

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

Interim       Final

Date of Report    07/22/2018

### Auditor Information

Name: Donald Chadwick	Email: <a href="mailto:donald.chadwick@nakamotogroup.com">donald.chadwick@nakamotogroup.com</a>
Company Name: The Nakamoto Group, Inc.	
Mailing Address: 11820 Parklawn Dr., Suite 240	City, State, Zip: Rockville, MD 20852.
Telephone: 301-468-6535	Date of Facility Visit: June 26-28, 2018

### Agency Information

Name of Agency: Federal Bureau of Prisons		Governing Authority or Parent Agency (If Applicable): U. S. Department of Justice	
Physical Address: 320 First Street, NW		City, State, Zip: Washington, DC 20534	
Mailing Address: 320 First Street, NW		City, State, Zip: Washington, DC 20534	
Telephone: 202-616-2112		Is Agency accredited by any organization? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
The Agency Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input type="checkbox"/> State	<input checked="" type="checkbox"/> Federal

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

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

### Agency Chief Executive Officer

Name: Hugh Hurwitz	Title: Acting Director
Email: <a href="mailto:BOP-CPD/PREACOORDINATOR@BOP.GOV">BOP-CPD/PREACOORDINATOR@BOP.GOV</a>	Telephone: 202-616-2112

### Agency-Wide PREA Coordinator

Name: Jill Roth	Title: National PREA Coordinator
Email: <a href="mailto:BOP-CPD/PREACOORDINATOR@BOP.GOV">BOP-CPD/PREACOORDINATOR@BOP.GOV</a>	Telephone: 202-616-2112

<b>PREA Coordinator Reports to:</b> Scott Finley, Acting Assistant Director, Reentry Services Division	<b>Number of Compliance Managers who report to the PREA Coordinator</b> none
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### Facility Information

<b>Name of Facility:</b> Federal Medical Center (FMC) Rochester			
<b>Physical Address:</b> 2110 East Center Street, Rochester, MN 55904			
<b>Mailing Address (if different than above)</b> PO Box 4600, Rochester, MN 55903			
<b>Telephone Number:</b> (507) 287-0674			
<b>The Facility Is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Private not for profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input type="checkbox"/> State	<input checked="" type="checkbox"/> Federal
<b>Facility Type:</b>	<input type="checkbox"/> Jail	<input checked="" type="checkbox"/> Prison	

**Facility Mission:** It is the stated mission of FMC Rochester to provide competent and appropriate medical, dental and behavioral healthcare to inmates, while protecting society by confining offenders in a humane, secure and cost-efficient environment.

**Facility Website with PREA Information:**  
[https://www.bop.gov/inmates/custody\\_and\\_care/sexual\\_abuse\\_prevention.jsp](https://www.bop.gov/inmates/custody_and_care/sexual_abuse_prevention.jsp)

### Warden/Superintendent

<b>Name:</b> David Paul	<b>Title:</b> Warden
<b>Email:</b> RCH/PREAComplianceMgr@bop.gov	<b>Telephone:</b> (507) 287-0674

### Facility PREA Compliance Manager

<b>Name:</b> B. Birkholz	<b>Title:</b> Associate Warden
<b>Email:</b> RCH/PREAComplianceMgr@bop.gov	<b>Telephone:</b> (507) 287-0674

### Facility Health Service Administrator

<b>Name:</b> M. Gielski	<b>Title:</b> Health Services Administrator
<b>Email:</b> RCH/PREAComplianceMgr@bop.gov	<b>Telephone:</b> (507) 287-0674

### Facility Characteristics

<b>Designated Facility Capacity:</b> 784	<b>Current Population of Facility:</b> 654
<b>Number of inmates admitted to facility during the past 12 months</b>	150
<b>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:</b>	150
<b>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:</b>	150
<b>Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:</b>	417
<b>Age Range of Youthful Inmates Under 18:</b> NA	<b>Adults:</b> 21-91

Population:			
Are youthful inmates housed separately from the adult population?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input checked="" type="checkbox"/> NA	
Number of youthful inmates housed at this facility during the past 12 months:		NA	
Average length of stay or time under supervision:		165 months	
Facility security level/inmate custody levels:		Administrative/Community thru Maximum	
Number of staff currently employed by the facility who may have contact with inmates:		427	
Number of staff hired by the facility during the past 12 months who may have contact with inmates:		9	
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:		123	
<b>Physical Plant</b>			
Number of Buildings: 7		Number of Single Cell Housing Units: 0	
Number of Multiple Occupancy Cell Housing Units:		4	
Number of Open Bay/Dorm Housing Units:		2	
Number of Segregation Cells (Administrative and Disciplinary):		34	
<b>Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):</b> The FMC employs a video camera system for video surveillance. Cameras are placed strategically throughout the institution to ensure the safety and security of both inmates and staff.			
<b>Medical</b>			
Type of Medical Facility:		Nursing Care Center, Ambulatory, Behavioral Health	
Forensic sexual assault medical exams are conducted at:		Mayo Clinic Hospital – Saint Marys Campus, Rochester, MN	
<b>Other</b>			
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:		253	
Number of investigators the agency currently employs to investigate allegations of sexual abuse:		253	

# Audit Findings

## Audit Narrative

*The auditor's description of the audit methodology should include a detailed description of the following processes during the pre-onsite audit, onsite audit, and post-audit phases: documents and files reviewed, discussions and types of interviews conducted, number of days spent on-site, and observations made during the site-review, and a detailed description of any follow-up work conducted during the post-audit phase. The narrative should describe the techniques the auditor used to sample documentation and select interviewees, and the auditor's process for the site review.*

The Prison Rape Elimination Act (PREA) audit of the Federal Medical Center (FMC) Rochester, Minnesota was conducted from June 26-28, 2018. The audit was completed by Donald Chadwick, a certified PREA auditor for The Nakamoto Group, Inc. This is the second PREA audit for this facility. The auditor spent three days on-site.

### Pre-Onsite Review:

Prior to the on-site visit, the auditor discussed the information conveyed in the Pre-Audit Questionnaire (PAQ) with FMC Rochester's PREA Compliance Manager (IPCM). The Agency Head and National PREA Coordinator were interviewed prior to the on-site visit. As part of the pre-audit process, a review of the agency's PREA policy, the FMC supplemental policy, as well as submittals of supporting documentation was conducted. Documentation submittals and reported data generally covered the previous 12 months prior to the date of the PAQ. Training records, staffing reports, and meeting minutes were reviewed during this period. Other pre-onsite documents reviewed were applicable portions of Program Statements (PS), Institution Supplements and other forms, documents and assurance statements/memos etc. Program Statements are agency-wide governing policies developed by the Federal Bureau of Prisons (BOP) and Institution Supplements stipulate institution specific policies when there is no agency-wide policy or when site specific policy is required to expand on agency Program Statements. FMC Rochester uses Institution Supplements (RCH). The auditor reviewed the documents submitted, during the pre-onsite period, and communicated with the IPCM regarding any concerns. A tentative schedule for interviews was also formulated and submitted to the audited facility.

### On-site Review:

The opening meeting was held the first day of the audit to discuss any concerns regarding the audit process and to finalize the facility tour. The meeting also included a discussion regarding the interview schedules with the Warden and his executive management team. The following persons were in attendance: The Warden, the Associate Wardens, the IPCM, Chief of Psychology Services, the Health Services Administrator, a Management Analyst from the Bureau of Prisons-Central Office, one American Correctional Association auditor, the Executive Assistant, FMC Rochester Investigators, Department Heads and Supervisors, and representatives from the Program Review Division from the Bureau of Prisons-Central Office.

The standards used for this audit became effective August 20, 2012. The last PREA Audit of FMC Rochester was conducted May 12-14, 2015. During the on-site tour, the auditor reviewed PREA related documentation and materials located on bulletin boards and other display venues, and entries made in electronic logs. The auditor requested demonstrations of electronic media which provide offenders access to outside independent reporting capabilities. The auditor assessed camera surveillance, physical supervision and electronic monitoring capabilities relative to security related blind spots. During the on-site tour, the auditor discussed the practical implementation of the standards with housing unit officers, intake staff, and other staff on the tour route. Other areas of focus, during the facility tour, included, but were not limited to, levels of staff supervision; work and program area sightline obstructions, if applicable; the level of video surveillance, if applicable; and limits to cross gender viewing. The auditor toured the adjacent outside garage to assess inmate intermittent supervision.

### **Staff and Inmate Interview(s):**

A total of 30 inmates were identified for private interviews. The inmates identified for interviews were selected from an alphabetical roster of all housing units within the FMC, coupled with inmates identified by various targeted programs' tracking systems. The inmates were chosen at random from this roster, as well as their targeted PREA demographics, as stipulated via programs tracking. Two randomly selected offenders also self-identified as being bi-sexual during the interview. Based on information received exclusively from various tracking systems, 11 inmates were deemed to be considered included in the "targeted" categories as follows: two were physically disabled; zero were sight impaired; one was limited English proficient; two identified as being cognitively impaired; three had reported abuse; three had alleged abuse during initial screening; and four self-identified as being members of the LGBTI community. All the offenders interviewed who reported abuses, during the audit period, were also gay, transgender and bisexual, respectively. FMC Rochester opened 24 inmate investigations, during the applicable audit period. Three of the 24 were cases tracked due to alleged incidents at other facilities. There were no inmates involuntarily segregated due to being at a high risk of victimization. Offender interviews covered intake screening for victimization risks or other PREA vulnerabilities, knowledge of reporting mechanisms, advocacy services and mental health referrals and follow-up, as needed. The FMC does not house youthful offenders. No offenders contacted the auditor by letter, because of the audit notification being posted in the units and throughout the facility.

Private interviews were conducted with 12 randomly selected staff and 12 specialized staff. First responder staff interviews consisted of line staff, as well as supervisors. Informal interviews, not included in the above totals, were also conducted with intake and classification staff. Staff interviews covered training, protections implemented to limit cross gender viewing, reporting mechanisms for staff and inmates and first responder duties.

File sampling was conducted in the human resource, classification, mental health, volunteer coordinator and investigative sections. Documentation related to background investigations for new staff, as well as other staff considered for promotions, were reviewed. Volunteer and contractors' background clearance documentation was sampled. PREA training documentation for staff, volunteers and contractors was also reviewed. Classification documents were

reviewed to assess the inmate's propensity for sexual victimization or abusiveness. Additionally, files/electronic medical records related to referrals for mental health follow-up were reviewed. The following agency and local policies serve as the primary directives to guide operational and performance compliance with the PREA: Program Statement (PS) 5324.12, Sexually Abusive Behavior Prevention and Intervention Program; Institution Supplement (RCH) 5324.12, Sexually Abusive Behavior Prevention and Intervention Program; PS 3420.11, Standards of Employee Conduct; PS 5270.09, Inmate Discipline Program and PS 1330.18, Administrative Remedy Program.

## Facility Characteristics

*The auditor's description of the audited facility should include details about the facility type, demographics and size of the inmate, resident or detainee population, numbers and type of staff positions, configuration and layout of the facility, numbers of housing units, description of housing units including any special housing units, a description of programs and services, including food service and recreation. The auditor should describe how these details are relevant to PREA implementation and compliance.*

The Federal Medical Center-Rochester is an all-male Administrative Security Medical Referral Correctional Institution. The FMC is in the city of Rochester, MN, approximately 90 miles south of Minneapolis/St. Paul. The compound contains 54 acres, with 26 acres inside the secure perimeter. Historically, the facility originated as a state hospital and was activated by the Federal Bureau of Prisons in 1985. The facility housed approximately 654 offenders at the time of the audit and has a designated capacity of approximately 784.

FMC Rochester's PREA management is led by the Associate Warden-Medical who is the designated IPCM. The Associate Warden-Programs was the previous IPCM. Additionally, the Chief of Psychology Services plays an integral role in the management of PREA processes.

The FMC is a medical and psychiatric referral center (one of seven in the BOP) that supports the agency's healthcare mission, nationally. FMC Rochester is recognized throughout the BOP as a center of excellence for infectious disease management, wound care, psychiatric treatment and rehabilitative services, and the management of the BOP's largest nursing care center population. Additionally, FMC Rochester operates one of three Regional Reference Laboratories for the BOP, serving 38 institutions in the North Central and Western regions. The FMC maintains a long established collaborative relationship with the Mayo Clinic which serves as the FMC's comprehensive medical services contractor. The Mayo Clinic serves FMC Rochester's population in a variety of capacities, to include specialty and subspecialty care, through on-site, off-site and telehealth clinics; after-hours physician coverage; hospitalization for complex medical patients; and consultative services.

