



## AUDIT FINDINGS

### NARRATIVE

The first Prison Rape Elimination Act (PREA) audit of the Lackawanna County Prison took place on July 8, 2015 and July 9, 2015. The purpose of the audit was to determine compliance with the Prison Rape Elimination Act standards which became effective August 20, 2012. Prior to the on-site portion of the audit I reviewed all policies and data pertaining to the PREA Standards. All documentation requested by me was provided in a timely and efficient manner, any follow up requests were acted upon immediately.

I wish to extend my appreciation to Warden McMillan and his staff for the professionalism they demonstrated throughout the audit and their willingness to comply with all requests and recommendations made. I would also like to thank the Lackawanna County Commissioners for their commitment to the operations of the Lackawanna County Prison, and their dedication to the safety of the staff, as well as their dedication to the care, custody and control of the inmates incarcerated at the facility.

I would also like to recognize PREA Coordinator Mari Finlon for her hard work and dedication to ensure the facility is compliant with all PREA standards.

Prior to the onsite audit I had several opportunities to discuss the audit process, and expectations of the facility with PREA Coordinator Mari Finlon. An entrance meeting was held on the morning of July 8, 2015, at this time the audit process was explained, and the random staff and inmates were selected.

After the entrance meeting I was given a tour of all areas of the facility. During this tour informal interviews were conducted with both staff and inmates in several different areas.

A total of 25 inmate interviews were conducted. The inmates were randomly selected from all housing units and represented the overall inmate population. These interviews included inmates who were limited English speaking, identified as gay or lesbian, who disclosed prior victimization upon screening, who disclosed prior sexual offenses, who reported sexual harassment, and youthful offenders.

A total of 15 staff interviews were conducted. The staff was randomly selected from all three shifts, and represented administration, line supervisors, correctional officers, medical staff, and counselors.

Throughout the pre-audit and onsite audit, open and positive communication was established with the PREA Coordinator, and Administrators. Through the coordinated efforts of these staff members the auditing process was efficient and all requests were met.

Due to scheduling issues the exit briefing was conducted on July 14, 2015. I gave an overview of the audit findings and thanked the staff for their cooperation during the audit process. I explained the areas of non-compliance and we discussed a plan moving forward to bring the facility into full compliance with the PREA Standards. My suggestions were met with a positive reaction, and moving forward I feel that the facility will be in full compliance within a short time period.

The staff was also commended on the operational soundness of the facility, professionalism of the staff, and commitment to the care custody and control of the inmates.

On September 10, 2015 I returned to the facility to review the areas that did not meet the standards during the initial onsite audit. All areas were corrected and the facility is now in full compliance with the PREA Standards. The initial areas of non-compliance and corrective action taken are outlined under the specific standards.

## **DESCRIPTION OF FACILITY CHARACTERISTICS**

The Lackawanna Prison is located within the city limits of Scranton, Pennsylvania. The immediate area around the facility is mostly residential, with some commercial properties. The prison was originally built in the mid 1880's for a population of 110 prisoners. A major renovation and expansion was completed in 1999, allowing for a maximum population of 1183. The facility is contained in one building, with the original portion being used for administrative offices. The facility has 10 multiple occupancy housing units, with two being female units, and 3 dorm style housing units. The dorm style units are all male units, housing work release inmates as well as low risk inmates. The facility is equipped with metal detectors in the corridors during any movement the inmates will pass through the metal detectors, as an added safety measure.

The facility houses inmates for Lackawanna County, the United States Marshalls Service, United States Immigration and Customs Enforcement, Pennsylvania Department of Corrections, and other local counties.

The facility is committed to act as both a deterrent to criminal activity and as a force for the rehabilitation of the individual. They offer various programs to inmates based upon their classification status, these include Drug & Alcohol Counseling, Alcoholic Anonymous, Anger Management, and Parenting Classes.

## **SUMMARY OF AUDIT FINDINGS**

The Lackawanna County Prison has exceeded in 5 standards, met 37 standards, and 1 standard is not applicable to the facility.

Number of standards exceeded: 5

Number of standards met: 37

Number of standards not met: 0

Number of standards not applicable: 1

**Standard 115.11 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act establishes the facilities zero policy approach to preventing, detecting and responding to sexual abuse and sexual harassment. The policy reads in part: It is the policy of the Lackawanna County Prison to prohibit any form of sexual contact or harassment with an offender. An offender, staff member, visitor, volunteer, or contracted service provider found to be in violation of this policy is subject to disciplinary action, termination of services or contracts, sanctions, and may be subject to criminal prosecution. A claim of consent is not an acceptable defense for participating in sexual contact or harassment with an offender. Any staff member, volunteer, visitor, or contracted service provider must report any incident witnessed to the Lieutenant on duty or most senior officer on duty. Failure to report an incident may also result in disciplinary action or termination of services.

The definitions of sexual abuse and sexual harassment are also outlined in this policy.

During my interview with the PREA Coordinator she related that she has ample time to fulfill her duties as outlined in the PREA Standards. This was apparent during my discussion with her, she is well versed in the standards and understands how they apply to daily operations of the facility.

The PREA Coordinator is a full time position, this shows the facilities dedication to the PREA Standards, as well as the safety of the inmates.

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

- 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)

**EVIDENCE OF COMPLIANCE:**

NOT APPLICABLE

### Standard 115.13 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)

#### EVIDENCE OF COMPLIANCE:

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act identifies staffing and analysis of current needs of the facility. The policy reads as follows:

The PREA Coordinator shall document observations and provide recommendations to the Warden on the status of staff planning. The staff planning shall provide for adequate levels of staffing and where applicable, video monitoring to protect offenders against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, the following shall be considered:

- All components of the facility's physical plant such as, "blind spots" or areas where staff or offenders may be isolated.
- The composition of the inmate population.
- The number and placement of supervisory staff.
- Facility programs occurring on a particular shift.
- Generally accepted detention and correctional practices.
- Any finding of inadequacy, either by a State or Federal investigation, or an internal or external investigative body.
- Any applicable State or Local Law.
- The prevalence of substantiated or unsubstantiated incidents of sexual abuse.
- Any other relevant factors.

