

PREA Audit: PREA AUDITOR'S SUMMARY REPORT

Community Confinement Facilities

Name of facility: MonDay Community Correctional Institution
Physical address: 1951 S. Gettysburg Ave. Dayton, Ohio 45408
Date report submitted: November 30, 2014

Auditor Information

Name: Michelle Bonner
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Date of facility visit: July 9-10, 2014

Facility Information

Facility mailing address: (if different from above) Same
Telephone number:

The facility is: State

Facility Type Other community correctional facility

Name of Facility Head: Michael J. Flannery
Title: Facility Director
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Name of Facility PREA Coordinator: Ruby Galpin
Title: Accreditations Manager/PREA Coordinator
Email address: rgalpin@mondaycbcf.com
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Agency Information**Name of Agency:****Governing authority or parent agency:** (if different from above)**Ohio Department of Rehabilitation and Correction (ODRC)****Telephone number:****Agency Chief Executive Officer****Name:****Gary C. Mohr****Title:****Director****Email address:****Gary.Mohr@odrc.state.oh.us****Telephone number:****614-752-1164****Agency-Wide PREA Coordinator****Name:****Andrew Albright****Title:****Chief, Bureau of Agency Policy and Operational Compliance****Email address:****Andrew.Albright@odrc.state.oh.us****Telephone number:****614-752-1708****AUDIT FINDINGS****NARRATIVE:** [The auditor should provide a summary of the audit process that includes the date of audit, who was in attendance, a description of sampling procedures and staff and residents interviewed, areas of facility toured as part of the audit, etc.]

Michelle Bonner, an independent contractor certified by the United States Department of Justice (DOJ) to conduct audits of community confinement facilities to assess their compliance with the DOJ-adopted standards of the Prison Rape Elimination Act of 2003 (PREA), conducted an onsite audit of MonDay Community Correctional Institution (hereinafter, "MonDay"), 1951 S. Gettysburg Ave. Dayton, Ohio 45408, on July 9-10, 2014. MonDay serves six surrounding counties, and is located in Montgomery County, Ohio. During the audit, 195 residents were present at the facility, 69 of whom were women; and the facility employed 79 staff members who had contact with residents.

MonDay is one of nineteen community based correctional facilities (CBCF's) in the state of Ohio. Ohio's Bureau of Community Sanctions, Ohio Department of Rehabilitation and Corrections (ODRC), defines CBCF's as "residential sanctions that provide local

Courts of Common Pleas a sanctioning alternative to prison. Each program is highly structured with assessment, treatment, and follow-up services for offenders. CBCFs provide intensive substance abuse treatment/education, educational services, job training, mental health and transitional services to the community.”¹ The CBCF’s employ cognitive behavioral techniques (CBT) in their programming.² MonDay was the first CBCF, opening in 1978; and it has been the model for other subsequent state CBCF’s, providing chemical dependency treatment, mental health counseling, case management, and vocational and educational assistance.

MonDay is the second of nine CBCF’s for which Auditor Bonner conducted audits in July 2014, through a memorandum of understanding (MOU) between the auditor and CorJus, a nonprofit coalition of many of the CBCF’s in the state of Ohio. MonDay’s Facility Director Michael Flannery contacted Auditor Bonner in March 2014 and acted as liaison between CorJus and Auditor during MOU negotiations. While ORDC provides partial to complete funding of these CBCF’s to serve multi-county regions of the state, the CBCF’s each stand alone as distinct agencies, with their own facility governing boards, staff, policies and procedures, and their individual PREA policies and implementation. Auditor Bonner is providing separate reports for each of the nine facilities, according to their individual audits.

Auditor Bonner arrived at MonDay at 8:40am on Wednesday, July 9, 2014. There she was greeted by Accreditations Manager and PREA Coordinator Ruby Galpin. In the administration area’s conference room Auditor Bonner was also met by Facility Director Michael Flannery, Assistant Director David Bell, Clinical Manager Tracy Atkinson, and Financial Manager Denny Van Arsdale. The brief opening meeting started with introductions, a description and history of the facility, and a description of the onsite audit process. Then the smaller group (minus Clinical Manager and Finance Manager) conducted a complete and thorough tour of the entire facility. The tour consisted of examining all rooms, offices, closets, restrooms, and exits of the men’s wing, women’s wing, programming area, intake areas, segregation cells, control centers, kitchen and dining areas, recreation areas, maintenance and administration areas.

During the course of the two days, in addition to speaking with staff and residents during the tour, Auditor Bonner conducted one-on-one interviews with the following staff for specialized staff and general staff inquiries:

- Facility Director
- Accreditations Manager/PREA Coordinator
- Assistant Director
- Finance Manager
- Clinical Manager
- 2 Human Resource Specialists
- Maintenance Supervisor

¹ Annual Report 2014, Bureau of Community Sanctions, Christopher Galli, Chief, Ohio Department of Rehabilitation and Correction, p. 3.

² *Id.*, p. 8.

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- Nurse Supervisor
 - Operations Coordinator/PREA Investigator
 - 4 Resident Leaders
 - Volunteer

Auditor Bonner also met individually with 14 residents, 6 of whom were female residents. Residents were chosen by their mention in investigation reports, by housing locations ("pods", which are made by criminal risk assessments), phase in program, and sexual identity. During the two-day audit, Auditor Bonner conducted document review which included review of employee files (including new hires, terminations, spot check of five year background checks and promotions), security logs, PREA assessments/reassessments/designation documents, PREA investigation files, staff/volunteer training logs/acknowledgements, employee training materials, resident orientation verifications and materials, PREA specialized training certificates, resident grievance log, PREA forms and data logs. Auditor was onsite for 13 hours on July 9 and 12 hours on July 10. Near the end of the second day, Auditor held a closeout session with the same staff present at the opening session, during which she shared some of her immediate observations.

DESCRIPTION OF FACILITY CHARACTERISTICS: [The auditor should include a summary describing the facility.]

MonDay consists of two buildings, one for male facility and the other for female facility. The tour started in Building 2, where administration, male dorms, and male programming are located. Administration allows residents to clean this area, so there are cameras along the administration hall and on entry door to Building 2. PREA signage for third party reporting is near this entry door, where visitors enter. The hall with clinical offices also is covered by a camera; and there must be at least two clinicians working there for residents to be allowed back there. There are cameras in group room, training room, and multipurpose rooms. Staff and residents are never in the elevator together; and only staff are allowed in Stairwell 1, where there is no camera. MonDay installed a camera at the bottom of the stairwell that is now fully functional as of the second week of September 2014. There is a mirror to assist in monitoring.