There are six buildings containing offender work, living and program areas. The offender housing patterns of the FMC are like a hospital, rather than traditional jail cellblocks or open dormitories. Bathroom areas are located behind closed doors with partitions and shower curtains to enhance privacy. Mental Health Seclusion and the Administrative Detention areas contain toilets in the cells and showers with curtains located down range. Offender housing is

determined by medical program needs or work cadre status. Some holding cells and observation cells, located in the intake department, contain toilets and correctional officers are required to conduct frequent security checks, which allow for incidental cross-gender viewing.

FMC Rochester has a high staff to offender ratio, with staff offices and clinical areas located near offender living areas. The FMC's authorized staff complement, during pay period 02 of calendar year 2018, was 447. A review of the staffing report reflected 405 filled positions. The medical staff authorized complement was 179 with 168 on board. The security staff authorized complement was 134, with 119 positions filled. As previously mentioned, FMC Rochester has numerous video cameras strategically placed within the facility. PREA requirements and video surveillance were evaluated, during the quarterly Workforce Utilization Committee meeting. The quarterly/ annual Workforce Utilization Committee report did not reveal any systemic vacancy or staff retention issues. There were no substantiated sexual abuse or harassment allegations at FMC Rochester over the period referenced in the PAQ.

## Summary of Audit Findings

*The summary should include the number of standards exceeded, number of standards met, and number of standards not met, along with a list of each of the standards in each category. If relevant, provide a summarized description of the corrective action plan, including deficiencies observed, recommendations made, actions taken by the agency, relevant timelines, and methods used by the auditor to reassess compliance.*

When the on-site audit was completed, an exit briefing was held to discuss the audit findings. The meeting was held with the Warden, the Associate Wardens, the Institution PREA Compliance Manager, the facility Captain, the Executive Assistant, the Management Analyst from the Bureau of Prisons-Central Office, the Chief of Psychology Services, the Health Services Administrator, Unit Managers, facility PREA Investigators and a recorder. Prior to the on-site audit, the auditor was provided documentation and assurance memos which referenced supporting on-site documentation. A review of this material was conducted to support a conclusion of compliance with the Prison Rape Elimination Act. Additionally, all interviews and observations were assessed to support a conclusion of compliance.

On-site corrective action was required for standard 115.53 (Access to outside confidential support services) to ensure information regarding support services are conspicuously posted throughout the facility. Additionally, corrective action was required for standard 115.15(d) to ensure that routine holding cells do not provide visual access for non-incident views of toilet areas while occupied by inmates. The auditor discussed the implementation of acceptable corrective action plans with the IPCM and the Warden. The facility staff members were found to be extremely courteous, cooperative and professional. Staff morale appeared to be very good and the observed staff/inmate relationships were determined to be good. All areas of the facility were observed to be clean and well maintained. At the end of the audit, the auditor thanked the Warden and staff for their hard work and dedication to the PREA audit process. The facility staff was commended on their hospitality and the climate of professionalism within the facility.

The auditor concluded, through observation, interviews, and the review of policies and

documentation, that staff and inmates were knowledgeable concerning their responsibilities involving the PREA. During interviews, staff and inmates acknowledged awareness of FMC Rochester's zero tolerance policy against sexual abuse. This philosophy has been fully institutionalized. Through a coordinated use of the agency staffing plan, daily rosters and master rosters, staffing levels are monitored to ensure PREA compliance and to provide sufficient supervisory resources to the offender population. Electronic monitoring is effective in augmenting the physical supervision of inmates by security staff. Staff members who serve as Institution Duty Officers are diligent in making random security checks.

The facility has adaptive measures and a strategic action plan in place to ensure disabled and LEP inmates, as required, can participate in or benefit from all aspects of the PREA. Because of the medical and psychiatric mission of the facility, high ratios of security, professional healthcare and mental health staff are available and trained in the PREA requirements relative to the disabled. Hiring and promotion practices are consistent with sexual safety measures. The facility has appropriate medical and victim advocacy networks in place and available, if needed. PREA education and training is properly documented for security, investigative and medical staff. Staff indicated adequate training in all aspects of the PREA, particularly first responder duties or actions to take in the event of a report of a PREA related incident.

Inmates acknowledged admissions screening included questions regarding a history of sexual abuse or victimization and whether they would like to identify a sexual preference. Intake, classification processes and medical/mental health intake processes are efficient and seamless in addressing referrals based on victimization or abusiveness screening data. Related documentation is organized and stored in information systems available on a need-to-know-basis. Available PREA reporting mechanisms are conveyed in a conspicuous manner to inmates and staff members are aware of the reporting processes available to them.

Systems are in place for highly coordinated responses to incidents of sexual abuse, if needed. The facility has sufficiently trained investigative personnel to handle administrative investigations and, as needed, uses other federal investigative resources to provide administrative guidance, investigate staff related abuse allegations and to handle criminal investigations. Investigative personnel are sensitive to the mental health diagnoses of alleged victims and collaborate well with professional psychology services personnel, during the investigative stage. This was demonstrated by the high quality of the investigative files, which contained information on mental health referrals and follow-up, psychology services staff's integral role in retaliation monitoring and thorough incident review analysis documentation. Overall, the coordinated response process at FMC Rochester is reflective of multi-disciplinary involvement and reflected in the high quality of the investigative files.

**Number of Standards Exceeded: 4**

**Number of Standards Met: 41**

115.14 – FMC Rochester does not house youthful inmates.

115.18 – Since the last PREA audit, FMC Rochester has added 5 cameras because of the incident review process audit.

**Number of Standards Not Met:** 0

**Summary of Corrective Action (if any)**

**Corrective Action(s):**

115.13 (a-5) - One mirror was placed in the food service bakery area to decrease the potential for blind spots where offenders could be isolated.

115.53 - To add a greater degree of information dissemination regarding outside victim advocacy resources, FMC Rochester staff ensured that the contact phone number and name of the local advocacy entity was conspicuously posted in most housing units based on the psychiatric care levels of the offenders housed.

115.15(d) - To eliminate non-incident cross gender viewing, the positioning of fixed cameras was adjusted to only show bench seating areas, thereby omitting the views of the toilets. The corrective action applied to two holding cells in the Intake Department.

During the on-site audit, the auditor verified that appropriate corrective action was implemented for the above identified issues.

## **PREVENTION PLANNING**

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

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

**115.11 (a)**

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

**115.11 (b)**

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

**115.11 (c)**

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

**Auditor Overall Compliance Determination**

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

**Instructions for Overall Compliance Determination Narrative**

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

**Policy:**

Program Statement (PS) 5324.12, Sexually Abusive Behavior Prevention and Intervention Program and Institution Supplement (IS) RCH 5324.12, Sexually Abusive Behavior Prevention and Intervention Program (SABP&I) address the requirements identified in this standard. The agency and facility directives outline a zero-tolerance policy for all forms of sexual abuse and sexual harassment.

**Practice(s):**

The agency has appointed a psychologist assigned to the BOP's Central Office Reentry Services Division as their National PREA Coordinator. The Warden has appointed the Associate Warden-Medical as the Institution PREA Compliance Manager (IPCM). The IPCM reports directly to the Warden in all matters pertaining to the PREA. The IPCM collaborates with the Associate Warden- Programs and the Chief of Psychology Services regarding all PREA related concerns. Interviews with the agency PREA Coordinator and IPCM confirmed that each has sufficient time and authority to coordinate efforts to comply with the PREA standards. Inmates are informed about the zero-tolerance policy and the PREA program is also a part of the inmate education process via admission and orientation procedures.

Inmates are also informed about the program and zero tolerance in the Admission and Orientation (A&O) Handbook and through postings throughout the facility.

All written documents are available in English and Spanish. Additional interpretive services are available for inmates who do not speak or read English. All interviews with staff, volunteers, contractors and inmates confirmed that each was aware of the zero-tolerance policy towards all forms of sexual abuse/sexual harassment. The commitment to the enforcement and implementation of the PREA, along with an examination of policy and documentation, support the facility's compliance with this standard.

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

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

#### **115.12 (a)**

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

#### **115.12 (b)**

- Does any new contract or contract renewal signed on or after August 20, 2012 provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards? (N/A if the agency does not contract with private agencies or other entities for the confinement of inmates OR the response to 115.12(a)-1 is "NO".)  Yes  No  NA

### **Auditor Overall Compliance Determination**

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

### **Instructions for Overall Compliance Determination Narrative**

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

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

The agency meets the requirements of Standard 115.12. A review of the documentation submitted confirmed the agency requires other entities contracted with for the confinement of inmates (privatized prisons and residential reentry centers or "halfway houses") to adopt and comply with the PREA standards. All agency contractual agreements have been modified to incorporate the language requiring all contractors to adopt and comply with the PREA standards. FMC Rochester does not individually contract for the confinement of inmates.

## **Standard 115.13: Supervision and monitoring**

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

#### **115.13 (a)**

- Does the agency ensure that each facility has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse?  Yes  No
- Does the agency ensure that each facility has documented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the generally accepted detention and correctional practices in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any judicial findings of inadequacy in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from Federal investigative agencies in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from internal or external oversight bodies in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration all components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated) in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the composition of the inmate population in calculating adequate staffing levels and determining the

need for video monitoring?  Yes  No

- Does the agency ensure that each facility's staffing plan takes into consideration the number and placement of supervisory staff in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the institution programs occurring on a particular shift in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No  NA
- Does the agency ensure that each facility's staffing plan takes into consideration any applicable State or local laws, regulations, or standards in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No

#### 115.13 (b)

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

#### 115.13 (c)

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The staffing plan established pursuant to paragraph (a) of this section?  Yes  No
- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The facility's deployment of video monitoring systems and other monitoring technologies?  Yes  No
- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The resources the facility has available to commit to ensure adherence to the staffing plan?  Yes  No

#### 115.13 (d)

- Has the facility/agency implemented a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment?  Yes  No

- Is this policy and practice implemented for night shifts as well as day shifts?  Yes  No
- Does the facility/agency have a policy prohibiting staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Policy:

PS 3000.03, Human Resource Management Manual, the facility staffing report and the Workforce Utilization Committee meeting minutes address all the requirements of the 115.13 standard. Additionally, RCH 5324.12, Sec. B.1., provides guidance on PREA Supervision and Monitoring. A SABP&I committee provides oversight and meets annually to examine instances of alleged sexual abuse, observations of supervisory staff and the adequacy and compliance with the staffing plan. Additionally, the committee assesses the adequacy of the video monitoring designed to prevent and detect sexually abusive behaviors. The IPCM is required to hold monthly meetings to review recent cases and ensure alternatives to placing victims in segregated housing over extended periods of time and ensure staff and inmates, who report sexual harassment or abuse or cooperate with investigations, are adequately protected from retaliation.

### Practice(s):

A review of the facility staffing plan and the quarterly Salary and Workforce Utilization Committee meeting minutes for the previous 12 months confirmed that PREA issues are considered, when filling positions and developing work rosters/assignments. Interviews with the Human Resource Manager and the Associate Warden/Institution PREA Compliance Manager confirmed that the facility considers the items detailed in the standard, when developing a staffing plan. The current staffing plan was predicated on an average of 653 offenders. The facility reviews the staffing plan at least quarterly and certifies there were no

deviations from the staffing plan. The IPCM is a member of the Salary and Workforce Utilization Committee and may provide input as to whether adjustments to the staffing plan may be required to meet PREA requirements. In reviewing FMC Rochester related documentation regarding staffing and its impact on PREA deliverables, it is determined that quarterly and annual assessment reports provide information relative to PREA requirements such as any adjustments to staffing plans, or any deviations from staffing plans. Additionally, a statement regarding an analysis of video monitoring is included in these assessments.

The FMC's authorized staff complement during pay period 02 of calendar year 2018 was 447. A review of the staffing report reflected 405 positions filled. The medical staff authorized complement was 179 with 168 on board. The security staff authorized complement was 134, with 119 positions filled. As previously mentioned, FMC Rochester has numerous video cameras strategically placed within the facility. PREA requirements and video surveillance were evaluated during the quarterly Workforce Utilization Committee meeting. The quarterly/annual Workforce Utilization Committee report did not reveal any systemic vacancy or staff retention issues.

There have been no judicial findings of inadequacy, findings of inadequacy from federal investigative agencies or findings of inadequacy from internal or external oversight bodies relative to this standard. All essential posts are filled on each shift and no essential posts are kept open for salary savings. The review of Institution Duty Officer unannounced PREA rounds logs confirmed that intermediate-level or higher-level supervisors (department heads at a minimum) conduct and document such visits throughout the institution. Staff members are prohibited from alerting other employees regarding unannounced rounds. Interviews with inmates and housing unit officers also confirmed that random, unannounced rounds are conducted by Institution Duty Officers, including nights and weekends. An examination of supporting documentation also confirms the facility's compliance with this standard.