Whenever necessary, but no less than once a year, in consultation with the PREA coordinator, the Warden shall assess, determine, and document whether adjustments need to be made to:

- The staffing plan
- The facility's deployment of video monitoring systems and other monitoring technologies.
- The resources the facility has available to ensure adherence to the staffing plan.

The staffing plan has not been deviated from during the last 12 months, the facility has a policy in place to hold over officers to meet the needs of staffing the facility.

This policy also outlines unannounced rounds as follows:

Intermediate-level and higher-level supervisors shall conduct unannounced rounds to identify and deter sexual abuse and sexual harassment on each shift.

- Rounds made for this purpose must be documented in the PREA Log book located in the shift commander's office.
- It is prohibited for staff to alert other staff that the unannounced rounds are occurring unless it is related to operational functions of the facility.

During the onsite visit I reviewed the aforementioned PREA Log Book, the unannounced rounds are logged into the book on a regular basis. I also reviewed log books on the housing units, where I identified rounds being made by supervisors.

During the interviews with staff they all related that supervisors make unannounced rounds.

**Standard 115.14 Youthful inmates**

- 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act identifies youthful offenders the policy states a youthful inmate shall not be placed in a housing unit in which the youthful inmate will have sight, sound, or physical contact with any adult inmate. Direct supervision will be provided for youthful offenders while in their housing units and while being escorted throughout the facility. Absent exigent circumstances, daily recreation shall not be restricted.

Over the past 12 months the facility has housed 12 youthful offenders, during the onsite visit 3 youthful offenders were currently being incarcerated, two of the offenders were male and one a female. I had the opportunity to view the area used to house youthful offenders, this area was located in the upstairs of the Special Needs Unit, in an isolated area where sight and sound separation could be maintained. I conducted an interview with one of the youthful offenders, he related that he is able to exercise daily and is never in contact with any adult offender.

During the onsite visit one of the male youthful offenders, age 17, who is currently pending court on homicide charges, was being held in the maximum security housing unit due to his status, sight and sound separation was being maintained as best as possible.

The female youthful offender, age 16, who was on suicide watch was housed in a separate housing unit in the female area, due to her being on constant monitoring.

**Standard 115.15 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act addresses cross gender viewing and searches. The policy states that staff of the opposite gender shall announce their presence every time when entering an inmate housing unit in accordance with the following: A. In a male housing unit, "Female on unit" or in a female housing unit, "Male on unit." Staff shall not conduct cross gender strip searches or cross gender visual body cavity searches, except in exigent circumstances or when provided by medical practitioners in accordance with LCP Policy 10.15.02, "Unclothed Searches." Staff shall document all cross-gender strip searches of both male and female inmates and forward it to the shift commander. Male staff member shall not pat search a female inmate absent exigent circumstances. Staff shall document all cross-gender pat searches of female inmates and forward it to the shift commander. Restrictions on female inmate's programming shall not be enforced to comply with this policy. Inmates shall be able to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breast, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. This limitation not only applies to in-person viewing but also remote viewing as well. A transgender or intersex shall not be searched or physically examined by facility staff for the sole purpose of determining gender. If gender is unknown, it may be determined by conversation with the offender, by reviewing medical documentation or if necessary an exam conducted in private by a medical practitioner.

During the staff interviews I found that cross gender pat searches are not conducted in the facility, all searches are done by the same gender.

The cameras throughout the facility are static and are only on common areas, none of these cameras are in any housing unit. Some of the housing units are equipped with separate camera systems to monitor specific cells for suicide watches, and other disciplinary reasons. These camera systems are in the male maximum housing unit and a female housing unit. The male maximum housing unit is only manned by male

officers due to the special needs of the inmates, however the female unit is housed by both male and female officers.

**CORRECTIVE ACTION TAKEN FOR INITIAL AREAS OF NON-COMPLIANCE:**

During the onsite tour I found that the monitor in the aforementioned housing units is located in the control area. If a suicide watch or other special needs inmate is being watched the monitor is manned by a same sex officer. I was informed that the monitor is not turned off even if no inmates are on special watch. It was determined that a post order would be created that would dictate that if no inmates were on special watch and an officer of the opposite sex was assigned to work the tower area, the monitor would be turned off.

**The facility has created a post order as recommended for each of the housing units that have camera cells in them. The post order reads as follows:**

**Added to PO-17 BRAVO and PO-19 DELTA (addition noted in RED)**

**Bravo Specific Orders #4 and Delta Specific Orders #7 - Inmates in camera cells will be monitored regularly via the CCTV system, and physically seen as directed by watch orders at 15 minute, 30 minute or constant intervals. If there is a chance of Cross Gender viewing and no inmates are on watches, the monitor shall be turned off.**

**I reviewed the post order books in each housing unit and viewed the post order changes. While on the units I spoke with the officers, they all confirmed that they understood the new changes to the post orders.**

During the facility tour of the housing units I found that the female showers have a stall door that is too short. When walking on the top tier of the units, or coming down specific stairwells, you can see directly into the shower and view the breasts of the female inmates.

**The facility has extended all of the shower doors in the female housing units. This extension eliminates the possibility of cross gender viewing while females are showering. During my inspection of these areas I spoke with several female inmates, all of them appreciated the changes to the shower doors, and related that they feel as if they can shower without being viewed by anyone.**

**Standard 115.16 Inmates with disabilities and inmates 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act addresses inmates with disabilities and limited English proficient inmates. The policy reads as follows:

Inmates with disabilities and inmates who are limited English proficient:

- The following procedures have been established to provide disabled inmates equal opportunity to participate in or benefit from all aspects of the LCP's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. All inmate education materials will be in formats accessible to all inmates. Formats include, but not limited to: Interpreter services for Non-English speaking inmates Reading of the material, by staff, to inmates.
- The LCP will not rely on inmate interpreters, inmate readers or other types of inmate assistants except in limited circumstances, which must be fully documented, where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under §115.64, or the investigation of the inmate's allegations.

The facility has contracted with Language Line Solutions who provides interpretation services for limited English proficient inmates.