The male building has two floors, with four dorms or "pods" on each floor surrounding an open dayroom. On the first floor with pods 1-4 for lower risk residents, there is the Control Room looking on to the day room. The Control Room is staffed 24 hours a day. This floor and pods closer to the Control Room are more conducive for those residents who might be at risk of being abused. Pods 5-8 (RSAT pod #5 and higher risk resident pods) are on the second floor. The pods each have 24-26 beds, in the form of bunks. Each floor also has a smaller room ("2A" and "6A") with only two beds, to be used as either honor beds or for safety placement. The pods have night lights for better night monitoring. The restrooms have separate showers with curtains with clear tops. Toilet stalls have short blue curtains to see feet. MonDay installed cameras in each pod and in resident restrooms which were fully functionally by the second week of September 2014.

Each floor has a library, which is monitored by a wide angled camera. Each dayroom had 4 cameras covering the floor. The pay phones in day area have stickers with the ODRC PREA hotline code *9732#, and the facility posted additional PREA signage in these areas. Right now, there are just PREA signs on a post in the center of each dayroom. The laundry rooms have camera coverage. Each floor has signs notifying residents that female staff will be on floors during the day, and that female staff will announce from 8pm to 7am and during shower time. There is no camera covering the entry door to the second floor day room area. However, the area is visible by day room floor staff, and the facility will consider a camera for this area in future requests for cameras. The second floor control room is not used. There is a segregation room used for medical purposes or to isolate a person exiting the facility due to disciplinary reasons. The fenced recreation yard is covered by pan/tilt/zoom camera.

Building 1 contains the kitchen/dining area and female facility. Stairwell 3, which male residents use to go to dining, is covered by a camera and mirror, as well as cameras on each end of the hall leading to dining. The kitchen is covered by two cameras and mirrors. There are also two cameras in the dining area; and a camera where deliveries are made. There is a cubby area in the dining room, sometimes used to store chairs and tables, which was empty at the time of the audit and not covered by a camera or mirror. After exploring options to address this blind spot, the facility determined that the most expedient, least expensive fix was to reposition a current camera to provide a view of that area.

The female dayroom has four cameras and a mirror by the stairwell door. There was only one visible PREA sign downstairs in dayroom at the time of the audit; but the facility has since added four additional PREA signs throughout. The laundry room has a camera and mirror behind the machines, along with a locked door blocking access to this area behind the machines. Women's clinicians' offices are located in the dayroom area. There is also a camera in the hall of the female medical area, with a mirror in the hall as well. Cameras are in female classrooms and group room.

The female dorm area consists of six dorms with half-walls. There are mirrors in the sleeping areas; and there is a night watch office that is staffed at night. The dorms are upstairs from the dayroom; and staff have proposed a camera for the stairwell between the two floors. The female recreation yard and female intake area are each covered by cameras.

Also in Building 2 is a large cubicle area for administration (finance), human resources, and screening staff. The hallways in this area are covered by cameras, and residents are only allowed back there after business for cleaning.

SUMMARY OF AUDIT FINDINGS: [The auditor should include a summary statement of the overall audit findings. E.g.: On March 1, 2013 X number of site visits were completed at facility XYZ in X County, Maryland. The results indicate....Facility X exceeded X of standards; met X of standards; X of standards were not met.]

Monday Community Correctional Institution was the first community based correctional facility in Ohio, starting in 1978. It has been the model for other CBCF's to follow in the state; and now it is a leader in PREA implementation in the state as well. Facility Director Michael Flannery reached out to Auditor Bonner in late February 2014 to arrange its first PREA audit. Then the facility

corroborated with eight other members of CorJus, a nonprofit association of Ohio CBCF's to be part of a "round-robin" auditing calendar during the summer of 2014, the first summer of PREA audits for community confinement facilities.

Ruby Galpin, Accreditations Manager and PREA Coordinator, is also setting an example in writing and implementing PREA policies. Based directly on the PREA standards, yet taking into account the facility's policies and populations, MonDay's policies and procedures are an excellent example to other CBCF's.

During the tour, facility management was open and receptive to Auditor's recommendations to eliminate blind spots and increase PREA signage throughout the facility. The facility does a great job of keeping male and female resident populations separate, through the design of the physical plant and scheduling of dining and other activities where their paths might otherwise cross. It has an effective staffing plan; and it proposed additional cameras to its existing 78, to provide camera coverage inside the dorms and restroom areas. This camera increase has been approved, and the facility installed cameras in each pod and in resident restrooms.

MonDay has put much thought and effort into training its staff and residents on PREA. Staff actually enjoyed their PREA training, part of which was a PREA Jeopardy game. All staff interviewed actually wanted the two hour annual training to be longer and for all staff to be able to participate in all three training stations, including video training on pat-downs for security staff. Intake staff reads PREA information to residents as she meets with them one-on-one during intake. She breaks down complicated terms like "retaliation" to simple terms like "get-back behavior." She has tried different PREA orientation videos in response to residents' comments on them. Although there is not presently a rape crisis center in Montgomery County, intake staff provides a list of resources from neighboring areas for sexual assault victims.

Residents have expressed their comfort in reporting sexual abuse and sexual harassment by reporting allegations to facility staff without hesitation. In the past 12 months there have been 2 sexual abuse allegations and 5 sexual harassment allegations. Unfortunately, 2 sexual harassment allegations were repeat allegations against alleged perpetrators in prior allegations. The staff recognized as special PREA investigators have since received additional training, particularly regarding required standard of proof (preponderance of the evidence) and objectivity in considering the parties and allegations. Also, a clear protocol has been arranged so that operations staff are not investigating their colleagues when sexual abuse or sexual harassment claims are made against them.

The PREA Standards for Community Confinement Facilities were just finalized May 14, 2014; and MonDay has just started implementing the PREA standards in earnest starting this spring. However, MonDay has come a long way in finalizing its policies and procedures and educating staff and residents on PREA. PREA Coordinator Ruby Galpin, who volunteered for this role, and who has had a long military career prior to joining MonDay, is sure to keep this facility on the right track to superior PREA implementation.