## Standard 115.14: Youthful inmates

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

#### 115.14 (a)

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

#### 115.14 (b)

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

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

### 115.14 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

FMC Rochester does not house youthful inmates.

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

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

#### 115.15 (a)

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

#### 115.15 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female inmates in non-exigent circumstances? (N/A here for facilities with less than 50 inmates before August 20, 2017.)  Yes  No  NA
- Does the facility always refrain from restricting female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision? (N/A here for facilities with less than 50 inmates before August 20, 2017.  Yes  No  NA

#### 115.15 (c)

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

#### 115.15 (d)

- Does the facility implement a policy and practice that enables inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks?  Yes  No
- Does the facility require staff of the opposite gender to announce their presence when entering an inmate housing unit?  Yes  No

#### 115.15 (e)

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

#### 115.15 (f)

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

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

#### Policy:

PS 5324.12 addresses the requirements of Standard 115.15. The facility's overall rated capacity exceeds 50 inmates. The institution does not permit cross-gender strip searches or cross-gender visual body cavity searches, except in exigent circumstances or when performed by medical practitioners. Officers are required to document all cross-gender strip searches and cross-gender visual body cavity searches. Policy prohibits employees from searching or physically examining a transgender or intersex inmate for the sole purpose of determining the inmate's genital status.

#### Practice(s):

The Warden certified no cross-gender visual body cavity or strip searches were conducted at FMC Rochester, during the audit period. Interviews with staff confirmed that they were aware of the prohibition of visual body cavity or strip searches of the inmates of the opposite sex, except in exigent circumstances. A review of training records reveals that security staff members have received formal training in pat searches. Staff interviews also confirmed that female officers have been trained to conduct cross-gender pat searches. The auditor observed, during the tour of all applicable housing units, that inmates are permitted to shower, perform bodily functions and change clothing privately. Toilets and shower facilities are generally separated by an entrance door, where partitions and shower curtains are used for privacy. Due to the medical mission of the Nursing Care Unit, most privacy concerns did not apply.

One issue affecting compliance in this area was corrected, during the on-site portion of the audit. Cameras were positioned in two holding cells with direct views of the toilets. The cells are intended for use as routine holding as well as medical observation. As related to the routine use of the cell, the camera views provided the opportunity for non-incident cross gender viewing. The cameras were re-positioned to only display the seating areas in the cells.

The agency and FMC Rochester have an “announce” policy and procedures requiring staff of the opposite sex to announce their presence or otherwise notify the inmates, when entering an inmate housing unit. An announcement is made at the beginning of shift to alert inmates that opposite gender staff are likely to be present in the housing unit. Randomly interviewed inmates confirmed that female staff members, as applicable, announce their presence in this manner, when entering a housing unit. The practice was observed, during the facility tour. Interviews with randomly selected inmates confirmed that they had been pat-searched by officers of the opposite gender properly and professionally. Interviews with random and specialized staff, observations and an examination of supporting documentation, such as the Staff Training Acknowledgement Form, confirm training in this area follows the requirements of Standard 115.15.

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

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

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

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

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

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

#### 115.16 (b)

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

#### 115.16 (c)

- Does the agency always refrain from relying on inmate interpreters, inmate readers, or other types of inmate assistance except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under §115.64, or the investigation of the inmate's allegations?  Yes  No

#### Auditor Overall Compliance Determination

**Exceeds Standard** (*Substantially exceeds requirement of standards*)

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

### **Instructions for Overall Compliance Determination Narrative**

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

#### **Policy:**

PS 5324.12, RCH 5324.12 and the Admission and Orientation (A&O) Handbook address the requirements of Standard 115.16. Through policy, the facility ensures that inmates with disabilities have an equal opportunity to participate in and benefit from all aspects of the agency's efforts to prevent, detect and respond to sexual abuse and sexual harassment. Policy prohibits the use of inmate interpreters, inmate readers or other types of inmate assistants in the performance of first responder duties or during the investigation of an inmate's allegations. Policy requires the IPCM to collaborate with local resources to procure services commensurate with an inmate's disability, so that the disabled inmate can benefit from the provisions of the PREA.

#### **Practice(s):**

Upon initial screening, RCH psychology staff members document whether an inmate displays a language barrier or other disability which would prevent the understanding of basic PREA provisions or sexual abuse/prevention/intervention information. As applicable, a follow-up plan is developed to foster communication. All inmates interviewed verified that they were instructed about PREA compliance and felt safe from sexual abuse. All PREA related information, including postings, brochures and handouts are available in English and in Spanish, as confirmed through inmate interviews and a review of written materials. Interviews with non-English proficient inmates also confirmed the availability and use of the staff and telephonic interpretive services. Translation services were also available through Language Line Services (LLS), a contract service for inmates who are not English proficient. As needed, the above referenced disability follow-up plan is used for inmates with other communication disabilities. TTY telephones are also available for use, if required. FMC Rochester employs staff members who are proficient in languages other than English. Interviews with first responders, medical, mental health and investigative staff confirmed their awareness of the prohibition for using inmate interpreters for PREA compliance related functions. Interviews with staff (random and specialized) and an examination of supporting documentation, such as the contract for interpretive services, also confirm the facility's substantial compliance with Standard 115.16.

## Standard 115.17: Hiring and promotion decisions

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

#### 115.17 (a)

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

#### 115.17 (b)

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

#### 115.17 (c)

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

#### 115.17 (d)

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

#### 115.17 (e)

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

#### 115.17 (f)

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

#### 115.17 (g)

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

#### 115.17 (h)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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### Policy:

PS 3000.03, PS 3420.11, Standards of Employee Conduct, the Pre-Employment Guide, SF85P (Questionnaire for Public Trust Positions) and a BOP recruitment document address the requirements of the standard. The facility does not hire or promote anyone who may have contact with inmates and does not enlist the services of any contractor who may have contact with inmates who has engaged in any type of sexual abuse/sexual harassment. BOP policy stipulates that employees have a duty to disclose such misconduct and material omissions regarding such misconduct would be grounds for termination. Submission of false information by any applicant is grounds for not hiring the applicant.

### Practice(s):

The Human Resource Manager was interviewed and files were sampled relative to new hires, volunteers/contractors and promotions to assess compliance with this standard. Based on files sampled, all FMC Rochester employees who have contact with inmates have had a background investigation, in addition to fingerprinting and inquiry into the FBI's National Crime Information Center (NCIC). Those promoted, during the audit period, received thorough reference checks which included input from the BOP Office of Internal Affairs. Re-investigations of employee backgrounds take place every five years and are tracked by a centralized personnel center off-site. Contractors and volunteers who have regular contact with inmates also have criminal background checks completed prior to having contact with inmates. Volunteer and contractor background checks are repeated yearly. The Human Resource Manager was interviewed and confirmed that the agency attempts to contact prior employers for information on substantiated allegations of sexual abuse or resignations which occurred during a pending investigation of sexual abuse. The Human Resource Manager also confirmed that the agency provides information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work. The BOP notifies appropriate licensing/certifying agencies, when professional personnel are terminated for substantiated allegations of sexual abuse or sexual harassment. A review of policy and relevant supporting documentation also confirm the facility's compliance with this standard.

## Standard 115.18: Upgrades to facilities and technologies

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

### 115.18 (a)

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

### 115.18 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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FMC Rochester has not had any substantial facility expansions or modifications since August 20, 2012 or since the last PREA audit. However, based on the consideration of enhancing the ability to protect inmates from sexual abuse, cameras were added based on the recommendations (post allegation) of the incident review team.

## RESPONSIVE PLANNING

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

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

### 115.21 (a)

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

### 115.21 (b)

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  Yes  No  NA
- Is this protocol, as appropriate, adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  Yes  No  NA

### 115.21 (c)

- Does the agency offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate?  Yes  No
- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible?  Yes  No
- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)?  Yes  No
- Has the agency documented its efforts to provide SAFEs or SANEs?  Yes  No

### 115.21 (d)

- Does the agency attempt to make available to the victim a victim advocate from a rape crisis center?  Yes  No
- If a rape crisis center is not available to provide victim advocate services, does the agency make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member?  Yes  No
- Has the agency documented its efforts to secure services from rape crisis centers?  
 Yes  No

### 115.21 (e)

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

### 115.21 (f)

- If the agency itself is not responsible for investigating allegations of sexual abuse, has the agency requested that the investigating entity follow the requirements of paragraphs (a) through (e) of this section? (N/A if the agency/facility is responsible for conducting criminal AND administrative sexual abuse investigations.)  Yes  No  NA

### 115.21 (g)

- Auditor is not required to audit this provision.

### 115.21 (h)

- If the agency uses a qualified agency staff member or a qualified community-based staff member for the purposes of this section, has the individual been screened for appropriateness to serve in this role and received education concerning sexual assault and forensic examination issues in general? [N/A if agency attempts to make a victim advocate from a rape crisis center available to victims per 115.21(d) above.]  Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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### Policy:

PS 5324.12, RCH 5324.12, the “One Source First Responder Reference Guide”, the “Guide for First Responder/Operations Lieutenant-When Approached with an Inmate Allegation of Sexual Abuse or Harassment”, PS 6031.04, Patient Care, and the PREA Checklist & Instructions address the requirements of this standard. Protocols for all post allegation steps are outlined in the above referenced documents. Prior to a referral for an forensic examination, alleged victims of sexual assault are examined in the FMC Rochester Health Services Department for an initial injury assessment. Such treatment would be for life preservation only. Policy states that all sexual abuse victim advocacy, examinations, treatment, testing and follow-up care are provided without cost to the alleged victim.

### **Practice(s):**

Interviews with correctional and health services personnel confirmed that they were all knowledgeable of the required procedures for obtaining, preserving and securing physical evidence, when sexual abuse is alleged. Staff members were aware that the Special Investigative Services (SIS) Lieutenants, the Office of Internal Affairs (OIA), the Office of Inspector General (OIG) or the Federal Bureau of Investigation (FBI) conducted investigations relative to sexual abuse/sexual harassment allegations.

FMC Rochester refers all criminal investigations to the OIG or FBI via the Office of Internal Affairs. The agency follows a uniform evidence protocol as described in the U.S. Department of Justice’s Office on Violence Against Women Publication, “A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents”. A victim advocacy agreement has been established with Dodge, Fillmore, and Olmsted County Community Corrections Victim Services Sexual Assault Program, Rochester, Minnesota. Additionally, if forensic medical exams are needed, they are performed at Mayo Clinic Hospital Emergency Department. FMC Rochester also has qualified agency staff victim advocates. FMC Rochester reported zero forensic exams performed in the applicable audit period.

Routinely, administrative investigations are conducted by trained investigators who are full time employees of FMC Rochester. As appropriate, the FMC Warden generates a referral to the outside agency. The review of training records confirmed that investigators have received investigator training offered by the BOP on the investigation of sexual abuse and sexual harassment in confinement settings. FMC Rochester certified that there were no inmates who requested victim advocacy services, during this audit period. Interviews with staff (random and specialized), a Sexual Assault Nurse Examiner, a community victim advocate and an examination of supporting documentation also confirm the facility’s compliance with Standard 115.21.

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

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

#### 115.22 (a)

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

#### 115.22 (b)

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

#### 115.22 (c)

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

#### 115.22 (d)

- Auditor is not required to audit this provision.

#### 115.22 (e)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

**Policy:**

PS 5324.12 addresses the requirements of Standard 115.22. The policy requires administrative or criminal investigations to be completed on all allegations of sexual abuse/sexual harassment. Administrative investigations are routinely assigned for completion by the FMC Rochester Special Investigative Services (SIS) Lieutenant. If, during an investigation, evidence surfaces indicating criminal misconduct, the case would be initially referred to the FBI for criminal investigation.

**Practice(s):**

The FMC Rochester Special Investigative Agent (SIA) was interviewed for an assessment of his awareness of his office’s responsibilities in the investigative process. He conveyed the FBI would conduct criminal investigations for the facility involving inmate-on-inmate sexual abuse and the Office of Inspector General would investigate staff-on-inmate criminal sexual abuse. The SIA confirmed that an investigation would never be terminated due to an inmate being transferred or released or an employee leaving the agency. Staff members are aware of the uniform evidence protocol and are confident that all referrals to other federal agencies investigating criminal matters use a similar evidence protocol. Interviews with staff and the SIA and an examination of training documentation confirm all investigators received instruction in conducting sexual assault investigations. Interviews and the review of Intelligence Training Records and training curriculum confirm the facility’s compliance with Standard 115.22.