I conducted an interview with a random non-English speaking inmate utilizing the language line. During this interview he related that he had received all of the PREA Information in a Spanish format to read.

The staff interviewed indicated that they would utilize inmate interpreters for normal day to day operations of the housing units, but were aware that they were not to be used in any serious incident. In the past 12 months no incidents of using inmate interpreters has occurred.



**Standard 115.17 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act addresses hiring and promotion decisions, the policy reads as follows:

The Warden shall not hire or promote anyone who may have contact with offenders and shall not enlist the services of any contractor who may have contact with offenders, who:

- Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution;
  - Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent, or
  - Has been civilly or administratively adjudicated to have engaged in the activities described above.
- Before hiring new employees who may have contact with inmates, the LCP shall:
- Perform a criminal background records check; and
  - Contact prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.
  - Ask all applicants during the application or interview process about prior acts enumerated in section 1.

The warden shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of a contractor, who may have contact with inmates.

Criminal background records checks will be performed before enlisting the services of any contractor who may have contact with inmates.

Criminal background record checks will be performed at least every five years of current employees and contractors who may have contact with inmates.

Employees/contractors must disclose any such misconduct as outlined in this section. Any material omission(s) regarding such misconduct, or the provision of materially false information, shall be grounds for disciplinary action.

**Standard 115.18 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)

**EVIDENCE OF COMPLIANCE:**

The facility has not made any substantial expansion.

During the facility tour I observed the placement of cameras, I found them to more than adequately cover the areas to prevent any criminal act or misconduct from occurring. The facility also places roving officers, who work specific corridors and or areas of the facility. I was never out of view of an officer while conducting the facility tour.

## Standard 115.21 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)

### EVIDENCE OF COMPLIANCE:

It should be noted that the Lackawanna County Prison is tasked with conducting administrative investigations, criminal investigations are conducted by the Lackawanna County Detectives.

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act addresses evidence protocol and forensic medical examinations. The policy reads as follows:

The following steps shall be taken immediately after a report of sexual assault/abuse:

- Immediately separate the alleged victim and alleged abuser.
- Notify the shift commander that an allegation of sexual abuse has been made.
- The victim will be taken to the Medical Department.
- If the abuse occurred within 72 hours, the alleged victim will be advised that he/she should not shower or clean him/herself, not drink or brush his/her teeth, or take any action that may damage evidence and then will be escorted to the hospital for evaluation.
- The location of the incident will be closed off. Evidence that can't be secured at the scene will be gathered and pictures may be taken.
- If the perpetrating inmate is wearing clothing that may have been worn during the incident, it will be removed and collected as evidence in a paper bag.
- The perpetrating inmate will be placed in administrative custody pending the outcome of the investigation.

If the first staff responder is not a security staff member, that responder shall be required to:

- Request that the alleged victim not take any actions that could destroy evidence
- Immediately notify security staff

The facility utilizes Geisinger Medical Center for the sexual assault examination these services are offered free of charge.

The policy also states that outside victim advocates for emotional support services related to sexual abuse will be available to all victims of sexual abuse for the purposes of forensic exams, investigations, emotional support and crisis intervention. Addresses, telephone numbers, and other information shall be made available upon request by the inmate. Offenders shall be informed, prior to receiving access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

During my interviews with staff I found them well versed in the area of evidence preservation.

## Standard 115.22 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)

### EVIDENCE OF COMPLIANCE:

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act addresses referrals of allegations for investigations. The policy reads as follows:

A Report of Extraordinary Occurrence must be completed in every case where sexual contact of any kind is reported.

Every allegation of sexual contact will be investigated thoroughly and promptly. The preliminary investigation will be conducted by the Security Department and PREA Coordinator. The Lackawanna County District Attorney's Office shall be contacted to conduct a criminal investigation if necessary.

A copy of the investigation report will be forwarded to the Lackawanna County District Attorney's Office in all cases of sexual contact with an offender.

The policy further states the following:

#### INVESTIGATING ALLEGATIONS OF SEXUAL HARASSMENT OF INMATES

- An allegation of harassment shall be investigated thoroughly and objectively.
- The PREA coordinator will interview the offender complainant or complainant and obtain a written statement following the interview. If the offender refuses to be interviewed or provide a written statement, document the refusal and keep it in the investigation file.
- The PREA coordinator will interview any inmate or staff witnesses and collect reports if necessary.
- Video footage will be reviewed and saved to a media storage device to submit with the investigation.
- When appropriate, review all housing unit log books, medical documentation, misconduct reports, inmate grievances, and other pertinent documentation specific to the allegation of sexual abuse and include the documentation in the investigation report.
- All interviews will be conducted in a professional, non-abusive, and non-threatening manner.
- The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as an inmate or staff.

#### CRIMINAL AND ADMINISTRATIVE INVESTIGATIONS:

- All investigations into allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, will be done promptly, thoroughly, and objectively.
- The LCP shall use investigators from the Lackawanna County District Attorney's Office as well as Prison Investigators who have received special training pursuant to § 115.34.
- Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
- When the quality of evidence appears to support criminal prosecution, investigators shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- Administrative investigations shall:
  - Attempt to determine whether staff actions or failures to act contributed to the abuse;
  - be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
- All allegations of conduct that appear to be criminal will be referred for prosecution.
- The LCP retains all written reports pertaining to administrative or criminal investigations of alleged sexual assault or sexual harassment for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.
- The LCP imposes a standard of a preponderance of the evidence or a lower standard of proof for determining whether allegations of sexual abuse or sexual harassment are substantiated.

During my interview with the PREA Coordinator she indicated that this is her primary function in the facility and the allegations are investigated immediately. This was evident during the inmate interviews, an inmate had disclosed an alleged sexual harassment incident to me, and Ms. Finlon acted upon this information immediately.