Number of standards exceeded:	3
Number of standards met:	35
Number of standards not met:	0
Number N/A:	1

FOLLOWING INFORMATION TO BE POPULATED AUTOMATICALLY FROM AUDITOR COMPLIANCE TOOL:

PREVENTION PLANNING

Overall Determination: §115.211 - Zero tolerance of sexual abuse and sexual harassment; PREA coordinator.

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

Auditor Comments (including corrective actions needed if does not meet standard):

(a) The facility has a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment in facilities it operates directly or under contract. The facility has a written policy outlining how it will implement the facility's approach to preventing, detecting, and responding to sexual abuse and sexual harassment. The policy includes definitions of prohibited behaviors regarding sexual abuse and sexual harassment. The policy includes sanctions for those found to have participated in prohibited behaviors. The policy includes a description of facility strategies and responses to reduce and prevent sexual abuse and sexual harassment of residents. P&P 3.9.

(b) The facility employs or designates an upper-level, facility-wide PREA coordinator.

The PREA coordinator has sufficient time and authority to develop, implement, and oversee facility efforts to comply with the PREA standards in all of its community confinement facilities. The position of the PREA coordinator in the facility's organizational structure: Accreditations Manager, reports directly to Facility Director. Ms. Galpin has had a military career; and is she is very procedure-oriented.

Overall Determination: **§115.212 - Contracting with other entities for the confinement of residents.**

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

Auditor Comments (including corrective actions needed if does not meet standard):

Overall Determination: **§115.213 - Supervision and monitoring.**

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

Auditor Comments (including corrective actions needed if does not meet standard):

(a) The facility develops and documents a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring to protect residents against sexual abuse. Since August 20, 2012, the average daily number of residents and on which the staffing plan was predicated was 210.

(b) There have been no deviations from the staffing plan. P&P 3.1 and 4.4.

Overall Determination: §115.215 - Limits to cross-gender viewing and searches.

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

Auditor Comments (including corrective actions needed if does not meet standard):

- (a) The facility DOES NOT conducts cross-gender strip or cross-gender visual body cavity searches of residents.
- (b) The facility does not permit cross-gender pat-down searches of female residents, absent exigent circumstances. The facility does not restrict female residents' access to regularly available programming or other outside opportunities in order to comply with this provision.
- (c) Facility policy does not require that all cross-gender strip searches and cross-gender visual body cavity searches be documented because none are conducted.
Facility policy does not require that all cross-gender pat-down searches of female residents be documented because none are conducted. Male and female staff are on duty at all times. P&P 3.1 and 4.4.
- (d) Facility has implemented policies and procedures that enable residents to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks (this includes viewing via video camera).
Policies and procedures require staff of the opposite gender to announce their presence when entering a resident housing unit.
- (e) Facility has a policy prohibiting staff from searching or physically examining a transgender or intersex resident for the sole purpose of determining the resident's genital status.
- (f) All security staff received training on conducting cross-gender pat-down searches and searches of transgender and intersex residents in a professional and respectful manner, consistent with security needs.

Overall Determination: **§115.216 - Residents with disabilities and residents who are limited English proficient**

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

Auditor Comments (including corrective actions needed if does not meet standard):

(a) The facility has established procedures to provide disabled residents equal opportunity to participate in or benefit from all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

(b) The facility has established procedures to provide residents with limited English proficiency equal opportunity to participate in or benefit from all aspects of the facility's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

(c) Facility policy prohibits use of resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties under § 115.264, or the investigation of the resident's allegations. P&P 3.9.

Overall Determination: **§115.217 - Hiring and promotion decisions.**

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

Auditor Comments (including corrective actions needed if does not meet standard):

(a) Facility policy prohibits hiring or promoting anyone who may have contact with residents and prohibits enlisting the services of any contractor who may have contact with residents who:

- Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);
- Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or

implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or

- Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.

(b) Facility policy requires the consideration of any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents.

(c) Facility policy requires that before it hires any new employees who may have contact with residents, it (1) conducts criminal background record checks, and (2) consistent with federal, state, and local law, makes 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.

In the past 12 months, all 15 persons hired who may have contact with residents have had criminal background record checks.

(d) Facility policy requires that a criminal background record check be completed before enlisting the services of any contractor who may have contact with residents. In the past 12 months, criminal background record checks were conducted on all staff covered in by contract who might have contact with residents.

(e) Facility policy requires that either criminal background record checks be conducted at least every five years for current employees and contractors who may have contact with residents or that a system is in place for otherwise capturing such information for current employees.

(f) The facility asks all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. The facility also imposes upon employees a continuing affirmative duty to disclose any such misconduct.

(g) Facility policy states that material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

(h) Unless prohibited by law, the facility shall 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.
P&P 3.9.

Overall Determination:	§115.218 - Upgrades to facilities and technology.
	<p>Exceeds Standard (substantially exceeds requirement of standard)</p> <p>✓ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)</p> <p>Does Not Meet Standard (requires corrective action)</p> <p>Auditor Comments (including corrective actions needed if does not meet standard):</p>

(a) The facility has not acquired a new facility or made a substantial expansion or modification to existing facilities since August 20, 2012.

(b) The facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012. The facility has 78 cameras, and has proposed 18 more for dorm and restroom areas.

RESPONSIVE PLANNING	
Overall Determination:	§115.221 - Evidence protocol and forensic medical examinations
	<p>Exceeds Standard (substantially exceeds requirement of standard)</p> <p>✓ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)</p> <p>Does Not Meet Standard (requires corrective action)</p> <p>Auditor Comments (including corrective actions needed if does not meet standard):</p>

(a) The facility is responsible for conducting administrative sexual abuse investigations (including resident-on-resident sexual abuse or staff sexual misconduct). Montgomery County Sheriff's Office or Dayton Police Department has responsibility for conducting criminal investigations. When conducting a sexual abuse investigation, the facility investigators follow a uniform evidence protocol.

(b) The protocol was adapted from or otherwise based on the most recent edition of the DOJ's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011.

(c) The facility offers to all residents who experience sexual abuse access to forensic medical examinations. Forensic medical

examinations are offered without financial cost to the victim. Where possible, examinations are conducted by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) at Miami Valley Hospital. When SANEs or SAFEs are not available, a qualified medical practitioner performs forensic medical examinations. The facility documents efforts to provide SANEs or SAFEs.