**TRAINING AND EDUCATION**

**Standard 115.31: Employee training**

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

**115.31 (a)**

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

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

#### 115.31 (b)

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

#### 115.31 (c)

- Have all current employees who may have contact with inmates received such training?  Yes  No
- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures?  Yes  No
- In years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies?  Yes  No

#### 115.31 (d)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Policy:

PS 5324.12 and RCH 5324.12 address the requirements of this standard. All BOP employees are considered correctional workers first and all new employees attend training locally and at the Federal Law Enforcement Training Center. The BOP considers all employees to be first responders. The Associate Warden of Medical has been designated as the PREA Compliance Manager and the Associate Warden of Programs or Associate Warden of Operations have been designated as alternate PREA Compliance Managers, when the Associate Warden of Medical is unavailable. PREA training is coordinated by the Psychology Services Department, which formulates local SABP&I policy and is responsible for developing a comprehensive SABP&I lesson plan. Training classes are taught by the Chief of Psychology Services. The PREA Compliance Manager ensures training is received by all employees, contractors and volunteers. Local policy requires supervisory staff from Correctional Services, Psychology Services, Health Services and Reentry Affairs to be directly involved in ensuring all staff, volunteers and contractors are trained on their responsibilities regarding the BOP SABP&I policy.

### Practice(s):

An extensive and comprehensive SABP&I lesson plan was used by the class instructors. The review of facility lesson plans and training logs confirmed that the training provided addressed all elements identified in this standard. Staff acknowledged, in writing, their receipt and understanding of the PREA. The FMC Rochester SABP&I lesson plan was reviewed, as well as signature acknowledgement sheets of training completion and comprehension of the subject matter. The training addressed all the topics identified in the standard, such as zero tolerance, effective communication, definitions of sexual abuse and sexual harassment, relationships with offenders, first responder duties, transgender issues and mandatory reporting, etc. Related education is provided annually during refresher training. The FMC Warden certified that employees receive ongoing PREA training regarding current policies on sexual abuse and sexual harassment. Officers receive additional PREA training/updates at role call and other formal meetings. Other staff are provided PREA information at staff recalls, via e-mails regarding transgender pat search exception cards, and monthly PREA committee meetings. Staff annual training files were reviewed and contained documentation supporting compliance with this standard. All staff interviewed indicated that they received the required PREA training initially and

annually. The extensive training provided to staff and 12 random staff interviews regarding PREA requirements confirm the facility's compliance with Standard 115.31.

## Standard 115.32: Volunteer and contractor training

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

#### 115.32 (a)

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

#### 115.32 (b)

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

#### 115.32 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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### Policy:

PS 5324.12 and RCH 5324.12 address the requirements of Standard 115.32.

### Practice(s):

The auditor's review of a sample of volunteer and contractor PREA training sign-in forms and other documents confirmed that all facility contractors and volunteers have received training related to their responsibilities concerning the PREA (zero tolerance, detection, prevention, response and reporting requirements), during the previous twelve months, and annual refresher training. Interviews with one contractor and three volunteers and a review of supporting documentation confirmed that the training was provided, and that contractors and volunteers understood the agency's zero tolerance policy toward sexual abuse/sexual harassment and their responsibilities under the PREA. A review of the PREA lesson plan for contractor and volunteer training confirmed that the level of instruction is appropriate for the services provided and emphasizes the facility's zero tolerance and reporting policies.

## Standard 115.33: Inmate education

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

### 115.33 (a)

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

### 115.33 (b)

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

### 115.33 (c)

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

### 115.33 (d)

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

#### 115.33 (e)

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

#### 115.33 (f)

- In addition to providing such education, does the agency ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats?  Yes  No

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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#### Policy:

PS 5324.12 and RCH 5324.12 address the requirements of Standard 115.33.

## Practice(s):

During in-processing procedures at FMC Rochester, inmates receive an inmate handbook and a pamphlet describing the agency's PREA compliance program. The inmate handbooks were reviewed by the auditor and found to contain information on the inmate's right to be free of sexual abuse and sexual harassment. The information contained in the handbooks and pamphlets identify the key elements of the program and inform FMC Rochester inmates about the facility's zero tolerance policy toward sexual abuse and sexual assault and the multiple ways to report sexual abuse/sexual harassment. The information also informs the inmates about both male and female employees routinely working in and monitoring the housing units and the expectation of privacy in certain areas of the housing units. The information is available to inmates in English and Spanish. FMC Rochester staff members reiterate the information written in the inmate handbooks by conducting an educational program regarding the PREA for all inmates within 30 days of their arrival. The educational program includes definitions of sexually abusive behavior and sexual harassment, prevention strategies and reporting modalities. The auditor reviewed a sample of inmate files and confirmed that PREA education is received and documented. Thirty inmate interviews confirmed that PREA education is received and understood, including those inmates in "targeted" categories. Inmates at FMC Rochester have access to TRULINCS, a computer program system which also provides PREA information and can be used to report sexual abuse, sexual harassment and retaliation. Staff interpreters and telephonic translation services are available to inmates who are not proficient in English. Members of the unit staff routinely conduct "town hall" meetings (group meetings that provide information and a question/answer session) in the housing units to address issues that may include general informational PREA discussions. A tour of FMC Rochester confirmed that PREA educational posters were prominently displayed in all housing units and common/program areas. Interviews with staff (random and specialized) and an examination of the documentation listed above confirm that the facility meets the requirements mandated in Standard 115.33.

## Standard 115.34: Specialized training: Investigations

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

#### 115.34 (a)

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

#### 115.34 (b)

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

#### 115.34 (c)

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

#### 115.34 (d)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

#### Policy:

PS 5324.12 addresses the requirements of this standard. Agency policy requires facility and agency investigators to be trained in conducting sexual abuse investigations in confinement settings, techniques for interviewing sexual abuse victims and the proper use of Miranda and Garrity Warnings, as well as sexual abuse evidence collection.

**Practice(s):**

The trained investigators are full time employees of the facility. When criminal investigations are indicated, they are conducted by the Federal Bureau of Investigation or the Office of Inspector General.

Six FMC Rochester facility investigators completed NIC-5187BXX, “(PREA) Investigating Sexual Abuse in a Confinement Setting”. The training covers the proper use of Miranda and Garrity Warnings and sexual abuse evidence collection. The BOP’s Office of Internal Affairs investigators have received PREA specialized training through the Department of Justice. FMC Rochester Investigators are also guided by a BOP “Intelligence User’s Guide”. Investigative staff received training information contained in the “PREA Resource Center’s Specialized Training: Investigating Sexual Abuse in Correctional Settings Instructor’s Guide”. Training records also reveal that 19 staff members, representing various institution disciplines, have completed CSV-0601-BXX- (PREA) Investigation and Reporting.

The auditor reviewed specialized training documentation and the BOP Course Completion List for the above-mentioned courses. Interviews with staff and the SIA and a review of documentation confirm that FMC Rochester exceeds the training requirement of this standard.

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

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

**115.35 (a)**

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to detect and assess signs of sexual abuse and sexual harassment?  Yes  No
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to preserve physical evidence of sexual abuse?  Yes  No
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to respond effectively and professionally to victims of sexual abuse and sexual harassment?  Yes  No

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how and to whom to report allegations or suspicions of sexual abuse and sexual harassment?  Yes  No

#### 115.35 (b)

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

#### 115.35 (c)

- Does the agency maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere?  Yes  No

#### 115.35 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.31?  Yes  No
- Do medical and mental health care practitioners contracted by and volunteering for the agency also receive training mandated for contractors and volunteers by §115.32?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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### Policy:

PS 5324.12 addresses the requirements of Standard 115.35.

### Practice(s):

Training records reveal that medical and mental health personnel received training in a specialized course entitled "PREA for Medical and Mental Health Care". All required sections of the course were viewed on video. Training sections covered included detection and assessing signs of sexual abuse and sexual harassment; preserving physical evidence; effective and professional responses; reporting; and understanding sexual trauma in custody. When required, both medical and mental health providers at FMC Rochester are available for immediate call back to the facility during off duty hours.

The auditor's review of medical and mental health personnel training records confirmed that these employees receive the same basic PREA training as correctional officers and understand their duty to report any knowledge of sexual abuse/assault, even when the said information is disclosed during a health care encounter. Further, a review of training records confirmed that all mental health and medical staff have also received specialized training on victim identification, interviewing, reporting and required clinical interventions. Forensic exams, if required, are performed at Mayo Clinic Hospital Emergency Department. Based on the completion of specialized medical training by medical and mental health staff, the facility meets the requirements for specialized training.

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

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

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

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

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

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

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

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

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

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

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes?  Yes  No

#### 115.41 (e)

- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: prior acts of sexual abuse?  Yes  No

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

#### 115.41 (f)

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

#### 115.41 (g)

- Does the facility reassess an inmate's risk level when warranted due to a: Referral?  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to a: Request?  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to a: Incident of sexual abuse?  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to a: Receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness?  Yes  No

#### 115.41 (h)

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

#### 115.41 (i)

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

#### Auditor Overall Compliance Determination

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

## **Instructions for Overall Compliance Determination Narrative**

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### **Policy:**

PS 5324.12 addresses the requirements of Standard 115.41. The procedures require an initial assessment to be completed within 72 hours of admission, by intake staff. Specifically, a sexual victimization/abusiveness screening assessment is completed to determine an inmate's risk of being sexually abused by other inmates or if they are at risk for being sexually abusive toward other inmates. BOP policy requires a re-assessment to be conducted within 30 days of the intake screening, based on new information and, as necessary, in response to alleged incidents of sexual abuse. BOP policy prohibits inmates being disciplined for refusing to answer screening questions or for not disclosing complete information, during the screening process. Information received, during the screening process, is deemed confidential and only available to staff with a need-to-know and never to other inmates.

### **Practice(s):**

All inmates are immediately assessed for a history of sexual abusiveness and risk of sexual victimization, during the in-processing procedures performed in the Intake Department at FMC Rochester. Staff members use the "PREA Intake Objective Screening Instrument" to assess at least 14 screening variables. Additionally, staff members use the BOP "Intake Screening Form" to assess other correctional intake screening variables. The above screening instruments gauge the propensity for abusiveness or victimization. The screening tools consider all identified criteria as per standard 115.41. FMC Rochester conducts an affirmative re-assessment on all admissions via the 14-day Psychology Services Intake process, regardless of the status of new information. The auditor reviewed a sample of cases of inmates housed for at least 30 days to determine if initial risk assessments and 30-day re-assessments were conducted in a timely manner. The auditor reviewed documentation contained in the risk screenings and re-assessments and determined that screenings for victimization and abusiveness were conducted in compliance with the standards. As observed on-site, a member of the inmate's housing unit team (case manager or counselor) screens all new arrivals within the first 72 hours of the inmate's arrival, but this activity ordinarily occurs on the day of arrival. The auditor's review of screening documents confirmed that inmates identified as being at risk for sexual victimization or at risk of sexually abusing other inmates were referred to a mental health professional and all received further assessment. The screening process also includes the review of records or information from other facilities. A unit team member reviews all relevant information received from other facilities and continues to re-assess an inmate's risk level within 30 days of his arrival. Based on specialized staff and

random inmate interviews, a review of documentation, such as the BOP Intake Screening Form and the PREA Intake Screening Objective Instrument, and observations of the intake process, FMC Rochester is in compliance with Standard 115.41.

## Standard 115.42: Use of screening information

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

#### 115.42 (a)

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

#### 115.42 (b)

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

#### 115.42 (c)

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

health and safety, and whether a placement would present management or security problems?  
 Yes  No

**115.42 (d)**

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

**115.42 (e)**

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

**115.42 (f)**

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

**115.42 (g)**

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: lesbian, gay, and bisexual inmates in dedicated facilities, units, or wings solely on the basis of such identification or status?  Yes  No
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: transgender inmates in dedicated facilities, units, or wings solely on the basis of such identification or status?  Yes  No
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status?  Yes  No

**Auditor Overall Compliance Determination**

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

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### **Policy:**

PS 5324.12 and RCH 5324.12 address the requirements of Standard 115.42. The policies require risk screening information to be used to determine housing, bed assignments, work assignments, and education and program assignments. Policy requires these determinations for various assignments to be made on a case-by-case basis. Staff members assigned to conduct intake screening have been provided additional training and resource materials. FMC Rochester inmates at risk for victimization or perpetration of sexually abusive behavior, based on screenings pursuant to 115.41, or at any time new information becomes available, will be referred to Psychology Services for an assessment of treatment and management needs. FMC Rochester inmates with a serious sexual predation history are required to be referred for monitoring purposes. If an inmate is identified as being at risk of sexual victimization, the Psychologist will use all relevant information to recommend housing, bed, work, and education and program assignments. The goal is to keep an inmate at high risk of being sexually victimized from those at high risk of being sexually abusive.