**Standard 115.31 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act addresses employee training. It states the following:

Employee Training:

The LCP shall train all employees who may have contact with inmates on Basic PREA Training which will include:

- It's zero tolerance policy for sexual abuse and sexual harassment;
- How to fulfill their responsibilities under LCP sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
- Inmates' right to be free from sexual abuse and sexual harassment;
- The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
- The dynamics of sexual abuse and sexual harassment in confinement;
- The common reactions of sexual abuse and sexual harassment victims;
- How to detect and respond to signs of threatened and actual sexual abuse;
- How to avoid inappropriate relationships with inmates;
- How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates; and
- How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

All current employees who have not received such training shall be trained within one year of the effective date of the PREA Standards

Beginning in 2015 and during every odd numbered year thereafter, the LCP shall provide each employee with training to ensure that all employees are know the LCP's current sexual abuse and sexual harassment policies and procedures.

Beginning in 2016 and during every even numbered year thereafter, the LCP shall provide each employee with refresher training on the items stated paragraph one of this section.

The LCP shall document, through employee signature that employees understand the training they have received.

The LCP shall train security staff on how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

**CORRECTIVE ACTION TAKEN FOR INITIAL AREAS OF NON-COMPLIANCE:**

During the staff interviews I found that the staff had received the initial training approximately two years ago, and have not had any subsequent training on the Prison Rape Elimination Act. The initial training was a video which was watched by the staff member, with no interaction from an instructor nor in a teaching atmosphere.

Ms. Finlon is preparing to provide update training to all employees, this training will be conducted in a classroom setting and will provide the necessary information to the attendees. I reviewed the materials to be used in this training and found them to be informative.

Despite the training not being updated the staff interviewed did understand the PREA Standards and understood their responsibilities in preventing and responding to PREA incidents.

**Ms. Finlon has completed the update training for all staff members, I was able to view the sign in sheets and rosters for each**

**training session completed. The PREA update training will be added to the yearly syllabus.**

**I also spoke with several staff who related that they had received the updated training.**

**Standard 115.32 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act addresses Volunteer and Contractor training. It states the following:

Volunteer and Contractor Training

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

The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with inmates, but all volunteers and contractors who have contact with inmates will be notified of the LCP's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

The LCP shall maintain documentation confirming that volunteers and contractors understand the training they have received.

**CORRECTIVE ACTION TAKEN FOR INITIAL AREAS OF NON-COMPLIANCE:**

The training for the volunteers and contractors needs to be updated. Ms. Finlon is preparing to provide this training to all volunteers and contractors.

**Ms. Finlon has completed the update training for volunteers and contractors, I was able to view the sign in sheets and rosters for each training session completed.**

**Standard 115.33 Inmate 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act addresses Inmate Education. It states the following:

Inmate Education

During the intake process, all inmates shall receive information explaining the LCP's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

Within 30 days of intake, the LCP shall provide comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding LCP policies and procedures for responding to such incidents. This will be accomplished by a Sergeant showing the LCP PREA Video to inmates in the Assessment unit every Monday, Wednesday and Friday morning.

- Sergeants must obtain written documentation that each inmate has viewed the video. This shall be documented on the Inmate Locator Sheet.

Current inmates who have not received such education shall be educated within one year of the effective date of the PREA standards.

The LCP provides inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills.

The LCP shall maintain documentation of inmate participation in these education sessions.

In addition to providing such education, the LCP shall ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats.

During the onsite visit I was able to observe the inmates receiving the training on PREA. I also viewed the materials given to them, these materials explained PREA and the facilities response to such incidents.

During the inmate interviews they all informed me that they had received training and written materials on PREA.

### **Standard 115.34 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)

### **EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act addresses specialized training for investigations. It states the following:

#### Specialized Training: Investigations

In addition to the Basic PREA Training, the LCP shall ensure that its investigators have received training in conducting sexual harassment/sexual abuse investigations in confinement settings.

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

The LCP shall maintain documentation that LCP investigators have completed the required specialized training in conducting sexual abuse investigations.

Documentation of completion of this training shall be forwarded to and maintained by the training lieutenant and PREA Coordinator.

I reviewed the documentation certifying that all investigators have attended the course provided by the Pennsylvania Department of Corrections. This portion of the training was developed by me when I was employed by the Pennsylvania State Police, this training exceeds the expectations of the standard.

I reviewed all investigations conducted during the past 12 months I found them to be complete and well done.

**Standard 115.35 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act addresses specialized training for medical and mental health. It states the following:

Specialized Training: Medical and Mental Health

In addition to the Basic PREA Training, all full and part time medical and mental health care practitioners who work in the facility will be trained in

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

Medical staff training will be provided by the PREA Coordinator using the training curriculum offered through the PREA Resource Center. The Training Lieutenant and PREA Coordinator shall maintain documentation that the medical and mental health practitioners have received the mandatory training.

**CORRECTIVE ACTION TAKEN FOR INITIAL AREAS OF NON-COMPLIANCE:**

Although the medical staff are trained in their specific duties as related to PREA, they have not had the basic PREA training in two years. Ms. Finlon will train all medical staff during the update training.

**The update training for all medical staff was completed by the Medical Supervisor. I reviewed the training materials utilized, these materials fulfil the training obligation. I was also able to view the sign in sheets and rosters for each training session completed. The PREA update training will be added to the yearly syllabus.**

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

- 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act addresses screening for risk of victimization/abusiveness. The policy states the following:

SCREENING FOR RISK OF VICTIMIZATION/ABUSIVENESS AND USE OF SCREENING INFORMATION

All inmates will be assessed during the intake process. Intake screening shall ordinarily take place within 72 hours of arrival at the facility, and such assessments shall be conducted using an objective screening instrument. The following criteria is used to assess inmates for their risk of being sexually abused by other inmates or sexually abusive toward other inmates.

- Mental, physical, or developmental disability
- Age
- Physical build
- Previous incarcerations

- Whether the inmate’s criminal history is exclusively nonviolent;
- Prior sex offenses against a child or adult
- Is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming
- Previous experienced sexual victimization
- Offender’s own perception of vulnerability
- Whether the inmate is detained solely for civil immigration purposes.

All concerns noted by the medical or psychology staff regarding an offender’s sexual victimization history or predatory behavior will be communicated to the Records Department for appropriate housing assignments.

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

An inmate’s risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate’s risk of sexual victimization or abusiveness.