In the past 12 months, one forensic medical exam was conducted and performed by SANE/SAFE.

(d) The facility does not attempt to make a victim advocate from a rape crisis center available to the victim, either in person or by other means, because there is no rape crisis center in the Dayton area. As a rape crisis center is not available to provide victim advocate services, the facility provides a qualified staff member from Victim Witness Services Division of the Montgomery County Prosecutor's Office (MOU obtained for these services) or a qualified facility staff member who has been trained to be a PREA victim advocate.

(e) If requested by the victim, a victim advocate, qualified facility staff member, or qualified community-based organization staff member accompanies and supports the victim through the forensic medical examination process and investigatory interviews and provides emotional support, crisis intervention, information, and referrals.

(f) The facility is not responsible for investigating criminal allegations of sexual abuse and relies on Montgomery County Sheriff's Office or Dayton Police Department to conduct these investigations. The facility has requested that the responsible agency follow the requirements of paragraphs §115.221 (a) through (e) of the standards.

Overall Determination: §115.222 - Policies to ensure referrals of allegations for investigations.

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

Auditor Comments (including corrective actions needed if does not meet standard):

(a) The facility ensures that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment (including resident-on-resident sexual abuse and staff sexual misconduct). In the past 12 months, 2 allegations of sexual abuse and 5 sexual harassment that were received; 6 resulting in an administrative investigation; and one referred for criminal investigation. All administrative and criminal investigations were completed.

(b) The facility has a policy that requires that allegations of sexual abuse or sexual harassment be referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal

behavior. Facility policy regarding the referral of allegations of sexual abuse or sexual harassment for criminal investigation is published on the facility website or made publicly available via other means.

The facility documents all referrals of allegations of sexual abuse or sexual harassment for criminal investigation.

(c) Such publication describes the responsibilities of both the facility and the investigating entity.

TRAINING AND EDUCATION	
Overall Determination:	§115.231 - Employee training.
	<p>✓ Exceeds Standard (substantially exceeds requirement of standard) Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) Does Not Meet Standard (requires corrective action)</p> <p>Auditor Comments (including corrective actions needed if does not meet standard): MONDAY TRAINERS CREATED A "PREA JEOPARDY" FOR ITS STAFF TRAINING. TRAINING FROM PRC, NIC, POLICY, PREA MANUAL, DRC PAT-DOWN VIDEO, INFO FROM MANAGERS. TRAINING INCLUDED HOW TO USE PREA MANUAL AND FLOW CHART, AS WELL AS (1) THROUGH (10), BELOW. TRAINING WAS 2 HOURS. SOME COMMENTS WERE THAT THE TRAINING COULD HAVE BEEN A BIT LONGER. COULD ONLY CHOOSE 2 OF 3 STATIONS, BUT SOME WANTED TO GO TO ALL THREE: PREA JEOPARDY, MOCK INTERVIEWS BASED ON PROTOCOLS AND PAT-DOWN VIDEO.</p>

(a) The facility trains all employees who may have contact with residents on the following matters.

- (1) Its zero-tolerance policy for sexual abuse and sexual harassment;
- (2) How to fulfill their responsibilities under facility sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
- (3) Residents' rights to be free from sexual abuse and sexual harassment;
- (4) The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
- (5) The dynamics of sexual abuse and sexual harassment in confinement;

- (6) The common reactions of sexual abuse and sexual harassment victims;
- (7) How to detect and respond to signs of threatened and actual sexual abuse;
- (8) How to avoid inappropriate relationships with residents;
- (9) How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents; and
- (10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

(b) Training is tailored to the gender of the residents at the facility. Employees who are reassigned from facilities housing the opposite gender are given additional training.

(c) All staff employed by the facility, who may have contact with residents, were trained or retrained in PREA requirements. Between trainings, the facility provides employees who may have contact with residents with refresher information about current policies regarding sexual abuse and sexual harassment through emails and department meeting trainings. The frequency with which employees who may have contact with residents receive refresher training on PREA requirements is at least annually.

(d) The facility documents that employees who may have contact with residents understand the training they have received through employee signature or electronic verification.

P&P 3.9.3

Overall Determination: **§115.232 - Volunteer and contractor training**

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

Auditor Comments (including corrective actions needed if does not meet standard):

- (a) All volunteers and contractors who have contact with residents have been trained on their responsibilities under the facility's policies and procedures regarding sexual abuse/harassment prevention, detection, and response.
- (b) The level and type of training provided to volunteers and contractors is based on the services they provide and level of contact they have with residents. Volunteers meet with and are trained by their staff supervisor. All volunteers and contractors who have contact with residents have been notified of the facility's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

(c) The facility maintains documentation confirming that volunteers/contractors understand the training they have received.
P&P 3.9.3

Overall Determination: §115.233 - Resident education.

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

Auditor Comments (including corrective actions needed if does not meet standard):

(a) Residents receive information at time of intake about the zero-tolerance policy, how to report incidents or suspicions of sexual abuse or harassment, their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding facility policies and procedures for responding to such incidents.

(b) The facility provides residents who are transferred from a different community confinement facility with refresher information referenced in 115.233(a)-1.

(c) Resident PREA education is available in accessible formats for all residents including those who are: limited English proficient; deaf; visually impaired; otherwise disabled; or limited in their reading skills. PREA video is provided in Spanish; and staff read information to all residents who may have difficulty reading. If additional technology is required to communicate PREA policy, that will be provided.

(d) The facility maintains documentation of resident participation in PREA education sessions.

(e) The facility ensures that key information about the facility's PREA policies is continuously and readily available or visible through posters, resident handbooks, or other written formats.

