

## Prison Rape Elimination Act (PREA) Audit Report Community Confinement Facilities

Interim       Final

**Date of Report**    March 10, 2021

### Auditor Information

<b>Name:</b> Debra D. Dawson	<b>Email:</b> dddawsonprofessionalaudits@gmail.com
<b>Company Name:</b> 3D PREA Auditing & Consulting LLC	
<b>Mailing Address:</b> P.O. 5825	<b>City, State, Zip:</b> Marianna, FL 32447
<b>Telephone:</b> (850) 209-4878	<b>Date of Facility Visit:</b> December 7 – 8, 2020

### Agency Information

<b>Name of Agency:</b> Tennessee Department of Corrections		<b>Governing Authority or Parent Agency (If Applicable):</b> State of Tennessee	
<b>Physical Address:</b> Rachel Jackson Building 320 6th Ave North		<b>City, State, Zip:</b> Nashville, TN. 37243	
<b>Mailing Address:</b> :    Rachel Jackson Building 320 6th Ave North		<b>City, State, Zip:</b> Nashville, TN. 37243	
<b>The Agency 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 checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
<b>Agency Website with PREA Information:</b> <a href="https://www.tn.gov/correction/sp/prison-rape-elimination-act.html">https://www.tn.gov/correction/sp/prison-rape-elimination-act.html</a> Click or tap here to enter text.			

### Agency Chief Executive Officer

<b>Name:</b> Tony C. Parker, Commissioner	
<b>Email:</b> Tony.C.Parker@tn.gov	<b>Telephone:</b> (615) 253-8139

### Agency-Wide PREA Coordinator

<b>Name:</b> Blake Pollock	
<b>Email:</b> Blake.H.Pollock@tn.gov	<b>Telephone:</b> (615) 982-5398
<b>PREA Coordinator Reports to:</b> Kimberly Gulden Compliance Director	<b>Number of Compliance Managers who report to the PREA Coordinator:</b> 10

### Facility Information

<b>Name of Facility:</b> Mark H. Luttrell Transition Center			
<b>Physical Address:</b> 6000 State Road		<b>City, State, Zip:</b> Memphis, TN 38134	
<b>Mailing Address (if different from above):</b> Click or tap here to enter text.		<b>City, State, Zip:</b> Click or tap here to enter text.	
<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 checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
<b>Facility Website with PREA Information:</b> N/A			
<b>Has the facility been accredited within the past 3 years?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
<b>If the facility has been accredited within the past 3 years, select the accrediting organization(s) – select all that apply (N/A if the facility has not been accredited within the past 3 years):</b>			
<input checked="" type="checkbox"/> ACA			
<input type="checkbox"/> NCCHC			
<input type="checkbox"/> CALEA			
<input type="checkbox"/> Other (please name or describe: Click or tap here to enter text.)			
<input type="checkbox"/> N/A			
<b>If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:</b> Click or tap here to enter text.			
<b>Facility Director</b>			
<b>Name:</b> Taurean James, Superintendent			
<b>Email:</b> Taurean.james@tn.gov		<b>Telephone:</b> (901) 531-1804	
<b>Facility PREA Compliance Manager</b>			
<b>Name:</b> Shalonna Burnett			
<b>Email:</b> Shalonna.L.Burnett@tn.gov		<b>Telephone:</b> (901) 531-1814	
<b>Facility Health Service Administrator</b> <input type="checkbox"/> N/A			
<b>Name:</b> Diketra Thomas			
<b>Email:</b> dthomas@teamcenturion.com		<b>Telephone:</b> (901) 231-1892	