Inmates may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to the assessment.

The facility shall use information from the risk screening to inform housing, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

The Facility will make individualized determinations about how to ensure the safety of each inmate.

Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice a year to review any threats to safety experienced by the inmate.

A transgender or intersex inmates own views with respect to his or her own safety shall be given serious consideration. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.

The information collected during the intake process is reviewed by the PREA Coordinator, if she questions any answers she will meet with the inmate and validate the information. She will take the extra steps to meet with inmates who do not want to answers questions to ensure that their safety concerns are met.

**Standard 115.42 Use of screening information**

- 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act addresses use of screening information. The policy states the following:

**SCREENING FOR RISK OF VICTIMIZATION/ABUSIVENESS AND USE OF SCREENING INFORMATION**

All inmates will be assessed during the intake process. Intake screening shall ordinarily take place within 72 hours of arrival at the facility, and such assessments shall be conducted using an objective screening instrument. The following criteria is used to assess inmates for their risk of being sexually abused by other inmates or sexually abusive toward other inmates.

- Mental, physical, or developmental disability
- Age
- Physical build
- Previous incarcerations
- Whether the inmate’s criminal history is exclusively nonviolent;
- Prior sex offenses against a child or adult



- Is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming
- Previous experienced sexual victimization
- Offender’s own perception of vulnerability
- Whether the inmate is detained solely for civil immigration purposes.

All concerns noted by the medical or psychology staff regarding an offender’s sexual victimization history or predatory behavior will be communicated to the Records Department for appropriate housing assignments.

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

An inmate’s risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate’s risk of sexual victimization or abusiveness.

Inmates may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to the assessment.

The facility shall use information from the risk screening to inform housing, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

The Facility will make individualized determinations about how to ensure the safety of each inmate.

Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice a year to review any threats to safety experienced by the inmate.

A transgender or intersex inmates own views with respect to his or her own safety shall be given serious consideration.

Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.

Inmate identified as lesbian, gay, bisexual, transgender, or intersex will not be placed in a dedicated unit solely on the basis of this identification

The information collected during the intake process is used for classification. The PREA Coordinator shares an office with the Classification Coordinator, they constantly reviewing status of inmates and discuss the information from the screening tool to appropriately house inmates.

**Standard 115.43 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act addresses use of protective custody. The policy states the following:

Inmates at a high risk for sexual victimization (RSV) or inmates that have alleged sexual abuse may not be placed in Administrative Custody until all other means of separation have been exhausted.

Inmates placed in segregated housing for this purpose shall have accesses to programs, privileges, education, and work opportunities to the extent possible. If restrictions to programs, privileges, education, and/or work opportunities occur, the PREA coordinator shall document:

- The opportunities that have been limited;
- The duration of the limitation; and
- The reason for such limitations

If an inmate is placed in protective custody, the PREA Coordinator will document:

- The basis for concern for the inmate's safety; and
- The reason why no alternative means of separation could be arranged

Every 30 days, the facility shall review inmates placed in involuntary administrative segregation for a continued need for separation from the general population.

### Standard 115.51 Inmate 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)

### EVIDENCE OF COMPLIANCE:

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act addresses inmate reporting. The policy states the following:

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

Reports may be made verbally, in writing, anonymously, on an emergency grievance and from third parties. See also Policy 03.03 "Grievance Procedure. Emergency Grievance."

- Staff shall promptly document any verbal reports.
- All reports must be immediately reported to the shift commander.
- Staff must report any knowledge, suspicion or any other information they receive regarding an incident of sexual abuse/harassment.
- All staff are required to report any incidents of retaliation towards inmates or staff who make reports of sexual abuse/harassment.
- Staff are required to report incidents of neglect or violations of responsibilities that contributed to an incident or retaliation

Offenders may use any telephone in each housing unit to report any acts of sexual contact or misconduct to the PA DOC.

Staff may privately report acts of sexual abuse/harassment to any member of LCP management as they feel necessary. There is no limitation on how officers may make a report of sexual abuse/harassment.

Grievances of sexual abuse shall never be referred to the staff member who is the subject of the complaint.

Retaliatory action against staff or an inmate for reporting sexual abuse or sexual harassment or for providing information during an investigation is prohibited. Any individual who seeks to deter staff or inmates from reporting sexual activity or intimidates any person who reports the alleged act is subject to discipline.

All reports of sexual contact with an offender will be kept confidential.

During the facility tour I viewed the postings giving the reporting procedures for inmates.

During the interviews all inmates understood how to report an incident, and all knew several avenues of reporting.

## Standard 115.52 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)

### EVIDENCE OF COMPLIANCE:

The Lackawanna County Prison Policy & Procedure 03.03 Section: Inmate Rules, Discipline and Rights Chapter: Inmate Grievance and Appeal Procedure addresses administrative remedies.

This policy reads identifies any grievance related to sexual abuse as an emergency grievance. The procedures for an emergency grievance are as follows:

Sometimes an inmate grievance may be of an emergency nature, where disposition according to regular time limits would subject the inmate to a substantial risk of personal injury, or cause other serious and irreparable harm.

An inmate who seeks grievance review of an emergency situation as defined within this policy and procedure should submit his/her grievance to the grievance coordinator as soon as possible after the incident/occurrence that gave rise so that it may be processed in a timely manner.

Emergency grievances shall be filed by speaking with the housing unit officer and/or counselor or by using the standard Inmate Request Form. If the inmate believes the grievance qualifies as an emergency grievance, the inmate shall mark "EMERGENCY" on the top front of the Inmate Request Form. The grievance may then be placed in the designated receptacle on the unit for pickup and processing. The inmate may also give the grievance to the housing unit officer or counselor for more immediate delivery.

The grievance coordinator will immediately refer any inmate grievance that appears to be of an emergency nature to the Warden. The Warden will make a determination as to whether or not any particular grievance is to be treated an emergency grievance. This determination will be made within two (2) working days after receipt of the inmate grievance.