P&P 3.9.3

Overall Determination: **§115.234 - Specialized training: Investigations.**

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

Auditor Comments (including corrective actions needed if does not meet standard):

(a) Facility policy requires that investigators are trained in conducting sexual abuse investigations in confinement settings.
(b) Specialized training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.
(c) The facility maintains documentation showing that investigators have completed the required training. The facility currently employs six investigators who have completed the required training. However, only three actually conduct or supervise administrative investigations on a regular basis: Assistant Director and two Operations Coordinators. These staff have received investigative training both from ODRC and from National Institute of Corrections Special Investigator training. Also, Human Resources will provide in-house, mandatory training on Human Resources and Administrative Investigations for all managers, supervisors, and investigators.
P&P 3.9.3

Overall Determination: **§115.235 - Specialized training: Medical and mental health care.**

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

Auditor Comments (including corrective actions needed if does not meet standard):

(a) The facility has a policy related to the training of medical and mental health practitioners who work regularly in its facilities. At the time of the audit, about 88% of all medical and mental health care practitioners who work regularly at this facility received

the training required by facility policy. Members of clinical team, medical team, and screening team – 29 staff in all - received certificates from National Institute of Corrections for having completed the training entitled: *PREA: Medical Health Care for Sexual Assault Victims in a Confinement Setting*.

(b) Facility medical staff at this facility do NOT conduct forensic exams.

(c) The facility maintains documentation showing that medical and mental health practitioners have completed the required training.

(d) Medical and mental health care practitioners also receive the training mandated for employees under § 115.231 or for contractors and volunteers under § 115.232, depending upon the practitioner's status at the facility.

P&P 3.9.3

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Overall Determination: §115.241 - Screening for risk of victimization and abusiveness.

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

Auditor Comments (including corrective actions needed if does not meet standard):

(a) The facility has a policy that requires screening (upon admission to a facility or transfer to another facility) for risk of sexual abuse victimization or sexual abusiveness toward other residents. P&P 3.9.4.

(b) The policy requires that residents be screened for risk of sexual victimization or risk of sexually abusing other residents within 72 hours of their intake. In the past 12 months: 68 residents entering the facility (either through intake or transfer) whose length of stay in the facility was for 72 hours or more were screened for risk of sexual victimization or risk of sexually abusing other residents within 72 hours of their entry into the facility; other residents already present for more than 72 hours at the time of implementation of this standard were assessed as well. The facility has since maintained the 72 hour assessment/30 day reassessment schedule.

(c) Risk assessment is conducted using an objective screening instrument.

(d) The intake screening considers, at a minimum, the following criteria to assess residents for risk of sexual victimization:

- (1) Whether the resident has a mental, physical, or developmental disability;
- (2) The age of the resident;
- (3) The physical build of the resident;

- (4) Whether the resident has previously been incarcerated;
 - (5) Whether the resident's criminal history is exclusively nonviolent;
 - (6) Whether the resident has prior convictions for sex offenses against an adult or child;
 - (7) Whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
 - (8) Whether the resident has previously experienced sexual victimization; and
 - (9) The resident's own perception of vulnerability.
- (e) The intake screening considers prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the facility, in assessing residents for risk of being sexually abusive.
- (f) The policy requires that the facility reassess each resident's risk of victimization or abusiveness within a set time period, not to exceed 30 days after the resident's arrival at the facility, based upon any additional, relevant information received by the facility since the intake screening. The facility has maintained the 72 hour assessment/30 day reassessment schedule.
- (g) The policy requires that a resident's risk level be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness.
- (h) The policy prohibits disciplining residents for refusing to answer (or for not disclosing complete information related to) questions regarding:
- Whether or not the resident has a mental, physical, or developmental disability;
 - Whether or not the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming;
 - Whether or not the resident has previously experienced sexual victimization; and
 - The resident's own perception of vulnerability.
- (i) The facility implements appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the resident's detriment by staff or other residents. Only clinicians and their supervisors have access to this information.

Overall Determination: **§115.242 - Use of screening information.**

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

Auditor Comments (including corrective actions needed if does not meet standard):

- (a) The facility uses information from the risk screening required by § 115.241 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive. At this facility, the following are considered: pod (i.e., dorm) assignment, restroom schedule, TAP order/table assignments on day floor, work crews, education, job list, clinical schedule, and mental health concerns.
- (b) The facility makes individualized determinations about how to ensure the safety of each resident.
- (c) The facility makes housing and program assignments for transgender or intersex residents in the facility on a case-by-case basis.
- (d) A transgender or intersex resident's own views with respect to his or her own safety shall be given serious consideration.
- (e) Transgender and intersex residents shall be given the opportunity to shower separately from other residents.
- (f) The facility does not place lesbian, gay, bisexual, transgender, or intersex residents in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such 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 such residents.

P&P 3.9.4.

REPORTING

Overall Determination: **§115.251 - Resident reporting**

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

Auditor Comments (including corrective actions needed if does not meet standard):

(a) The facility has established procedures allowing for multiple internal ways for residents to report privately to facility officials about:

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

(b) The facility provides at least one way for residents to report abuse or harassment to a public or private entity or office that is not part of the facility. Residents can call ODRC's crime tip and PREA hotline by dialing *9732# from any pay phone. The facility has also posted a brochure with information about the Montgomery County Victim Witness Division, with its hotline number. The facility has increased PREA signage in its day rooms, near phones, in the library and in laundry areas.

(c) The facility has a policy mandating that staff accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties. Staff are required to document verbal reports before the end of their shift.

(d) The facility has established procedures for staff to privately report sexual abuse and sexual harassment of residents. Staff can report to any facility manager, director or director designee, or by calling the PREA Coordinator directly. Staff are informed of these procedures through training and handbook.

P&P 3.9.5.

Overall Determination: §115.252 - Exhaustion of administrative remedies

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

Auditor Comments (including corrective actions needed if does not meet standard): IN THE PAST 12 MONTHS THERE WERE NO GRIEVANCES REGARDING SEXUAL ABUSE FILED.

