRS and is published on the agency's Web site.

The auditor finds that the Division's comprehensive data collection system and annual report exceed the requirements of the standard.

Standard

§ 115.389 Data storage, publication, and destruction.

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

The Management Analyst III reported to the auditor that he is responsible for the secure care of all of the data on sexual abuse allegations. Information is maintained in a secure cabinet in the Management Analyst's office. He is the only person with access to this data.

Before making aggregated sexual abuse data publically available, the Division removes all personal identifiers.

As previously mentioned, the Division's four Annual Reports are available on the agency's Web site.

Sexual abuse data collected pursuant to 115.387 is maintained for a minimum of 10 years.

AUDITOR CERTIFICATION:

The auditor certifies that the contents of the report are accurate to the best of his knowledge and no conflict of interest exists with respect to his ability to conduct an audit of the agency under review. The auditor finds that as of August 19, 2016, the New Castle County Detention Center, Wilmington, Delaware meets the requirements of the Prison Rape Elimination Act, Juvenile Facility Standards.



Auditor Signature

October 14, 2016

Date