- If the Warden determines that the inmate grievance is to be treated as an emergency grievance, then the Warden shall provide written instruction to the grievance coordinator to investigate the grievance as an emergency grievance. Emergency grievances will be resolved and a written response provided to the grievant within three (3) working days from the receipt of the grievance.
- If the Warden determines that a grievance is not an emergency, then the Warden will provide written instruction to the grievance coordinator to process the inmate grievance as an ordinary grievance.

LCP permits third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse and to file such requests on their behalf. If third party assistance is declined by the inmate, then this shall be documented.

LCP does not impose a time limit on grievances filed that allege an incident of sexual abuse.

**Standard 115.53 Inmate access to outside confidential support 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act addresses inmate access to outside confidential support services. The policy states the following:  
INMATE ACCESS TO OUTSIDE CONFIDENTIAL SUPPORT SERVICES

Outside victim advocates for emotional support services related to sexual abuse will be available to all victims of sexual abuse for the purposes of forensic exams, investigations, emotional support and crisis intervention. Addresses, telephone numbers, and other information shall be made available upon request by the inmate.

Offenders shall be informed, prior to receiving access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

All agreements with outside agencies shall be documented.

**Standard 115.54 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)

**EVIDENCE OF COMPLIANCE:**

The facility has posting in the lobby area and entrance to the visiting areas to notify individuals on third party reporting procedures. They also list the following on their website:

To report allegations of sexual abuse taking place within the Lackawanna County Prison, during regular working hours call the Prison Rape Elimination Act Coordinator’s Office at 570-963-6639 ext. 4577. During any other time, call the Lackawanna Prison at 570-963-6639 ext. 0 and ask to speak with the Shift Commander. Please be prepared to give as much information as possible regarding the incident so that we may quickly and efficiently protect everyone involved. This report may be made anonymously but we request that all people making a report leave their name and number for further communication

**Standard 115.61 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act states the following:

It is the policy of the Lackawanna County Prison to prohibit any form of sexual contact or harassment with an offender. An offender, staff member, visitor, volunteer, or contracted service provider found to be in violation of this policy is subject to disciplinary action, termination of services or contracts, sanctions, and may be subject to criminal prosecution. A claim of consent is not an acceptable defense for participating in sexual contact or harassment with an offender. Any staff member, volunteer, visitor, or contracted service provider must report any incident witnessed to the Lieutenant on duty or most senior officer on duty. Failure to report an incident may also result in disciplinary action or termination of services.

During the random staff interviews I found that they all understood their reporting responsibilities, and their duties as they relate to the PREA standards.

**Standard 115.62 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act states the following:

When the LCP learns that an inmate is in imminent risk of being sexually abused, that inmate shall be segregated from the potential abuser(s) pending review by the PREA Coordinator and appropriate security personnel. Ms. Finlon understands the duty of the facility to protect inmates who may be at risk of imminent sexual abuse. We discussed in depth the steps she takes in a case like this, she explained that they would use housing assignment changes until the incident could be investigated.

**Standard 115.63 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act states the following:

If an inmate makes an allegation that he/she was sexually abused in another confinement facility, the warden or designee shall notify the head of that facility, or appropriate office, that the allegation was reported. This report shall be made within 72 hours of the allegation being made and documented as proof of notification. The report shall be maintained by the PREA Coordinator.

I reviewed an investigation where an inmate related that she was sexually assaulted in a different facility. Notification was made immediately to that facility, and the investigation process was started by Lackawanna County Prison. This included transport to the hospital for a sexual assault examination and evidence collection.

**Standard 115.64 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act states the following:

**RESPONDING TO REPORTS OF SEXUAL ABUSE**

A Report of Extraordinary Occurrence must be completed in every case where sexual contact of any kind is reported.

Every allegation of sexual contact will be investigated thoroughly and promptly. The preliminary investigation will be conducted by the Security Department and PREA Coordinator. The Lackawanna County District Attorney’s Office shall be contacted to conduct a criminal investigation if necessary.

A copy of the investigation report will be forwarded to the Lackawanna County District Attorney’s Office in all cases of sexual contact with an offender.

The following steps shall be taken immediately after a report of sexual assault/abuse:

- Immediately separate the alleged victim and alleged abuser.
- Notify the shift commander that an allegation of sexual abuse has been made.
- The victim will be taken to the Medical Department.
- If the abuse occurred within 72 hours, the alleged victim will be advised that he/she should not shower or clean him/herself, not drink or brush his/her teeth, or take any action that may damage evidence and then will be escorted to the hospital for evaluation.
- The location of the incident will be closed off. Evidence that can’t be secured at the scene will be gathered and pictures may be taken.
- If the perpetrating inmate is wearing clothing that may have been worn during the incident, it will be removed and collected as evidence in a paper bag.
- The perpetrating inmate will be placed in administrative custody pending the outcome of the investigation.

If the first staff responder is not a security staff member, that responder shall be required to:

- Request that the alleged victim not take any actions that could destroy evidence
- Immediately notify security staff

When the LCP learns that an inmate is in imminent risk of being sexually abused, that inmate shall be segregated from the potential abuser(s) pending review by the PREA Coordinator and appropriate security personnel.

If an inmate makes an allegation that he/she was sexually abused in another confinement facility, the warden or designee shall notify the head of that facility, or appropriate office, that the allegation was reported. This report shall be made within 72 hours of the allegation being made and documented as proof of notification. The report shall be maintained by the PREA Coordinator.

Allegations of sexual abuse received from other confinement facilities will be investigated in accordance with the PREA standards.

Staff are prohibited from revealing information related to the sexual abuse report to anyone other than necessary to make, immediate notification, treatment, investigation, and other security and management decisions.

If the alleged victim is under the age of 18 the allegation shall be reported to the Lackawanna County Children and Youth as well as Pennsylvania Department of Human Services Child Abuse hot line at 1-800-932-0313.

During the staff interviews I found that the staff understand their duties as to responding to an incident. They all advised me that they would act immediately and make the protection of the inmate their first priority.

#### **Standard 115.65 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)

#### **EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act outlines the overall response plan to an incident. This policy includes the responsibilities of all parties involved including security, medical, and investigators. The shift commander will coordinate the efforts of all involved parties, and ensure that the response is appropriate to the allegation.