- (a) The facility has an administrative procedure for dealing with resident grievances regarding sexual abuse. P&P 3.9.5 AND P&P 6.6.
- (b) Facility policy or procedure allows a resident to submit a grievance regarding an allegation of sexual abuse at any time regardless of when the incident is alleged to have occurred.
Facility policy DOES NOT require resident to use an informal grievance process, or otherwise to attempt to resolve with staff, an alleged incident of sexual abuse.
- (c) Facility policy and procedure allows a resident to submit a grievance alleging sexual abuse without submitting it to the staff member who is the subject of the complaint. Facility policy and procedure requires that a resident grievance alleging sexual abuse not be referred to the staff member who is the subject of the complaint.
- (d) Facility policy and procedure requires that a decision on the merits of any grievance or portion of a grievance alleging sexual abuse be made within 90 days of the filing of the grievance. The facility always notifies the resident in writing when the facility files for an extension, for up to 70 days, including notice of the date by which a decision will be made.
- (e) Facility policy and procedure permits third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse and to file such requests on behalf of residents. Facility policy and procedure requires that if the resident declines to have third-party assistance in filing a grievance alleging sexual abuse, the facility documents the resident's decision to decline.
- (f) The facility has a policy and established procedures for filing an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse. Facility policy and procedure for emergency grievances alleging substantial risk of imminent sexual abuse requires an initial response within 48 hours. Facility policy and procedure for emergency grievances alleging substantial risk of imminent sexual abuse requires that a final facility decision be issued within five days.
- (g) The facility has a written policy that limits its ability to discipline a resident for filing a grievance alleging sexual abuse to occasions where the facility demonstrates that the resident filed the grievance in bad faith.
P&P 3.9.5 AND P&P 6.6

Overall Determination: **§115.253 - Resident access to outside confidential support services**

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

Auditor Comments (including corrective actions needed if does not meet standard):

- (a) The facility provides residents with access to outside victim advocates for emotional support services related to sexual abuse by:
- Giving residents mailing addresses and telephone numbers (including toll-free hotline numbers where available) for local, state, or national victim advocacy or rape crisis organizations; and
 - Enabling reasonable communication between residents and these organizations in as confidential a manner as possible.
- (b) The facility informs residents, prior to giving them access to outside support services, of the extent to which such communications will be monitored. The facility informs residents, prior to giving them access to outside support services, of the mandatory reporting rules governing privacy, confidentiality, and/or privilege that apply to disclosures of sexual abuse made to outside victim advocates, including any limits to confidentiality under relevant federal, state, or local law.
- (c) The facility maintains a memorandum of understanding (MOUs) with Montgomery County Prosecutor’s Office Victim Witness Division, that is able to provide residents with emotional support services related to sexual abuse. There is no rape crisis center for the Montgomery County area. The facility has documented attempts to enter into an MOU with the Dayton Police Department.

Overall Determination: **§115.254 - Third party reporting.**

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

Auditor Comments (including corrective actions needed if does not meet standard):

The facility provides a method to receive third-party reports of resident sexual abuse or sexual harassment. Third parties can call the

PREA Coordinator directly or email the facility at info@mondaycbf.com.

The facility publicly distributes information on how to report resident sexual abuse or sexual harassment on behalf of residents. This information is made public through informing each resident at intake, in the resident handbook, on the MonDay website, on posters in public areas of the facility where visitors might see, and in visitor orientation training.

OFFICIAL RESPONSE FOLLOWING A RESIDENT REPORT

Overall Determination: §115.261 - Staff and agency reporting duties

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

Auditor Comments (including corrective actions needed if does not meet standard):

- (a) The facility requires all staff to report immediately and according to facility policy:
- Any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the facility.
 - Any retaliation against residents or staff who reported such an incident.
 - Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.
- (b) Apart from reporting to designated supervisors or officials and designated state or local service agencies, facility policy prohibits staff from revealing any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.
- (c) Unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to paragraph (a) of this section and to inform residents of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.
- (d) If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, the facility shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.
- (e) The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators.
- P&P 3.9.6.

Overall Determination: **§115.262 - Agency protection duties.**

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

Auditor Comments (including corrective actions needed if does not meet standard):

When the facility learns that a resident is subject to a substantial risk of imminent sexual abuse, it takes immediate action to protect the resident (i.e., it takes some action to assess and implement appropriate protective measures without unreasonable delay). In the past 12 months, no time did the facility determine that a resident was subject to substantial risk of imminent sexual abuse. P&P 3.9.6.

Overall Determination: **§115.263 - Reporting to other confinement facilities.**

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

Auditor Comments (including corrective actions needed if does not meet standard):

- (a) The facility has a policy requiring that, upon receiving an allegation that a resident was sexually abused while confined at another facility, the head of the facility must notify the head of the facility or appropriate office of the agency or facility where sexual abuse is alleged to have occurred. In the past 12 months, the facility received one allegation that a resident was abused while confined at another facility years ago; the resident also reported that it had been reported at the prior facility and investigated back then. Facility Director contacted prior facility within 24 hours of receiving this information; and it confirmed that the allegation had been reported and investigated when the incident occurred years ago.
- (b) Facility policy requires the facility head provides such notification as soon as possible, but no later than 72 hours after receiving the allegation.

- (c) The facility documents that it has provided such notification within 72 hours of receiving the allegation.
- (d) The facility policy requires that allegations received from other facilities/agencies are investigated in accordance with the PREA standards.
P&P 3.9.6.

Overall Determination: **§115.264 - Staff first responder duties.**

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

Auditor Comments (including corrective actions needed if does not meet standard):

- (a) The facility has a first responder policy for allegations of sexual abuse. The facility policy requires that, upon learning of an allegation that a resident was sexually abused, the first security staff member to respond to the report shall be required to:
- (1) Separate the alleged victim and abuser;
 - (2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
 - (3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
 - (4) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

In the past 12 months, the facility received one allegation that a resident was sexually abused. No separation of the alleged victim and abuser was required in this instance. However, staff were notified within a time period that still allowed for the collection of physical evidence and staff:

- Preserved and protected any crime scene until appropriate steps could be taken to collect any evidence;
- Requested 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; BUT
- The alleged abuser was unknown, so staff could not ensure that he did not take any actions that could destroy physical

evidence.

- (b) Facility policy requires that if the first staff responder is not a security staff member, that responder shall be required to:
- Request that the alleged victim not take any actions that could destroy physical evidence; and
 - Notify security staff.

Overall Determination: §115.265 - Coordinated response.

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

Auditor Comments (including corrective actions needed if does not meet standard):

The facility has developed a written institutional plan to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators, and facility leadership. MonDay has a flow chart/checklist for security staff to use to make sure all appropriate agencies/persons are contacted and appropriate steps are taken in case of emergency. This flow sheet is a best standard for coordinated response plans, as it has separate sections for security and non-security staff, as well as contact information for supervisors and outside agencies.

P&P 3.9.6.