### Facility Characteristics

<b>Designated Facility Capacity:</b>	454	
<b>Current Population of Facility:</b>	149	
<b>Average daily population for the past 12 months:</b>	279	
<b>Has the facility been over capacity at any point in the past 12 months?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>Which population(s) does the facility hold?</b>	<input type="checkbox"/> Females <input checked="" type="checkbox"/> Males <input type="checkbox"/> Both Females and Males	
<b>Age range of population:</b>	20-66	
<b>Average length of stay or time under supervision</b>	30 months	
<b>Facility security levels/resident custody levels</b>	Level II; Minimum Restricted and Minimum Trustee	
<b>Number of residents admitted to facility during the past 12 months</b>	133	
<b>Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:</b>	133	
<b>Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:</b>	133	
<b>Does the audited facility hold residents for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<p><b>Select all other agencies for which the audited facility holds residents: Select all that apply (N/A if the audited facility does not hold residents for any other agency or agencies):</b></p>	<input type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> U.S. Marshals Service <input type="checkbox"/> U.S. Immigration and Customs Enforcement <input type="checkbox"/> Bureau of Indian Affairs <input type="checkbox"/> U.S. Military branch <input type="checkbox"/> State or Territorial correctional agency <input type="checkbox"/> County correctional or detention agency <input type="checkbox"/> Judicial district correctional or detention facility <input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail) <input type="checkbox"/> Private corrections or detention provider <input type="checkbox"/> Other - please name or describe: <a href="#">Click or tap here to enter text.</a> <input checked="" type="checkbox"/> N/A	
<b>Number of staff currently employed by the facility who may have contact with residents:</b>	186	
<b>Number of staff hired by the facility during the past 12 months who may have contact with residents:</b>	19	
<b>Number of contracts in the past 12 months for services with contractors who may have contact with residents:</b>	3	

Number of individual contractors who have contact with residents, currently authorized to enter the facility:	27
Number of volunteers who have contact with residents, currently authorized to enter the facility:	41
<b>Physical Plant</b>	
<p>Number of buildings:</p> <p>Auditors should count all buildings that are part of the facility, whether residents are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house residents, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.</p>	11
<p>Number of resident housing units:</p> <p>Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house residents of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows residents to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.</p>	10
Number of single resident cells, rooms, or other enclosures:	2
Number of multiple occupancy cells, rooms, or other enclosures:	6
Number of open bay/dorm housing units:	4
Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

## Medical and Mental Health Services and Forensic Medical Exams

Are medical services provided on-site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are mental health services provided on-site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Where are sexual assault forensic medical exams provided? Select all that apply.	<input type="checkbox"/> On-site <input checked="" type="checkbox"/> Local hospital/clinic <input type="checkbox"/> Rape Crisis Center <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> )

### Investigations

#### Criminal Investigations

Number of investigators employed by the agency and/or facility who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment:	1
When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-resident or resident-on-resident), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.	<input type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> ) <input checked="" type="checkbox"/> N/A

#### Administrative Investigations

Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?	2
When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-resident or resident-on-resident), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply	<input checked="" type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> ) <input checked="" type="checkbox"/> N/A

# 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, 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) Reaccreditation Audit for Mark H. Luttrell Transition Center (MLTC) was coordinated through Tennessee Department of Corrections (TDOC) and 3D PREA Auditing & Consulting, LLC. Department of Justice (DOJ) Certified PREA Auditor, Debra Dawson was assigned as the auditor. A line of communication was developed between the Office of Inspector General TDOC State-wide PREA Coordinator Mr. Blake Pollock and Ms. Dawson through phone calls and emails. It was determined the facility would utilize the paper version for the audit. Due to the size of the facility and resident population the on-site visit was scheduled for two days.

### Pre-Audit Process

A line of communication was established between the assigned auditor and the MLTC PREA Compliance Manager Ms. Shalonna Burnett through emails and telephone calls on October 15, 2020 regarding the posting of the audit notice at a minimum of six weeks prior to the on-site visit and logistics of the audit process. The audit notice was posted on October 17, 2020. Confirmation of the audit posting and access to viewing by staff and resident population was through the delivery of dated photographs. The postings were more than the six-week requirement. The 12-month period of documentation, practices and procedures was scheduled for October 1, 2019 through October 30, 2020.

In addition to forwarding the MLTC PCM the Pre-Audit Questionnaire for Adult Prison and Jails on October 15, 2020. The auditor selected documentation from the PREA Resource Portal in preparation of the audit. The following forms were forward to the MLTC PCM for completion and return: PREA Audit Request for Information of Allegations and Investigations Overview; PREA Audit File Review Identification Forms; Specialized Inmate Identification Forms, and PREA Audit Specialized Staff Identification. These forms would allow the auditor to select investigative files, staff personnel files, identify specialized staff and residents within the various targeted categories for interviews and review prior to the arrival of the on-site visit.

An encrypt flash drive was forward to the auditor via the United States Postal Service. The flash drive contained the completed PREA Audit Questionnaire and organized files for each of the 39 standards with TDOC and MLTC policies, staff, and resident rosters, PREA lesson plans, confirmation of staff and resident population PREA education, specialized training for investigators, medical and mental health staff, logbook entries of unannounced PREA rounds, and a variety of supporting documentation for each of 39 PREA standards. However, there were several instances where additional documentation of practices and procedures was identified as needed and requested to meet compliance with numerous standards. This information was shared with the Office of Inspector General TDOC State-wide PREA Coordinator, MLTC PCM, and MLTC PREA Coordinator that was followed by telephone calls and

emails. The auditor and identified staff maintained an open level of communication throughout the three Phases of the audit process with frequent phone calls, and numerous emails. Identified information continued to be presented throughout the post -audit Phase within a timely manner.