For inmates with moderate risk of victimization, mental health personnel will notify the unit team and correctional staff of Psychology Services' recommendations for housing and level of supervision required for work and education assignments. Inmates deemed at high risk of victimization may receive a recommendation from Psychology Services for temporary housing in the Special Housing Unit to keep them separate from inmates who are at high risk of being sexually abusive, until Correctional Services and Correctional Programs staff can assess their appropriateness for general population. Notwithstanding the medical designation of any potential victim or abuser, FMC Rochester staff members are responsible for monitoring housing assignments for sexual abusive inmates. FMC Rochester staff members conduct routine monthly assessments regarding housing assignments and safety concerns at meetings focused on issues such as high-risk victim/abuser placements. During these meetings, decisions are made, among other issues, concerning transgender or intersex housing assignments. FMC Rochester determines housing and programming assignments for transgender or intersex inmates on a case-by-case basis and careful consideration is given to all assignments, to include whether a placement would ensure the inmate's health and safety and whether the placement would present management or security problems. Placement and programming assignments for each transgender or intersex inmate are re-assessed at least once every six months. BOP policy states that a transgender or intersex inmate's own views, with respect to his own safety, are to be given serious consideration, when making these assignments. Transgender and intersex inmates are given the opportunity to shower, dress and use toilet facilities separately from other inmates.

### **Practice(s):**

The auditor reviewed case management categories related to monitoring an offender's victimization or abusiveness profiles and PREA decisions, as a result of intake screenings pursuant to 115.41. Interviews were conducted with 30 inmates, inclusive of LGBTI inmates, those who were reported victimization at screening, or later, as well as random selectees. Staff interviews and supporting documentation indicated that medical and mental health personnel meet on a regular basis to assess the status of any inmate thought to be at risk of victimization or inmates who are exhibiting institutional adjustment problems. The interview with the PREA Compliance Manager confirmed that an inmate's identification as transgender or intersex is not the sole criteria for placement in a specific housing unit. Based on the auditor's observations, during the on-site tour, FMC Rochester does not have dedicated housing units for transgender offenders. A sampling of transgender cases was conducted to determine if safety and security assessments were conducted at least twice per year. Based on this review, all assessments were documented. Interviews with staff, an examination of documentation/policy confirm FMC Rochester is compliant with the requirements mandated in Standard 115.42

## Standard 115.43: Protective Custody

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

### 115.43 (a)

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

### 115.43 (b)

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible?  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Privileges to the extent possible?  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Education to the extent possible?  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible?  Yes  No

- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The opportunities that have been limited?  Yes  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The duration of the limitation?  Yes  No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The reasons for such limitations?  Yes  No

#### 115.43 (c)

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

#### 115.43 (d)

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

#### 115.43 (e)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

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

**Policy:**

5270.10 (Special Housing Units) and PS 5324.12 address the requirements of Standard 115.43. PS 5324.12 states inmates at high risk of sexual victimization shall not be placed in involuntary segregated status unless an assessment of all available alternatives has been made and there are no available means of separating the inmate from the abuser.

**Practice(s):**

The FMC Rochester Warden certified that there were no cases that alleged sexual victimization or deemed at high risk of victimization held in involuntary segregated housing within the last 12 months. The FMC Special Housing Unit and the Mental Health Seclusion Unit houses administrative, disciplinary and protective custody cases. The auditor toured the segregated housing units, during the on-site audit. Interviews with supervisory staff confirmed that, to the extent possible, access to programs, privileges, education and work opportunities are not restricted for inmates placed in a SHU for the purpose of protective custody due to victimization issues, except when there are safety or security concerns. FMC Rochester uses form BP-A1002 to document reasons for segregated housing placement, in lieu of general population placement, for inmates who have alleged sexual victimization or have been identified as being at high risk of victimization at the time of screening. A “Safeguarding of Inmates Alleging Sexual Abuse/Assault Allegation Form” is completed, when applicable, to document all appropriate alternatives for safeguarding alleged inmate victims. Mental health and unit staff meet with each inmate placed in SHU at least once each week. Interviews with staff (random and specialized), during the on-site audit, and an examination of supporting documentation confirm staff’s understanding of Standard 115.43. For the audit period, FMC Rochester certified that there were no applicable cases related to this standard. During the on-site audit, a review of the SHU documentation confirmed the facility’s compliance with this standard.

**REPORTING**

**Standard 115.51: Inmate reporting**

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

**115.51 (a)**

- Does the agency provide multiple internal ways for inmates to privately report: Sexual abuse and sexual harassment?  Yes  No
  
- Does the agency provide multiple internal ways for inmates to privately report: Retaliation by other inmates or staff for reporting sexual abuse and sexual harassment?  Yes  No

- Does the agency provide multiple internal ways for inmates to privately report: Staff neglect or violation of responsibilities that may have contributed to such incidents?  Yes  No

#### 115.51 (b)

- Does the agency also provide at least one way for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency?  Yes  No
- Is that private entity or office able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials?  Yes  No
- Does that private entity or office allow the inmate to remain anonymous upon request?  Yes  No
- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security?  Yes  No

#### 115.51 (c)

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

#### 115.51 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

**Policy:**

PS 5324.12 and RCH 5324.12 address the requirements of this standard. The Program Statement requires any staff member who becomes aware of sexually abusive behavior to immediately notify the Operations Lieutenant and follow the “Guide for First Responders”. The policies require all staff to immediately document any allegation. Established procedures allow the family and friends of inmates to report sexual abuse/sexual harassment by using the BOP website, sending an e-mail or making a phone call to the Office of Inspector General or contacting facility staff. BOP policy and supplemental information such as the BOP intranet site for the PREA provide links for staff use to assist in providing counseling to inmates on their reporting options.

**Practice(s):**

Admission and Orientation (A&O) Handbooks provided to all inmates at FMC Rochester address, in a comprehensive manner, all methods for reporting sexual abuse and sexual harassment. The information is printed in English and Spanish. As observed in all housing units and common areas throughout the FMC, displayed notices reflect the BOP’s zero tolerance toward sexually abusive behavior, as well as reporting procedures. A review of documentation indicated that there are multiple ways available to inmates for reporting sexual abuse or sexual harassment, to include writing the Warden or Regional Director; filing an administrative remedy; writing or emailing the OIG; and third-party reporting. Emailing capability is accessed via TRULINCS, a computer program system which also provides PREA information. Through TRULINCS, the inmate can contact the Office of Inspector General anonymously and the email is untraceable at the institution level. During the tour of the FMC, a sufficient number of TRULINCS computers were observed in each housing unit. The tour of the facility also confirmed that there were numerous posters on display explaining sexual abuse/sexual harassment reporting procedures. The posters on display, as well as information in all FMC handbooks, also addressed how an inmate could contact an entity outside of the agency for support. The FMC provides confidential support via a contractual agreement with the “Olmsted County Community Corrections Victim Services Sexual Assault Program”. This support group’s hotline telephone number was contained in the FMC inmate A&O handbooks. However, the local victim advocacy hotline telephone number was not conspicuously posted in the housing units and corrective action was required.

All staff interviewed (random and specialized) affirmed they would accept reports of sexual abuse/sexual harassment from inmates made verbally, in writing, anonymously and from third parties. In addition, the same staff confirmed that they would promptly document any form of reporting and immediately notify their superior, while keeping the inmate safe. All inmates randomly sampled during the on-site audit confirmed that they were aware of multiple methods of how to report sexual abuse/assault allegations. Inmates at FMC Rochester are not detained solely for civil immigration purposes. Interviews with staff and inmates and an examination of supporting documentation confirm the FMC’s compliance with Standard 115.51.

**Standard 115.52: Exhaustion of administrative remedies**

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

**115.52 (a)**

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

**115.52 (b)**

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

**115.52 (c)**

- Does the agency ensure that: An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the agency ensure that: Such grievance is not referred to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.)  Yes  No  NA

**115.52 (d)**

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

### 115.52 (e)

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

### 115.52 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes    No    NA
- After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.)  
 Yes    No    NA
- After receiving an emergency grievance described above, does the agency provide an initial response within 48 hours? (N/A if agency is exempt from this standard.)  Yes    No    NA
- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)  
 Yes    No    NA
- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes    No    NA
- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes    No    NA
- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes    No    NA

### 115.52 (g)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

#### Policy:

PS 5234.12, PS 1330.18 and RCH 1330.18a (Administrative Remedy Program) address the requirements of Standard 115.52. Agency policy reveals that FMC Rochester is not exempt from this standard. Grievances (administrative remedies) filed alleging sexual abuse/sexual harassment would result in the immediate opening of a formal investigation. The policy states that there is no time limit for filing a grievance relating to sexual abuse or sexual harassment. Additionally, the policy does not require an inmate to use any informal grievance process before filing an allegation involving sexual abuse/sexual harassment. Policy requires that a decision on the merits of any portion of a grievance alleging sexual abuse be made within 90 days of the filing.

Agency policies allow an inmate to submit a grievance alleging sexual abuse without submitting it to the staff member who is the subject of the complaint. Allegations of physical abuse by staff shall be referred to the Office of Internal Affairs, in accordance with procedures established for such referrals.

PS 1330.18 also addresses the filing of emergency administrative remedy requests. If an inmate files the emergency grievance with the institution and believes he/she is under a substantial risk of imminent sexual abuse, an expedited response is required to be provided within 48 hours. Best efforts are made to provide the BOP's Regional Office and Central Office expedited appeal responses within five calendar days. If an inmate reasonably believes the issue is sensitive and the inmate's safety or well-being would be placed in danger if the remedy became known at the institution, the inmate may submit the remedy directly to the appropriate BOP Regional Office. There is no prohibition that limits third parties, including

fellow inmates, staff members, family members, attorneys and outside advocates, in assisting inmates in filing requests for grievances relating to allegations of sexual abuse or filing such requests on behalf of inmates.

**Practices:**

A review of documentation related to grievances indicated that there were no grievances filed alleging sexual abuse within the applicable 12-month audit period. There were zero grievances alleging sexual abuse/sexual harassment filed within the last twelve months that resulted in disciplinary action; zero grievances in which the inmate declined third party assistance; and there were no emergency grievances alleging a substantial risk of imminent sexual abuse. By way of a memorandum from the Warden, during the past twelve (12) months, there were no instances of an inmate submitting a grievance alleging sexual abuse, which required an extension. Based on a review of governing policies and certifying documentation submitted via the Warden, FMC Rochester is in compliance with Standard 115.52.

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

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

**115.53 (a)**

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations?  Yes  No
- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies?  Yes  No
- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible?  Yes  No

**115.53 (b)**

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

**115.53 (c)**

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

- Does the agency maintain copies of agreements or documentation showing attempts to enter into such agreements?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

#### Policy:

PS 5324.12 and RCH 5324.12 address the requirements of Standard 115.53. The facility does not house detainees solely for civil immigration purposes. FMC Rochester's policy establishes that in the event of an alleged sexual assault, medical, psychological, social, and protective services will be initiated immediately. This includes the involvement of a multi-disciplinary team of staff representing Correctional Services, Unit Management and other supportive program disciplines as needed. Alleged victims are to be offered supportive services by trained victim advocacy staff. Services are available to alleged victims whether they name an alleged perpetrator or whether they cooperate with the investigation. Upon request, an alleged victim will be accompanied by supportive services throughout the forensic exam and investigative process. All victims of sexually abusive behavior may request victim advocacy services from a local rape crisis center (RCC).

#### Practice(s):

FMC Rochester has entered into a Gratuitous Service Agreement (GSA) with the Victim Services Sexual Assault Program for Olmsted County (RCC), for providing inmates with emotional support services related to sexual abuse. The provision of this agreement was verified by the auditor. Facility staff members, including mental health treatment providers, have also been trained as victim advocates. Inmates are informed as part of their orientation process that all telephone calls, except properly placed legal calls, are subject to monitoring and recording. All mail, except for "special/legal" mail, is subject to monitoring as well. Offenders at FMC Rochester are provided information regarding the availability of victim advocacy services. The information is provided in English and Spanish in A&O handbooks. Some housing units required postings to be placed in a conspicuous manner as part of

corrective measures. Informational PREA pamphlets detailing victim advocacy services are issued upon the inmate's arrival. All FMC A&O Handbooks provide the address and hotline phone number of the RCC. FMC Rochester enables reasonable communication between inmates and outside victim advocacy organizations and agencies in as confidential a manner as possible. A review of GSA and confirmation of services, in addition to on-site interviews with staff and inmates, confirm the facility's compliance with Standard 115.53.

## Standard 115.54: Third-party reporting

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

#### 115.54 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

The BOP publication "Sexually Abusive Behavior Prevention and Intervention- An overview for Offenders", FMC Rochester Admission and Orientation Handbooks, PREA posters throughout the facility, the posted Office of Inspector General address, and the BOP website ([www.bop.gov](http://www.bop.gov)) address the requirements of the standard. The website and posted notices (inside living units and visiting rooms) inform third party reporters on how to report allegations of sexual abuse/sexual harassment. During the on-site audit, interviews with staff and inmates confirmed that they have a sufficient understanding that anonymous and third-party reporting procedures are acceptable sexual abuse/sexual harassment reporting practices at FMC Rochester.

# OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

## Standard 115.61: Staff and agency reporting duties

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

### 115.61 (a)

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

### 115.61 (b)

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

### 115.61 (c)

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

### 115.61 (d)

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

### 115.61 (e)

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

## Auditor Overall Compliance Determination

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

### **Instructions for Overall Compliance Determination Narrative**

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

#### **Policy:**

PS 5324.12 and PS 3420.11 address the requirements of Standard 115.61. All staff must report information concerning incidents or possible incidents of sexual abuse or sexual harassment to the Operations Lieutenant or, where appropriate, in accordance with the policy on Standards of Employee Conduct. Staff members are instructed to provide a written follow-up memorandum to the Operations Lieutenant to document such a report, in accordance with the collective bargaining agreement. The Operations Lieutenant notifies the PREA Compliance Manager. Allegations of inmate-on-inmate and inmate-on-staff sexual abuse must be entered in TRUIINTEL via the Report of Incident Form (BP-A0583).

In addition to reporting the information, staff intervene, as appropriate (e.g., writing an incident report), in behaviors that may subsequently lead to an incident of sexual abuse. The information concerning the identity of the alleged inmate victim and the specific facts of the case are limited to staff who need-to-know, because of their involvement with the victim's welfare and the investigation of the incident. Staff must report and respond to allegations of sexually abusive behavior, regardless of the source of the report (e.g., "third party").

The Institution PREA Compliance Manager refers the incident for investigation to the appropriate office and reviews the incident for any further response.

#### **Practice(s):**

Interviews with employees, contractors and volunteers confirmed that all were aware of and understood their reporting duties and responsibilities. Additionally, facility compliance with all aspects of Standard 115.61 was verified through document and policy review. FMC Rochester does not house inmates under the age of 18.

### **Standard 115.62: Agency protection duties**

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

## 115.62 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Policy:

PS 5324.12 addresses the requirements of Standard 115.62. When an agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate. In cases where the alleged perpetrator is another inmate, the Operations Lieutenant is notified and immediately safeguards the inmate. This could include monitoring the situation, changing housing assignments, changing work assignments, or placing the alleged victim and perpetrator in Special Housing. The Operations Lieutenant promptly refers all inmates reported or suspected of being the victim of sexually abusive behavior to Psychology Services for assessment of vulnerability and treatment needs. The Operations Lieutenant also notifies the Institution PREA Compliance Manager.

If the alleged perpetrator is a staff member, all options for safeguarding the inmate should be considered. The decisions made to safeguard the inmate should take the impact on staff members into account, in accordance with the collective bargaining agreement. Removal from the facility is considered an extreme measure and other options include the staff member's reassignment to another unit or post.

If the alleged perpetrator is an inmate and a staff member is the subject of abuse or harassment, all options for safeguarding the staff member should be considered. Options should include reassignment of the inmate to another housing unit/Special Housing Unit, writing an incident report and criminal prosecution, etc., if appropriate, in accordance with the

Program Statements relative to the Inmate Discipline Program and Special Housing Units, as well as other options that will effectively separate the inmate from the staff member.

**Practice(s):**

Random and specialized staff interviews confirmed they were all aware of their responsibilities when they become aware or suspect that an inmate is being or has been sexually abused or sexually harassed. Both random and specialized staff interviewed indicated they would act immediately to protect the inmate by separating and protecting the victim from the abuser, isolating the area (as a potential crime scene to preserve evidence) where the act allegedly occurred and calling the Operations Lieutenant for immediate assistance. When notified, the Operations Lieutenants being interviewed stated they would further protect the victim, notify medical and mental health staff and advise the Institution Duty Officer of the incident. During the audit period, the FMC Rochester Warden certified that there were no inmates subjected to a substantial risk of imminent sexual abuse. Interviews with staff and an examination of supporting documentation confirm the facility's compliance with Standard 115.62.

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

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

**115.63 (a)**

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

**115.63 (b)**

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

**115.63 (c)**

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

**115.63 (d)**

- Does the facility head or agency office that receives such notification ensure that the allegation is investigated in accordance with these standards?  Yes  No

**Auditor Overall Compliance Determination**

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

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

### Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

#### Policy:

PS 5324.12 addresses the requirements of Standard 115.63. Policy requires the reporting of any PREA related allegation by an inmate that occurred at another facility. The Warden at the inmate's current facility is required to notify the Warden (or equivalent or designee) of the previous facility where the incident was to have occurred and an investigation is to be initiated. When an inmate reports sexual abuse/sexual harassment from state, non-Bureau privatized facilities, jails, juvenile facilities and Residential Reentry Centers (half-way houses), the Warden contacts the appropriate office of the facility and/or notifies the Privatization Management or the Residential Reentry Management Branch of the BOP, if appropriate. The notification is to occur as soon as possible, but always within 72 hours of receiving the allegation.

#### Practice(s):

Documentation revealed that facility staff members were informed of allegations occurring at other facilities by three inmates. Upon receipt of the allegations, related supporting documentation reveals that notification letters were forwarded to the Warden/agency head of the prior facility within 72 hours. The supporting documentation was reviewed and found to be in accordance with the required notification timeframes. Interviews with the Warden and IPCM confirm their understanding of the notification and documentation requirements of this standard.

## Standard 115.64: Staff first responder duties

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

#### 115.64 (a)

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Separate the alleged victim and abuser?  
 Yes  No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence?  Yes  No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth,

changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence?  Yes  No

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

#### 115.64 (b)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

#### Policy:

PS 5324.12 addresses the requirements of Standard 115.64. Staff members are required to use the "Safeguarding of Inmates Alleging Sexual Abuse/Assault Allegations Form" (BP-A1002) to document first responder post sexual abuse allegations actions. Staff members are to immediately safeguard the inmate victim when sexually abusive behaviors have been reported. Additionally, staff should assess and consider all appropriate alternatives for safeguarding alleged inmate victims, as well as consider alternatives to protective custody, or transfer, and document why alternatives were not feasible.

#### Practice(s):

All interviewed security staff and those who can act as first responders were knowledgeable concerning their responsibilities as a first responder and the actions required, when learning of an allegation of sexual abuse/sexual harassment. All security and first responder staff

interviewed, during the on-site audit, indicated they would separate the inmates, secure the area as a crime scene, not allow inmates to destroy any physical evidence and contact the Operations Lieutenant. The Operations Lieutenant would continue to protect the inmate, notify medical and mental health staff, the Emergency Response Team and executive staff only. Within the last year, there were eight reported incidents in which security staff responded and separated the alleged victims and abusers. The facility reported 21 instances in which staff members were notified within a period that still allowed for the collection of physical evidence. In these instances, the first security staff to respond preserved and protected any potential crime scene, requested the alleged victim not take any actions that could destroy evidence and ensured the alleged abuser did not take any actions that could destroy evidence. Interviews with staff and an examination of supporting documentation confirmed FMC Rochester's compliance with Standard 115.64.

## Standard 115.65: Coordinated response

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

#### 115.65 (a)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

#### Policy:

PS 5324.12 and RCH 5324.12 address the requirements of this standard. The "Guide for First Responders/Operations Lieutenant When Approached with an Inmate Allegation of Sexual Abuse or Harassment" Form is used to provide guidance to employees regarding the expected coordinated actions to take place in response to an incident of sexual

abuse/sexual harassment. Additionally, "One Source First Responder Reference Guide and Sexual Assault Crisis Intervention Checklist", a product of the above policies outlining sequential steps, with which staff must be familiar, is used to guide coordinated responses to sexual assaults.

**Practice(s):**

Lieutenants use the above referenced guide and PREA checklist to aid in their response to allegations of sexual abuse/sexual harassment. The policies and information provide direction to security, medical/mental health practitioners, investigators, staff and community victim advocates, community service providers (SANE) and facility leadership. RCH 5324.12 provides very detailed coordinated response instructions for staff use and the sequential steps are outlined in the "One Source First Responder Reference Guide". The investigative and prosecution phase of the coordinated response plan includes information regarding the inclusion of attending psychologist or psychiatrist interviews, when allegations of sexual abuse are made by mental health patients. Staff (specialized and random) and service providers interviewed confirmed that they were knowledgeable regarding their responsibilities in the event of a coordinated response. Additionally, an examination of documentation in eight first responder cases supports the facility's compliance to Standard 115.65.

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

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

**115.66 (a)**

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

**115.66 (b)**

- Auditor is not required to audit this provision.

**Auditor Overall Compliance Determination**

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

## Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

The Master Agreement covering July 21, 2014 thru July 20, 2017, Article 30 (Disciplinary and Adverse Actions), Section G, and the Local Supplemental Agreement between AFGE, Council of Prison Locals (Locals 33, Local 3947) and the Bureau of Prisons FMC Rochester, dated June 17, 2015, were examined by the auditor and found to comply with Standard 115.66. The agreements do not limit the agency's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted. The FMC Warden and IPCM certified that neither the agency nor any other governmental entity responsible for collective bargaining on the agency's behalf shall enter into or renew any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted. There has not been a change in collective bargaining agreements since the last PREA audit in 2014.

## Standard 115.67: Agency protection against retaliation

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

#### 115.67 (a)

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

#### 115.67 (b)

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

#### 115.67 (c)

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct

and treatment of residents or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff?  Yes  No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any inmate disciplinary reports?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate housing changes?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff?  Yes  No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need?  Yes  No

#### 115.67 (d)

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

#### 115.67 (e)

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

#### 115.67 (f)

- Auditor is not required to audit this provision.

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Policy:

PS 5324.12 and RCH 5324.12 address the requirements of Standard 115.67. BOP and local policy direct the FMC in monitoring and protecting an inmate or staff person from retaliation. The agency and facility prohibit any type of retaliation against any staff member or inmate who has reported sexual abuse, sexual harassment or cooperated in any related investigation. The Associate Warden/IPCM and Chief of Psychology Services have oversight in directing retaliation monitoring efforts. The attending psychologists are the retaliation monitors.

### Practice(s):

During the on-site audit, files were examined to determine if retaliation monitoring was documented. The examination revealed that monitoring contacts are noted in investigative files. A very comprehensive and detailed report is included in all investigative files, describing post allegation follow-up. The attending psychologist consults with the unit team and conducts monthly status checks on inmates who have alleged sexual abuse/ sexual harassment. Documentation related to retaliation status checks is also maintained in the Psychology Data System. All retaliation variables are monitored for at least 90 days, as appropriate. Any evidence of retaliation is reported to the SIA or Operations Lieutenant. Facility compliance with Standard 115.67 was determined by a review of policy and investigative files and interviews with the IPCM, the Chief of Psychology Services and the SIA.

## Standard 115.68: Post-allegation protective custody

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

### 115.68 (a)

- Is any and all use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse subject to the requirements of § 115.43?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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#### **Policy:**

PS 5324.12 addresses the requirements of Standard 115.68. BOP policy requires staff to assess and consider all appropriate alternatives for safeguarding alleged inmate victims of sexual abuse/sexual harassment. Staff must first consider other alternatives based on the circumstances of the allegation before considering the placement of an inmate in protective custody (SHU), in another housing unit or transferring the inmate to another federal correctional facility. To aid in that decision, policy requires the facility to complete the BOP's Safeguarding of Inmates Alleging Sexual Abuse/Assault Allegation Form. The form serves to document consideration of all options. Interviews with staff and the tour of the facility confirmed that there are usually viable alternatives to placing alleged victims of sexual abuse/sexual harassment in involuntary segregated housing (SHU). To the extent possible, access to programs, privileges, education and work opportunities are not limited for inmates placed in the SHU for the purposes of protective custody. The facility would document the reasons for restricting access and the length of time the restrictions would last.

#### **Practice(s):**

The FMC Rochester Warden certified that, for the applicable period, no alleged victims were placed in protective housing solely because of a sexual abuse allegation. The Warden certified that, in all identified cases, alternative means were identified to alleviate the need to place alleged victims or identified victims in secure housing. If needed, a Safeguarding of Inmates Alleging Sexual Abuse/Assault Allegation Form (BP-A1002) was executed upon the implementation of the PREA protocol. Investigative staff completed the form, and each was endorsed by the Warden. The BP-A1002 Form is retained as part of the investigative file. Facility compliance with this standard was determined by a review of policy and investigative file documentation and staff interviews.