#### **Standard 115.66 Preservation of ability to protect inmates 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)

#### **EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison has not entered into any collective bargaining agreement that would limit the ability of the Lackawanna County Prison to remove alleged staff sexual abusers from contact with inmates.

**Standard 115.67 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act reads as follows:

Any inmate or staff member that reports sexual abuse or harassment or cooperates with an investigation shall be protected from retaliation from staff or other inmates.

A Lieutenant shall be designated to monitor potential retaliation.

The PREA coordinator shall employ multiple protection measures, such as housing changes, removal of staff abusers from contact with victims, emotional support for inmates or staff who fear retaliation, and periodic status checks.

For ninety days following a report of sexual abuse, the PREA coordinator shall monitor the conduct and treatment of inmates or staff involved to observe any changes that may occur to suggest retaliation and act promptly to remedy any such retaliation.

The Facility’s obligation to monitor the situation shall terminate if the PREA coordinator deems the allegation unfounded.

On the second day of the onsite audit an inmate had alleged retaliation over an incident that was currently being investigated. The allegation was acted upon immediately and appropriate steps were taken to protect the inmate until an investigation could be completed.

**Standard 115.68 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act addresses use of protective custody. The policy states the following:

Inmates at a high risk for sexual victimization (RSV) or inmates that have alleged sexual abuse may not be placed in Administrative Custody until all other means of separation have been exhausted.

Inmates placed in segregated housing for this purpose shall have accesses to programs, privileges, education, and work opportunities to the extent possible. If restrictions to programs, privileges, education, and/or work opportunities occur, the PREA coordinator shall document:

- The opportunities that have been limited;
- The duration of the limitation; and
- The reason for such limitations

If an inmate is placed in protective custody, the PREA Coordinator will document:

- The basis for concern for the inmate’s safety; and
- The reason why no alternative means of separation could be arranged

Every 30 days, the facility shall review inmates placed in involuntary administrative segregation for a continued need for separation from the general population.



## Standard 115.71 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)

### EVIDENCE OF COMPLIANCE:

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act addresses referrals of allegations for investigations. The policy reads as follows:

A Report of Extraordinary Occurrence must be completed in every case where sexual contact of any kind is reported.

Every allegation of sexual contact will be investigated thoroughly and promptly. The preliminary investigation will be conducted by the Security Department and PREA Coordinator. The Lackawanna County District Attorney's Office shall be contacted to conduct a criminal investigation if necessary.

A copy of the investigation report will be forwarded to the Lackawanna County District Attorney's Office in all cases of sexual contact with an offender.

The policy further states the following:

### INVESTIGATING ALLEGATIONS OF SEXUAL HARASSMENT OF INMATES

- An allegation of harassment shall be investigated thoroughly and objectively.
- The PREA coordinator will interview the offender complainant or complainant and obtain a written statement following the interview. If the offender refuses to be interviewed or provide a written statement, document the refusal and keep it in the investigation file.
- The PREA coordinator will interview any inmate or staff witnesses and collect reports if necessary.
- Video footage will be reviewed and saved to a media storage device to submit with the investigation.
- When appropriate, review all housing unit log books, medical documentation, misconduct reports, inmate grievances, and other pertinent documentation specific to the allegation of sexual abuse and include the documentation in the investigation report.
- All interviews will be conducted in a professional, non-abusive, and non-threatening manner.
- The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as an inmate or staff.

### CRIMINAL AND ADMINISTRATIVE INVESTIGATIONS:

- All investigations into allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, will be done promptly, thoroughly, and objectively.
- The LCP shall use investigators from the Lackawanna County District Attorney's Office as well as Prison Investigators who have received special training pursuant to § 115.34.
- Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
- When the quality of evidence appears to support criminal prosecution, investigators shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- Administrative investigations shall:
  - Attempt to determine whether staff actions or failures to act contributed to the abuse;
  - be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
- All allegations of conduct that appear to be criminal will be referred for prosecution.
- The LCP retains all written reports pertaining to administrative or criminal investigations of alleged sexual assault or sexual harassment for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

The LCP imposes a standard of a preponderance of the evidence or a lower standard of proof for determining whether allegations of sexual abuse or sexual harassment are substantiated.

**Standard 115.72 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act reads that the LCP imposes a standard of a preponderance of the evidence or a lower standard of proof for determining whether allegations of sexual abuse or sexual harassment are substantiated.

While reviewing the investigations from the last 12 months I confirmed that no higher standard of evidence was applied to the allegations.

**Standard 115.73 Reporting to inmates**

- 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act reads as follows:

**REPORTING TO INMATES**

Following an inmate’s allegation that a staff member has committed sexual abuse, the PREA coordinator will notify the inmate:

- If the staff member is no longer posted within the inmate’s unit;
- The staff member is no longer employed at the facility
- The PREA Coordinator learns of the staff member has been indicted on a charge related to sexual abuse within the facility;
- The PREA Coordinator learns that the staff member has been convicted on a charge related to sexual abuse

Following an inmate’s allegation that he or she has been abused by another inmate, the PREA Coordinator will notify the inmate:

- If the PREA Coordinator learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
- The PREA coordinator learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

The LCP requires that any inmate who makes an allegation that he or she suffered sexual abuse in the Lackawanna County Prison is informed, verbally or in writing, as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following the investigation

All reports to the inmates must be documented by the PREA Coordinator.

I reviewed copies of the documentation that was used to report back to inmates on the status of the investigation. Copies of these documents were maintained with the original investigative file.

**Standard 115.76 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act reads as follows:

**STAFF DISCIPLINE**

Any employee, contract service provider, volunteer, intern, or any individual that conducts business with the Lackawanna County Prison who engages in, fails to report, or knowingly condones sexual abuse or harassment of any offender will be subject to appropriate disciplinary action up to and including prosecution.

Any accused staff member, volunteer, visitor, contracted service provider may be suspended pending investigation of any allegations. The Warden will make this decision on a case by case basis, based on evidence and severity of the alleged offense.