A review of the TDOC website <https://www.tn.gov/correction/sp/prison-rape-elimination-act.html> PREA Policy confirmed it provides information by clicking on the topic hyperlink. Tip line for third-party reporting of sexual abuse and sexual harassment is identified on the website as (615) 253-8178. The auditor also confirmed posting of the TDOC 2018-2019 and 2019-2020 Annual PREA reports and prior PREA audit reports for MLTC.

The auditor contacted the Just Detention International (JDI) regarding any PREA correspondence received by the resident population in the past 12 months of the scheduled audit and received a negative response. The auditor did not receive any confidential correspondence from the staff and/or resident population during the audit process.

#### First day of onsite visit

On Monday, December 7, 2020, at approximately 8:00 a.m., the PREA auditor arrived at MLTC for the onsite visit. Upon entering the front lobby of the facility, the auditor observed a large monitor providing PREA education that is shared with all visitors and employees upon entering. The initial entry meeting was held in the Superintendent's Conference Room. Those in attendance were DOJ Certified PREA Auditor Debra Dawson, MLTC Superintendent Mr. Taurean J. James; Office of Inspector General Director of Compliance Ms. Kimberly Gulden; Office of Inspector General TDOC State-wide PREA Coordinator Mr. Blake Pollock; Chief Counselor Ms. Angela Porter and Fiscal Director Mr. Cecil D. Currie. The MLTC PCM Ms. Shalonna Burnett and the MLTC Deputy Superintendent/MLTC PREA Coordinator Ms. Ingrid Cox was absent from the facility during the on-site. However, the auditor acknowledges both as being instrumental to the facility's operation, implementation of the PREA standards and the audit process.

The resident base count on the first day of the on-site was 149. The facility has been affected by COVID-19 that has affect the number of residents at the facility. Specifically, the number of incoming residents has been reduced since March 2020, while residents continue to be released. A request was made to have available upon the return from the tour various resident rosters, and staff rosters for a selection of staff and resident interviews. A request for private offices to conduct interviews was made and identified. Based on the facility's resident count, the auditor advised management staff that a minimum of 20 residents to include (10 targeted and 10 random) would be required for interview. The auditor reiterated the previous onsite tour schedule while stating hours of work would be extended to conduct interviews with the resident population, non-security staff and security staff assigned to both security shifts. The auditor asked that upon a resident's request to speak with the auditor during the tour, a private setting would be provided. At the conclusion of the entry meeting, the auditor was escorted on a tour throughout the facility by the MLTC Superintendent Mr. Taurean J. James; Office of Inspector General Director of Compliance Ms. Kimberly Gulden; Office of Inspector General TDOC State-wide PREA Coordinator Mr. Blake Pollock and Chief Counselor Ms. Angela Porter.

The tour began at the main compound. The physical layout of the main compound is designed as a corridor allowing a visual observation into all program areas through windows. The administration building

consists of various offices assigned to the Superintendent, Executive Secretary, Deputy Superintendent and secretary, Fiscal Director, Accounting Technician, Accounts Payable Clerk, Resident Trust Fund Clerk, Procurement Officer, Inventory Clerk, Human Resources, West Region Transition Administrator, and MLTC Compliance Manager.

The MLTC is composed of 11 buildings. Eight buildings are located outside the main compound perimeter and the remaining 3 are located inside the main compound. The 3 security towers are included in the facility's buildings count and are located outside the main compound perimeter. Although the towers have been maintained, they have remained vacate for numerous years. Roving mobile patrol units are assigned as needed.

Numerous departments and staff offices are located in the Treatment Building that includes: the OIC Institution Investigator, Conference Room, Mental Health Administrator, Mental Health Clerk/Regional Case Manager, Mental Health Staff, mailroom, resident property room, center control center, resident records, resident jobs, resident disciplinary, resident visitation area, transportation office, Institution Parole Officer, phone/computer room, staff dining hall, Operations (security office), unit management, resident library, classroom, career center, mental health counseling, barbershop, chapel with chaplain's office, resident kitchen and dining room, laundry, and medical clinic. A tour was conducted in all areas.