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

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

#### 115.71 (a)

- When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, does it do so promptly, thoroughly, and objectively? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.21(a).]  Yes  No  NA
- Does the agency conduct such investigations for all allegations, including third party and anonymous reports? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.21(a).]  Yes  No  NA

#### 115.71 (b)

- Where sexual abuse is alleged, does the agency use investigators who have received specialized training in sexual abuse investigations as required by 115.34?  Yes  No

#### 115.71 (c)

- Do investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data?  Yes  No
- Do investigators interview alleged victims, suspected perpetrators, and witnesses?  
 Yes  No
- Do investigators review prior reports and complaints of sexual abuse involving the suspected perpetrator?  Yes  No

#### 115.71 (d)

- When the quality of evidence appears to support criminal prosecution, does the agency conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution?  Yes  No

#### 115.71 (e)

- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as inmate or staff?  Yes  No
- Does the agency investigate allegations of sexual abuse without requiring an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding?  Yes  No

#### 115.71 (f)

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse?  Yes  No
- Are administrative investigations documented in written reports that include a description of the physical evidence and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings?  Yes  No

#### 115.71 (g)

- Are criminal investigations documented in a written report that contains a thorough description of the physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible?  Yes  No

#### 115.71 (h)

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

#### 115.71 (i)

- Does the agency retain all written reports referenced in 115.71(f) and (g) for as long as the alleged abuser is incarcerated or employed by the agency, plus five years?  Yes  No

#### 115.71 (j)

- Does the agency ensure that the departure of an alleged abuser or victim from the employment or control of the agency does not provide a basis for terminating an investigation?  Yes  No

#### 115.71 (k)

- Auditor is not required to audit this provision.

#### 115.71 (l)

- When an outside entity investigates sexual abuse, does the facility cooperate with outside investigators and endeavor to remain informed about the progress of the investigation? (N/A if an outside agency does not conduct administrative or criminal sexual abuse investigations. See 115.21(a).)  Yes  No  NA

#### Auditor Overall Compliance Determination

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

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

### **Instructions for Overall Compliance Determination Narrative**

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#### **Policy:**

PS 5324.12 addresses the requirements of the Standard 115.71. The facility investigators (SIS) may conduct administrative investigations within the institution. When an allegation appears to be criminal in nature, the FMC investigative office, in conjunction with the BOP's Office of Internal Affairs and the FMC Warden, will refer the incident to the FBI for a criminal investigation, if the investigation involves an inmate-on-inmate allegation. Staff-on-inmate criminal investigations are conducted by the Office of Inspector General. FBI or OIG investigators consult with the Assistant U.S. Attorney, when necessary. If the FBI or OIG substantiates the allegation, the case is referred to the local U.S. Attorney for possible prosecution.

#### **Practice(s):**

The FMC had a total of 21 allegations that required investigation, during the audit period. There were 10 unsubstantiated allegations and 11 unfounded allegations. Eleven of the 21 closed allegations received a full protocol investigation. An interview with the SIA and a review of investigative files reveal the uniform evidence protocols were used. Where applicable, investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data. A review of investigative files revealed interviews are conducted with the alleged victim, suspected perpetrator and potential witnesses. The FMC involves the participation of attending psychology and psychiatric staff to assist in filtering out behavioral diagnostic factors impacting the characterization of some allegations made by the mental health population. Summaries of post allegation psychology encounters for alleged victims and abusers are included in the investigative files. The investigators review prior complaints of sexual abuse involving the suspected perpetrator. Based on interviews, when the quality of evidence appears to support criminal prosecution, the agency conducts compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

The on-site interviews also revealed that the credibility of an alleged victim, suspect, or witness is assessed on an individual basis and not determined by the person's status. FMC Rochester investigators do not require alleged victims to submit to a polygraph examination or similar process. All administrative investigations were documented in written reports which included a

description of the physical and testimonial evidence, the assessments, and investigative facts and findings. The FMC Rochester investigative office retains all written reports. Interviews revealed the departure of perpetrators or victims from employment or confinement at the FMC does not provide a basis for terminating the investigation. Facility compliance with Standard 115.71 was determined by a review of policy, investigative files and supporting documentation, as well as interviews with SIA and PREA Compliance Manager.

## Standard 115.72: Evidentiary standard for administrative investigations

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

#### 115.72 (a)

- Is it true that the agency does not impose a standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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### Policy:

PS 5324.12 addresses the requirements of Standard 115.72. According to established policy, for administrative investigations, the agency imposes no standard higher than the preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. The policy meets the requirements of the standard.

### Practice(s):

A review of sample investigative files and the basis for their conclusions reveal that the outcomes are based on no higher standard than the preponderance of the evidence. The SIA in charge of investigations was aware of the required evidentiary standard in determining whether allegations of sexual abuse/sexual harassment are substantiated.

## Standard 115.73: Reporting to inmates

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

#### 115.73 (a)

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

#### 115.73 (b)

- If the agency did not conduct the investigation into an inmate's allegation of sexual abuse in an agency facility, does the agency request the relevant information from the investigative agency in order to inform the inmate? (N/A if the agency/facility is responsible for conducting administrative and criminal investigations.)  Yes  No  NA

#### 115.73 (c)

- Following an inmate's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The staff member is no longer posted within the inmate's unit?  Yes  No
- Following an inmate's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The staff member is no longer employed at the facility?  Yes  No
- Following an inmate's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The agency learns that the staff member has been indicted on a charge related to sexual abuse in the facility?  Yes  No
- Following an inmate's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility?  Yes  No

#### 115.73 (d)

- Following an inmate's allegation that he or she has been sexually abused by another inmate, does the agency subsequently inform the alleged victim whenever: The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility?  Yes  No

- Following an inmate's allegation that he or she has been sexually abused by another inmate, does the agency subsequently inform the alleged victim whenever: The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility?  
 Yes  No

#### 115.73 (e)

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

#### 115.73 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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#### Policy:

PS 5324.12 and the PREA Tracking Log, address the requirements of Standard 115.73. The governing policy requires FMC Rochester to notify an inmate of the results of an investigation of inmate-on-inmate sexual abuse allegations. When the allegation involves staff, the inmate is to be informed if the staff member is no longer posted within their housing unit, is no longer employed at FMC Rochester, if the staff member was indicted on a charge related to sexual abuse within the facility or the agency learned that the staff member was convicted on a charge related to sexual abuse within the facility.

#### Practice(s):

FMC Rochester conducts administrative investigations, when needed. There were 21 closed investigations involving allegations of sexual abuse/sexual harassment reported, during the audit period. Ten cases were found to be unsubstantiated and 11 cases were deemed to be unfounded. Eleven of the 21 above referenced investigations received a full protocol, meaning, based on post allegation preliminary interviews, it was determined that the allegation

warranted further investigation. A review of investigative files reveals that, in all full protocol cases, inmates were informed of the decision related to their allegation. FMC Rochester reported that no investigations were completed by an outside agency and that there were no substantiated or unsubstantiated allegations of sexual abuse committed by a staff member, during the audit period. Facility compliance with Standard 115.73 was determined by a review of policy and investigative documentation and staff interviews.

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

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

#### 115.76 (a)

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

#### 115.76 (b)

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

#### 115.76 (c)

- Are disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories?  Yes  No

#### 115.76 (d)

- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Law enforcement agencies (unless the activity was clearly not criminal)?  Yes  No
- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Relevant licensing bodies?  Yes  No

#### Auditor Overall Compliance Determination

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

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

### **Instructions for Overall Compliance Determination Narrative**

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#### **Policy:**

PS 3420.11 and PS 5324.12 address the requirements of Standard 115.76. All employees are subject to administrative disciplinary sanctions for violating agency sexual abuse/sexual harassment policies. The Collective Bargaining Agreement between the Federal Bureau of Prisons and the Council of Prison Locals, American Federation of Government Employees, allows for disciplinary sanctions against staff, including termination, for the sexual abuse/sexual harassment of an inmate. All terminations for violations of agency sexual abuse/sexual harassment policies, or resignations by staff in lieu of termination, may be reported to criminal investigators and to any relevant professional, certifying, or licensing agencies, unless the activity was clearly not criminal.

#### **Practice(s):**

During the audit period, two allegations alleged staff perpetrators. Based on the preliminary investigation and input from attending mental health staff, a full investigative protocol was not required, and the allegations were deemed unfounded. FMC Rochester certified that there were no cases, during the audit period, of staff discipline or terminations for violation of sexual abuse policies. Facility compliance with this standard was determined by a review of policy and documentation and staff interviews.

### **Standard 115.77: Corrective action for contractors and volunteers**

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

##### **115.77 (a)**

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with inmates?  Yes  No
- Is any contractor or volunteer who engages in sexual abuse reported to: Law enforcement agencies (unless the activity was clearly not criminal)?  Yes  No
- Is any contractor or volunteer who engages in sexual abuse reported to: Relevant licensing bodies?  Yes  No

## 115.77 (b)

- In the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, does the facility take appropriate remedial measures, and consider whether to prohibit further contact with inmates?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

#### Policy:

PS 3420.11 and PS 5324.12 address the requirements of standard 115.77. Any contractor or volunteer who engages in sexual abuse/sexual harassment would be prohibited from contact with inmates and would be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. In the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, the facility would take appropriate remedial measures and consider whether to prohibit further contact with inmates.

#### Practice(s):

During the audit period, by certification of the Warden, there were no reports of sexual abuse by contractors or volunteers for violating agency sexual abuse/sexual harassment policies during the period covered by the audit. The Warden also certified there were no remedial measures warranted against contractors or volunteers for violating agency sexual abuse or sexual harassment policies. FMC Rochester's compliance with Standard 115.77 was determined by a review of BOP policies and the Warden's certification, as well as interviews with the Human Resource Manager and PREA Compliance Manager.

## Standard 115.78: Disciplinary sanctions for inmates

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

**115.78 (a)**

- Following an administrative finding that an inmate engaged in inmate-on-inmate sexual abuse, or following a criminal finding of guilt for inmate-on-inmate sexual abuse, are inmates subject to disciplinary sanctions pursuant to a formal disciplinary process?  Yes  No

**115.78 (b)**

- Are sanctions commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories?  Yes  No

**115.78 (c)**

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

**115.78 (d)**

- If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, does the facility consider whether to require the offending inmate to participate in such interventions as a condition of access to programming and other benefits?  Yes  No

**115.78 (e)**

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

**115.78 (f)**

- For the purpose of disciplinary action does a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred NOT constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation?  Yes  No

**115.78 (g)**

- Does the agency always refrain from considering non-coercive sexual activity between inmates to be sexual abuse? (N/A if the agency does not prohibit all sexual activity between inmates.)  Yes  No  NA

**Auditor Overall Compliance Determination**

- Exceeds Standard** (*Substantially exceeds requirement of standards*)

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

### **Instructions for Overall Compliance Determination Narrative**

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### **Policy:**

PS 5270.09, Inmate Discipline Program and PS 5324.12 address the requirements of this standard. The Inmate Discipline Program defines sexual assault of any person, involving non-consensual touching by force or threat of force, as the greatest severity level prohibited act. The program identifies engaging in sexual acts and making sexual proposals or threats to another as a high severity level prohibited act. Consensual sex or sexual harassment of any nature is prohibited and will result in discipline. Consensual sex between inmates does not constitute sexual abuse. Sanctions are 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.

Inmates are subject to disciplinary sanctions pursuant to the formal disciplinary process defined in the Inmate Discipline Program. The BOP does not discipline inmates who make an allegation in good faith, even if an investigation does not establish evidence sufficient to substantiate the allegation. The disciplinary process considers whether an inmate's mental disabilities, mental illness or behavioral issues contributed to the inmate's behavior when determining what type of sanction, if any, should be imposed. If mental disabilities or mental illness is a factor, the facility considers the offer of therapy, counseling or other interventions designed to address and correct underlying reasons or motivations for the abuse.

### **Practice(s):**

There were no substantiated findings of inmate sexual abuse or inmates being disciplined for sexual abuse for the applicable audit period. Interviews with the SIA and the IPCM, proper policy guidance, the Warden's certification that there were no substantiated cases of sexual abuse and a review of investigative files confirmed FMC Rochester's compliance with this standard.

## MEDICAL AND MENTAL CARE

### Standard 115.81: Medical and mental health screenings; history of sexual abuse

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

#### 115.81 (a)

- If the screening pursuant to § 115.41 indicates that a prison inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening?  Yes  No

#### 115.81 (b)

- If the screening pursuant to § 115.41 indicates that a prison inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening? (N/A if the facility is not a prison.)  Yes  No  NA

#### 115.81 (c)

- If the screening pursuant to § 115.41 indicates that a jail inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening?  Yes  No

#### 115.81 (d)

- Is any information related to sexual victimization or abusiveness that occurred in an institutional setting strictly limited to medical and mental health practitioners and other staff as necessary to inform treatment plans and security management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law?  Yes  No

#### 115.81 (e)

- Do medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18?  Yes  No

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)

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

### **Instructions for Overall Compliance Determination Narrative**

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

#### **Policy:**

PS 5324.12, medical and mental health screening instruments, a review of risk instruments and inmate and intake staff interviews address the requirements of standard.