Overall Determination: **§115.266 - Preservation of ability to protect residents from contact with abusers.**

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

Auditor Comments (including corrective actions needed if does not meet standard):

The agency, facility, or any other governmental entity responsible for collective bargaining on the facility's behalf has NOT entered into or renewed any collective bargaining agreement or other agreement since August 20, 2012.

Overall Determination: **§115.267 - Agency protection against retaliation.**

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

Auditor Comments (including corrective actions needed if does not meet standard):

(a) The facility has a policy to protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff.

The facility designates staff members with monitoring for possible retaliation: Ruby Galpin, PREA Coordinator (for staff), and David Bell, Assistant Director (for residents).

(b) The facility shall employ multiple protection measures, such as housing changes or transfers for resident victims or abusers, removal of alleged staff or resident abusers from contact with victims, and emotional support services for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

(c) The facility monitors the conduct or treatment of residents or staff who reported sexual abuse and of residents who were reported to have suffered sexual abuse for at least 90 days to see if there are any changes that may suggest possible retaliation by residents or staff. The facility acts promptly to remedy any such retaliation.

The facility continues such monitoring beyond 90 days if the initial monitoring indicates a continuing need.

- (d) In the case of residents, such monitoring shall also include periodic status checks.
 - (e) If any other individual who cooperates with an investigation expresses a fear of retaliation, the facility shall take appropriate measures to protect that individual against retaliation.
 - (f) Facility's obligation to monitor shall terminate if the facility determines that the allegation is unfounded.
- P&P 3.9.6.

INVESTIGATIONS	
Overall Determination:	<u>§115.271 - Criminal and administrative agency investigations.</u>
	<p>Exceeds Standard (substantially exceeds requirement of standard)</p> <p>✓ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)</p> <p>Does Not Meet Standard (requires corrective action)</p> <p>Auditor Comments (including corrective actions needed if does not meet standard):</p>

- (a) When the facility conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. The facility has a policy related to criminal and administrative facility investigations.
- (b) Where sexual abuse is alleged, the facility shall use investigators who have received special training in sexual abuse investigations pursuant to § 115.234.
- (c) Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
- (d) When the quality of evidence appears to support criminal prosecution, the facility does not conduct compelled interviews so as not to be an obstacle for subsequent criminal prosecution.
- (e) The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as resident or staff. No facility shall require a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.
- (f) Administrative investigations:
 - (1) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and

(2) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

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

(h) Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.

(i) The facility shall retain all written reports referenced in paragraphs (f) and (g) of this section for as long as the alleged abuser is incarcerated or employed by the facility, plus five years.

(j) The departure of the alleged abuser or victim from the employment or control of the facility shall not provide a basis for terminating an investigation.

(k) N/A

(l) When outside agencies, such as Dayton Police Department or Montgomery County Sheriff's Office, investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

P&P 3.9.7

Overall Determination:

§115.272 - Evidentiary standards for administrative investigations.

Exceeds Standard (substantially exceeds requirement of standard)

✓ **Meets Standard** (substantial compliance; complies in all material ways with the standard for the relevant review period)

Does Not Meet Standard (requires corrective action)

Auditor Comments (including corrective actions needed if does not meet standard):

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

P&P 3.9.7

Overall Determination: **§115.273 - Reporting to residents.**

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

Auditor Comments (including corrective actions needed if does not meet standard):

(a) The facility has a policy requiring that any resident who makes an allegation that he or she suffered sexual abuse in the facility is informed, verbally or in writing, as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation by the facility.

In the past 12 months, there were two administrative investigations of alleged resident sexual abuse that were completed by the facility; and one resident was notified, verbally, of the results of the investigation. One resident absconded.

(b) If an outside entity conducts such investigations, the facility requests the relevant information from the investigative entity in order to inform the resident of the outcome of the investigation. In the past 12 months, there was one investigations of alleged resident sexual abuse in the facility that were completed by an outside agency; and the facility was informed by the Dayton Police Department that it did not have enough information to go forward with a criminal investigation. The alleged victim had absconded and not identified his alleged perpetrator. There was no additional information or evidence from hospital or scene (including review of videotape) to go on. As the resident who reported this sexual abuse absconded, he could not be informed of the results of the investigation.

(c) Following a resident's allegation that a staff member has committed sexual abuse against the resident, the facility subsequently informs the resident (unless the facility has determined that the allegation is unfounded) whenever:

- The staff member is no longer posted within the resident's unit;
- The staff member is no longer employed at the facility;
- The facility learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
- The facility learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

(d) Following a resident's allegation that he or she has been sexually abused by another resident in the facility, the facility subsequently informs the alleged victim whenever:

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

(e) The facility has a policy that all notifications to residents described under this standard are documented.

(f) Facility's obligation to report under this standard shall terminate if the resident is released from the facility's custody.
P&P 3.9.7

DISCIPLINE	
Overall Determination:	§115.276 - Disciplinary sanctions for staff.
	Exceeds Standard (substantially exceeds requirement of standard)
✓	Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
	Does Not Meet Standard (requires corrective action)
	Auditor Comments (including corrective actions needed if does not meet standard):

(a) Staff is subject to disciplinary sanctions up to and including termination for violating facility sexual abuse or sexual harassment policies.

(b) Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.

In the past 12 months, no staff from the facility have violated facility sexual abuse or sexual harassment policies; and no staff from the facility have been terminated (or resigned prior to termination) for violating facility sexual abuse or sexual harassment policies.

(c) Disciplinary sanctions for violations of facility policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) are commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

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

P&P 3.9.8.

Overall Determination: **§115.277 - Corrective action for contractors and volunteers.**

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

Auditor Comments (including corrective actions needed if does not meet standard):

- (a) Facility policy requires that any contractor or volunteer who engages in sexual abuse be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.
Facility policy requires that any contractor or volunteer who engages in sexual abuse be prohibited from contact with residents. In the past 12 months, no contractors or volunteers have been reported to law enforcement agencies and relevant licensing bodies for engaging in sexual abuse of residents.
- (b) The facility takes appropriate remedial measures and considers whether to prohibit further contact with residents in the case of any other violation of facility sexual abuse or sexual harassment policies by a contractor or volunteer.
P&P 3.9.8.

Overall Determination: **§115.278 - Disciplinary sanctions for residents.**

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

Auditor Comments (including corrective actions needed if does not meet standard):

- (a) Residents are subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding and/or criminal finding that the resident engaged in resident-on-resident sexual abuse.