All terminations for violations of LCP sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, are reported to the Lackawanna County District Attorney’s Office and any relevant licensing bodies, unless the activity was clearly not criminal.

**Standard 115.77 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act reads as follows:

**STAFF DISCIPLINE**

Any employee, contract service provider, volunteer, intern, or any individual that conducts business with the Lackawanna County Prison who engages in, fails to report, or knowingly condones sexual abuse or harassment of any offender will be subject to appropriate disciplinary action up to and including prosecution.

Any accused staff member, volunteer, visitor, contracted service provider may be suspended pending investigation of any allegations. The Warden will make this decision on a case by case basis, based on evidence and severity of the alleged offense.

All terminations for violations of LCP sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, are reported to the Lackawanna County District Attorney’s Office and any relevant licensing bodies, unless the activity was clearly not criminal.

### Standard 115.78 Disciplinary sanctions for inmates

- 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)

#### EVIDENCE OF COMPLIANCE:

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act reads as follows:

Offenders will be subject to disciplinary action pursuant to the formal disciplinary process. Criminal charges may also be filed.

The disciplinary action shall commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.

The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

A reporting inmate may be subject to disciplinary action if the report is determined to be unfounded at the conclusion of the investigation. All sexual activity between inmates is prohibited and will be subject to discipline.

An offender may be disciplined for sexual contact with staff only upon finding that the staff member did not consent to the contact.

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

### Standard 115.81 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)

#### EVIDENCE OF COMPLIANCE:

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act reads as follows:

All inmates in the LCP who have disclosed any prior sexual victimization during a screening pursuant to § 115.41 are offered a follow-up meeting within 14 days with a medical or mental health practitioner.

Medical and mental health staff shall maintain secondary documentation materials (e.g. form, log).

Information related to sexual victimization or abusiveness that occurred in an institutional setting is limited to medical and mental health practitioners. The information shared with other staff is strictly limited to informing security and management decisions, including treatment plans, housing, bed, work, education, and program assignments, or as otherwise required by federal, state or local law.

Medical staff must obtain informed consent to release information on prior sexual abuse that did not occur in a correctional facility.

**Standard 115.82 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act reads as follows:  
Treatment services shall be provided to every victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

The LCP offers medical and mental health evaluations and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup or juvenile facility.

The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and when necessary, referrals for continued care following their transfer to, or placement in, other facilities or their release from custody.

The LCP shall provide such victims with medical and mental health services consistent with the community level of care. Inmate victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.

If pregnancy results from contact described in #7 of this section, such victims shall receive timely and comprehensive information about access to all lawful pregnancy related medical services.

Inmate victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as appropriate.

Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. (There is a co-pay, however, if they become a victim while in the custody of the LCP the co-pay will be waived.)

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

**Standard 115.83 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act reads as follows:

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

The LCP offers medical and mental health evaluations and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup or juvenile facility.

The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and when necessary, referrals for continued care following their transfer to, or placement in, other facilities or their release from custody.

The LCP shall provide such victims with medical and mental health services consistent with the community level of care. Inmate victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.

If pregnancy results from contact described in #7 of this section, such victims shall receive timely and comprehensive information about access to all lawful pregnancy related medical services.

Inmate victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as appropriate. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. (There is a co-pay, however, if they become a victim while in the custody of the LCP the co-pay will be waived.)

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

#### **Standard 115.86 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)

#### **EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act reads as follows:

##### **SEXUAL ABUSE INCIDENT REVIEW**

The LCP conducts a sexual abuse incident review at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded.

Sexual abuse incident reviews will be conducted within 30 days of learning the investigation has concluded.

The sexual abuse incident review team will include the Warden, Deputy Warden, Intelligence Captain, Administrative Officer and PREA Coordinator and allows for input from line supervisors, investigators, and medical or mental health staff.

The LCP prepares a report of its findings from sexual abuse incident reviews, along with recommendations for improvement, and will be maintained by the PREA Coordinator.

The LCP will implement the recommendations or will document the reason for not doing so.

Ms. Finlon confirmed that the incidents are reviewed within the 30 days, she also indicated that if anything needed immediate attention it would be acted upon.

### Standard 115.87 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)

#### EVIDENCE OF COMPLIANCE:

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act reads as follows:

The LCP PREA Coordinator collects accurate, uniform data for every allegation of sexual abuse using a standardized instrument and set of definitions.

The standardized instrument includes, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence (SSV) conducted by the Department of Justice.

The LCP aggregates the incident-based data at least annually.

The LCP maintains, reviews and collects data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

Upon request, the LCP shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

### Standard 115.88 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)

#### EVIDENCE OF COMPLIANCE:

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act reads as follows:

The LCP reviews data collected and aggregated pursuant to §115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, response policies, and training, including:

- Identifying problem areas
- Taking corrective action on an ongoing basis
- Preparing an annual report of its findings from its data review and any corrective actions.
- 

The annual report will include a comparison of the current year's data and corrective actions with those from prior years. The annual report will provide an assessment of the agency's progress in addressing sexual abuse.

The LCP will make its annual report readily available to the public at least annually through

its website. The annual reports must be approved by the Warden.

When the LCP redacts material from an annual report for publication, the redactions are limited to specific materials where publication would present a clear and specific threat to the safety and security of the facility. The LCP will indicate the nature of the redaction.

**Standard 115.89 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)

**EVIDENCE OF COMPLIANCE:**

The Lackawanna County Prison Policy & Procedure 11.13 Section: Safety and Emergency Procedures Chapter: Prison Rape Elimination Act reads as follows:

The LCP ensures that the incident-based and aggregate data are securely retained by the PREA Coordinator.

Aggregated sexual abuse data from the LCP and facilities with which it contracts shall be made readily available to the public at least annually through its website.

Before making aggregated sexual abuse data publicly available, all personal identifiers shall be removed.

The LCP maintains sexual abuse data collected pursuant to §115.87 for at least 10 years after the date of initial collection, unless federal, state, or local law requires otherwise.



**AUDITOR CERTIFICATION**

I certify that:

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

\_\_\_\_\_

09/21/2015 \_\_\_\_\_

Auditor Signature

Date