#### **Practice(s):**

The facility has a comprehensive system for collecting medical and mental health information relevant to the PREA and has the capacity to provide continued re-assessment and follow-up services. Information is maintained in the Psychology Services Department in an electronic note system (BEMR), as confirmed by interviews with medical, mental health and specialized staff. The review of Psychology Services' "Risk of Sexual Victimization" and "Risk of Sexual Abusiveness" Forms confirmed that inmates who disclosed prior victimization during intake screening or have a history or propensity to be sexually abusive were offered a follow-up screening with medical or mental health staff within fourteen days. The screening is usually completed on the same day or within three days. Treatment services are offered without financial cost to the inmate. As confirmed by observation and a review of intake screening documents, screening for prior sexual victimization in any setting is conducted by unit staff, during in-processing procedures. In-processing procedures also screen for previous sexually assaultive behavior in an institutional setting or in the community. When indicated, inmates are offered a follow-up meeting with a mental health practitioner within fourteen days of the intake screening process.

FMC Rochester's Warden certified that, during a 12-month period ending March 9, 2018, twenty-six (100%) of inmates who disclosed prior victimization during screening were offered follow-up mental health services. During the same 12-month period, thirty-one (100%) of inmates identified during screening as having previously perpetrated sexual abuse were offered follow-up mental health services. Information related to sexual victimization or abusiveness is limited to medical and mental health practitioners and other staff with a need-to-know for determining treatment plans, security, housing, work, program assignments and management decisions. Signed and dated informed consent forms are obtained from inmates before reporting prior sexual victimization that did not occur in an institutional setting. FMC Rochester does not house inmates under the age of 18. Facility compliance with Standard

115.81 was determined by a review of policy and documentation and staff and inmate interviews.

## Standard 115.82: Access to emergency medical and mental health services

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

#### 115.82 (a)

- Do inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment?  
 Yes  No

#### 115.82 (b)

- If no qualified medical or mental health practitioners are on duty at the time a report of recent sexual abuse is made, do security staff first responders take preliminary steps to protect the victim pursuant to § 115.62?  Yes  No
- Do security staff first responders immediately notify the appropriate medical and mental health practitioners?  Yes  No

#### 115.82 (c)

- Are inmate victims of sexual abuse offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate?  Yes  No

#### 115.82 (d)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?  
 Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's

conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

**Policy:**

PS 5324.12 and PS 6031.04 address the requirements of Standard 115.82.

**Practices:**

The facility medical and mental health personnel provide services to the FMC. Medical personnel are available 24 hours per day, seven days a week and are available for consultation or call-back. Mental health providers are on-site five days per week and are also available for call-back on off duty hours. Inmate victims of sexual abuse receive timely, unimpeded access to emergency medical/mental health treatment and crisis intervention services at FMC Rochester or are transported to a hospital in the community when health care needs exceed the level of care available within the FMC. Victim advocacy is offered through community providers or trained staff members. There is no financial cost to the inmate for any sexual abuse related medical or mental health care or victim advocacy service, regardless of whether the victim names the abuser or cooperates with the incident investigation. There were no allegations of sexual abuse that required referral for forensic evidence collection by a SANE during the applicable audit period. Inmate victims of sexual abuse, while incarcerated, are offered information about and timely access to information on sexually transmitted infection prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. Facility compliance with this standard was determined by a review of policy and documentation and interviews with a Charge Nurse at Mayo Clinic Hospital, a Sexual Abuse Nurse Examiner provider. The contractual agreement with “Olmsted County Community Corrections Victim Services Sexual Assault Program” provides victim advocacy services, as needed.

**Standard 115.83: Ongoing medical and mental health care for sexual abuse victims and abusers**

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

**115.83 (a)**

- Does the facility offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility?  Yes  No

**115.83 (b)**

- Does the evaluation and treatment of such victims include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody?  Yes  No

**115.83 (c)**

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

**115.83 (d)**

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

**115.83 (e)**

- If pregnancy results from the conduct described in paragraph § 115.83(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if all-male facility.)  Yes  No  NA

**115.83 (f)**

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

**115.83 (g)**

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?  Yes  No

**115.83 (h)**

- If the facility is a prison, does it attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners? (NA if the facility is a jail.)  Yes  No  NA

**Auditor Overall Compliance Determination**

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

**Instructions for Overall Compliance Determination Narrative**

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

**Policy:**

PS 5324.12 addresses the requirement of Standard 115.83. As confirmed by a review of policies, the facility may offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup or juvenile facility. Inmates are also re-evaluated within 30 days of admission to the facility. The evaluation and treatment of such victims includes follow-up services. The facility would arrange for referrals for continued care following their transfer to or placement in other facilities or after their release from custody. The facility has staffed its medical and mental health departments and offers sexual abuse victims with medical and mental health services consistent with the standard of care available in the community.

**Practice(s):**

FMC Rochester is an all-male facility. There were no substantiated cases of sexual abuse, during the applicable audit period. During the on-site audit, it was verified that ongoing medical and mental health follow-up is provided to alleged victims, while incarcerated. Testing for sexually transmitted infections are offered as medically appropriate. Treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. Mental health evaluations are conducted on all known inmate-on-inmate abusers at least within 14 days of learning of such abuse history, but usually immediately, when staff members become aware of this information. When appropriate, treatment is offered by mental health practitioners. Facility compliance with this standard was determined by a review of policy and documentation and specialized staff (medical and mental health) interviews.

**DATA COLLECTION AND REVIEW**

**Standard 115.86: Sexual abuse incident reviews**

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

**115.86 (a)**

- Does the facility conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded?  Yes  No

**115.86 (b)**

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

#### 115.86 (c)

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

#### 115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse?  Yes  No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility?  Yes  No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse?  Yes  No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts?  Yes  No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff?  Yes  No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager?  
 Yes  No

#### 115.86 (e)

- Does the facility implement the recommendations for improvement, or document its reasons for not doing so?  Yes  No

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

**Policy:**

PS 5324.12, an on-site review of tracking logs, review of administrative investigation files and facility memorandums all address the requirements of this standard.

**Practice(s):**

Administrative and/or criminal investigations are completed on all allegations of sexual abuse/sexual harassment. The facility investigators and/or the FBI/OIG/OIA conduct all investigations. Interviews with the SIA, the Chief of Psychology Services and the IPCM confirmed that they were knowledgeable concerning the requirements of the incident review facet of the PREA. The facility conducts a sexual abuse incident review after every sexual abuse full protocol investigation, unless the allegation was determined to be unfounded. The Incident Review Team consists of the IPCM, the Chief of Psychology Services, the Captain, the Associate Warden-Programs, the Health Services Administrator, the SIS and the SIA. Based on a review of the investigative files, an incident review was conducted on the 10 unsubstantiated cases. The review was conducted within 30 days of the conclusion of the investigation and consideration was given as to whether the incident was motivated by race, ethnicity, gender identity, and status or gang affiliation. The team also decides whether additional monitoring technology or staffing should be added to enhance inmate supervision. The facility implemented the recommendations for improvement or documented its reasons for not doing so. The facility installed five additional cameras based on incident review recommendations. FMC Rochester's compliance with this standard was determined by a review of policy and other pertinent supporting documentation, a review of investigative files and interviews with the Warden, SIA, Chief of Psychology Services and the IPCM.

**Standard 115.87: Data collection**

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

**115.87 (a)**

- Does the agency collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions?  Yes  No

**115.87 (b)**

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

### 115.87 (c)

- Does the incident-based data include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice?  Yes  No

### 115.87 (d)

- Does the agency maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews?  Yes  No

### 115.87 (e)

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

### 115.87 (f)

- Does the agency, upon request, provide all such data from the previous calendar year to the Department of Justice no later than June 30? (N/A if DOJ has not requested agency data.)  Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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PS 5324.12 addresses the requirements of Standard 115.87. As confirmed by a review of supporting documentation, the facility collects accurate, uniform data for every allegation of sexual abuse/sexual harassment by using a standardized instrument. The agency tracks information concerning sexual abuse using data from the facility's Special Investigative Services (SIS) Department, the agency's Office of Internal Affairs and SENTRY, the BOP's computerized data management program. The data collected includes the information necessary to answer all questions from the most recent version of the Survey of Sexual Violence, conducted by the Department of Justice. The agency aggregates and reviews all

data annually. Upon request, the agency would provide all such data from the previous calendar year to the Department of Justice no later than June 30. Agency compliance with this standard was also determined by a review of policy and tracking documentation and staff interviews.

## Standard 115.88: Data review for corrective action

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

#### 115.88 (a)

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole?  Yes  No

#### 115.88 (b)

- Does the agency's annual report include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse?  Yes  No

#### 115.88 (c)

- Is the agency's annual report approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means?  Yes  No

#### 115.88 (d)

- Does the agency indicate the nature of the material redacted where it redacts specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility?  Yes  No

### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)

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

### Instructions for Overall Compliance Determination Narrative

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PS 5324.12 addresses the requirements of Standard 115.88. The Bureau of Prisons and the institution reviews and assesses all sexual abuse/sexual harassment data at least annually to improve the effectiveness of its sexual abuse prevention, detection and response policies, to identify any trends, issues or problematic areas and to take corrective action, if needed. The IPCM forwards data to the respective BOP Regional PREA Coordinator and then to the National BOP PREA Coordinator. An Annual Report is prepared and placed on the BOP website. The Annual Report was reviewed by the auditor. The report can be found at the following website address: [www.bop.gov](http://www.bop.gov). Facility compliance with Standard 115.88 was determined by a review of policy, a review of data and staff interviews.

## Standard 115.89: Data storage, publication, and destruction

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

#### 115.89 (a)

- Does the agency ensure that data collected pursuant to § 115.87 are securely retained?  
 Yes  No

#### 115.89 (b)

- Does the agency make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means?  Yes  No

#### 115.89 (c)

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

#### 115.89 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

PS 5324.12 addresses the requirement of Standard 115.89. The National PREA Coordinator reviews data compiled by each BOP facility, from SENTRY, from each Regional PREA Coordinator, from the Information, Policy, and Public Affairs Division of the BOP, and from the Office of Internal Affairs and issues a report to the Director on an annual basis. Facility data is maintained in locked files or on computer databases that are user ID and password protected. Agency PREA data is securely retained and is published on the BOP website after removing all personal identifying information. The required reports cover all data required in this standard and are retained in a file. Agency compliance with this standard was determined by a review of policy and documentation and staff interviews concerning data protection practices.

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

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

#### 115.401 (a)

- During the three-year period starting on August 20, 2013, and during each three-year period thereafter, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (N/A before August 20, 2016.)  
 Yes  No  NA

#### 115.401 (b)

- During each one-year period starting on August 20, 2013, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited?  Yes  No

#### 115.401 (h)

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

#### 115.401 (i)

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

#### 115.401 (m)

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

#### 115.401 (n)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

This is the second PREA audit for FMC Rochester. The last agency PREA audit was conducted in May 2015. The auditor was allowed access to all areas of the facility and had access to all required supporting documentation. FMC Rochester also allowed the auditor to conduct private interviews with both inmates and staff. Document submittals were reviewed for the applicability to the PREA standards. Interview results were cross-referenced to physical and documentary evidence. The Warden's certification of compliance statements was

analyzed and compared to actual available data. Corrective actions taken by the facility were related to physical plant modifications rather than defects in internal controls or non-performance issues.

## Standard 115.403: Audit contents and findings

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

### 115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. In the case of single facility agencies, the auditor shall ensure that the facility's last audit report was published. The pendency of any agency appeals pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.)  Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

FMC Rochester has fully implemented all policies, practices and procedures outlined in the PREA standards. The auditor reviewed applicable standards and, through the review of supporting documentation, interviews with staff and inmates and the observation of physical evidence, concluded that this facility fully meets and substantially complies in all material ways with the PREA standards for the relevant review period. The agency has posted all audit reports on its website within ninety days of their completion. The public has access to reporting mechanisms and BOP PREA trends data via the BOP website. FMC Rochester currently meets all applicable standards and no additional corrective actions are required.

## AUDITOR CERTIFICATION

I certify that:

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

### Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.<sup>1</sup> Auditors are not permitted to submit audit reports that have been scanned.<sup>2</sup> See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

Donald Chadwick

07/22/2018

**Auditor Signature**

**Date**

<sup>1</sup> See additional instructions here: <https://support.office.com/en-us/article/Save-or-convert-to-PDF-d85416c5-7d77-4fd6-a216-6f4bf7c7c110>.

<sup>2</sup> See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.