- (b) Sanctions are not commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories. Residents found to have committed sexual abuse are terminated from the program.
- (c) The disciplinary process does not consider whether a resident's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. Residents found to have committed sexual abuse are terminated from the program.
- (d) The facility does not offer therapy, counseling, or other interventions designed to address and correct the underlying reasons or motivations for abuse. Residents found to have committed sexual abuse are terminated from the program.
- (e) The facility disciplines residents for sexual conduct with staff only upon finding that the staff member did not consent to such contact.
- (f) The facility prohibits disciplinary action for a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred, even if an investigation does not establish evidence sufficient to substantiate the allegation.
- (g) The facility prohibits all sexual activity between residents.
- If the facility prohibits all sexual activity between residents and disciplines residents for such activity, the facility deems such activity to constitute sexual abuse only if it determines that the activity is coerced.
- P&P 3.9.8.

MEDICAL AND MENTAL CARE	
Overall Determination:	§115.282 - Access to emergency medical and mental health services.
	<p>Exceeds Standard (substantially exceeds requirement of standard)</p> <p>✓ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)</p> <p>Does Not Meet Standard (requires corrective action)</p> <p>Auditor Comments (including corrective actions needed if does not meet standard):</p>

(a) Resident victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services. The nature and scope of such services are determined by medical and mental health practitioners according to their professional judgment.

Medical and mental health staff maintain secondary materials (e.g., form, log) documenting the timeliness of emergency medical treatment and crisis intervention services that were provided; the appropriate response by non-health staff in the event health staff are not present at the time the incident is reported; and the provision of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis.

(b) If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim pursuant to § 115.262 and shall immediately notify the appropriate medical and mental health practitioners.

(c) Resident victims of sexual abuse while incarcerated are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.

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

P&P 3.9.9.

Overall Determination: §115.283 - Ongoing medical and mental health care for sexual abuse victims and abusers.

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

Auditor Comments (including corrective actions needed if does not meet standard):

(a) The facility offers medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.

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

(c) The facility shall provide such victims with medical and mental health services consistent with the community level of care.

(d) Female victims of sexually abusive vaginal penetration while incarcerated are offered pregnancy tests. (e) If pregnancy results from sexual abuse while incarcerated, victims receive timely and comprehensive information about, and timely access to, all lawful pregnancy-related medical services.

- (f) Resident victims of sexual abuse while incarcerated are offered tests for sexually transmitted infections as medically appropriate.
 - (g) 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.
 - (h) The facility attempts to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history, and offers treatment when deemed appropriate by mental health practitioners.
- P&P 3.9.9.

DATA COLLECTION AND REVIEW	
Overall Determination:	§115.286 - Sexual abuse incident reviews.
	<p>Exceeds Standard (substantially exceeds requirement of standard)</p> <p>✓ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)</p> <p>Does Not Meet Standard (requires corrective action)</p> <p>Auditor Comments (including corrective actions needed if does not meet standard):</p>

- (a) The facility conducts a sexual abuse incident review at the conclusion of every criminal or administrative sexual abuse investigation, unless the allegation has been determined to be unfounded.
In the past 12 months, there has been one criminal and administrative investigation of alleged sexual abuse completed at the facility, excluding only "unfounded" incidents. It was determined to be unsubstantiated.
- (b) The facility ordinarily conducts a sexual abuse incident review within 30 days of the conclusion of the criminal or administrative sexual abuse investigation. The aforementioned criminal/administrative investigation of alleged sexual abuse completed at the facility was followed by a sexual abuse incident review within 30 days.
- (c) The sexual abuse incident review team includes upper-level management officials and allows for input from line supervisors, investigators, and medical or mental health practitioners.
- (d) The facility prepares a report of its findings from sexual abuse incident reviews, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section and any recommendations for improvement, and submits such report to the facility head and PREA Coordinator.
 - (1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or

respond to sexual abuse;

(2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;

(3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;

(4) Assess the adequacy of staffing levels in that area during different shifts;

(5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff;

(e) The facility implements the recommendations for improvement or documents its reasons for not doing so.

P&P 3.9.10.

Overall Determination:

§115.287 - Data collection.

Exceeds Standard (substantially exceeds requirement of standard)

✓ **Meets Standard** (substantial compliance; complies in all material ways with the standard for the relevant review period)

Does Not Meet Standard (requires corrective action)

Auditor Comments (including corrective actions needed if does not meet standard):

(a) The facility collects accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.

(b) The facility aggregates the incident-based sexual abuse data at least annually.

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

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

(e) N/A

(f) N/A

P&P 3.9.10.

Overall Determination: **§115.288 - Data review for corrective action.**

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

Auditor Comments (including corrective actions needed if does not meet standard):

(a) The facility reviews data collected and aggregated pursuant to §115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, and training, including:

- Identifying problem areas;
- Taking corrective action on an ongoing basis; and
- Preparing an annual report of its findings from its data review and any corrective actions for each facility, as well as the facility as a whole.

(b) The annual report includes a comparison of the current year's data and corrective actions with those from prior years. The annual report provides an assessment of the facility's progress in addressing sexual abuse.

(c) The facility makes its annual report readily available to the public at least annually through its website. The annual reports are approved by the facility head.

(d) When the facility redacts material from an annual report for publication the redactions are limited to specific materials where publication would present a clear and specific threat to the safety and security of the facility. The facility indicates the nature of material redacted.

P&P 3.9.10.

Overall Determination: **§115.289 - Data storage, publication, and destruction.**

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

Auditor Comments (including corrective actions needed if does not meet standard):

- (a) The facility ensures that incident-based and aggregate data are securely retained.
 - (b) N/A
 - (c) Before making aggregated sexual abuse data publicly available, the facility removes all personal identifiers.
 - (d) The facility maintains sexual abuse data collected pursuant to §115.287 for at least 10 years after the date of initial collection, unless federal, state, or local law requires otherwise.
- P&P 3.9.10.

AUDITOR CERTIFICATION: The auditor certifies that the contents of the report are accurate to the best of his/her knowledge and no conflict of interest exists with respect to his or her ability to conduct an audit of the facility under review.	
AUDITOR SIGNATURE	/s/ Michelle Bonner
DATE	November 30, 2014