The facility was identified to have 10 housing units. A description of the housing units is noted in detail within the facility characteristics. There are 6 resident housing units are on the main compound: Unit 27 - D-North; Unit 28 - D-South; Unit 30 - E-South Lower; Unit E-South Upper (which is designated as segregation. Two of the 15 cells are designated as mental health observation cells. One has camera inside. wells are mental). Unit 31 F-unit; Unit 32 G-Unit and Two of these housing units are closed and are currently under construction for upgrades (Unit 31 F-Unit and Unit 32 G-Unit). Upon entering the housing units, the opposite gender announcement was made each time by staff assigned to the various housing and escorting staff. All cells in the housing units at the main facility were equipped with an all-in-one toilet and sink located in the corner of the cells. The resident's restrooms in the program and work areas are individual and provide privacy by a full door. Showers in the housing units are in individual stalls and each have two shower curtains that enable privacy during use.

The auditor utilized the Facility PREA Tip Line at \*9222 to test the reporting procedure for the resident population. The call was placed in the presence of the State-wide PREA Coordinator, TDOC Compliance Director and MLTC Superintendent. Immediately upon testing the phone line, the MLTC Superintendent, State-wide PREA Coordinator, MLTC Deputy Superintendent, and Institution OIC Investigator received notification that the PREA Hotline had been contacted. The immediate notification to staff in the presence of the auditor and a telephone call to the Superintendent from the MLTC PREA Coordinator who was not at the facility confirmed the immediate notification to staff when residents use the PREA Hotline. A test call was also made to the external PREA Hotline number that was successful.

Logbooks were reviewed in all housing units and custody post assignments. Documentation of security supervisory rounds were noted in red ink daily on the two custody shifts by Corporals and above supervisors. Assigned staff confirmed there is no specific time that supervisory staff conduct rounds, and they are only aware of their presence upon their entry. Resident telephones are installed on each tier of the housing units. Telephones are installed on the walls of each tier in resident housing units.

A was tour conducted at the warehouse, maintenance shop, boiler room and TRICOR. However, the auditor identified the need for two convex mirrors/safety mirrors to be installed in the Warehouse and one



to be installed TRICOR. The 360-degree halfmoon convex mirrors/safety mirrors were installed over doors in hallways of each area that aids staff in observing areas from three angles while eliminating blind spots prior to entering those areas. Confirmation of the three installed convex mirror/safety mirrors were verified through the submission of photographs to the auditor on February 17, 2021.

There are 4 housing units at the Annex. Housing units 1, 2, and a dayroom are located at the front of the building. Housing units 3 and 4 and another dayroom are located at the back of the building. Resident housing consists of single beds cubicles in a dormitory layout and has two dayrooms. Privacy is provided during use of the toilets with a ¾ door at each stall. There are 5 showers are in individual stalls and a full-size door is at the entry. Three telephones are located on the walls in each housing unit. The phone numbers to report PREA allegations both internally and externally are located on each telephone. No cameras had been installed in housing units at the Annex during the on-site site. However, the dormitory design was in an open space that allowed total view of the area in addition to convex mirror/safety mirrors was install in corners, and the rear of the housing units to eliminate blind spots. There are two security staff assigned during the night (2<sup>nd</sup> a shift) and three are assigned during the day (1<sup>st</sup> shift). A sergeant and Unit Manager serve as the unit management team. Medical staff report to the Annex as needed. Surveillance Officers are assigned at the Annex. They are responsible for monitoring residents who are assigned to various work release programs in the local community. Due to COVID -19, the residents have not reported to jobs outside the facility since March 2020. There were 51 residents were assigned to the Annex during the on-site visit. COVID -19 contributed to the low number of residents due to limited TDOC inmate/residents' transfers.

Two housing units on the main compound and the food service area was not being used by staff and/or resident population due to construction upgrades. A mobile kitchen was being utilized for the preparation of meals.

An extraordinary amount of continuous PREA education was posted throughout the facility on decorative bulletin boards accessible to all residents and staff at the main compound and Annex. The information was very well presented in a manner that provide continuous PREA education in an organized and well-maintained manner. This information informed residents of their right to be free of sexual abuse and, sexual harassment and retaliation for reporting sexual abuse allegations. The facility has been established a Sexual Abuse Response Team (SART). This team is a coordinated response team comprised of medical and mental health practitioners, facility investigators and facility security and posted on bulletin boards for staff and resident awareness. The identity of the facility's victim advocate, MLTC PCM and MLTC PREA Coordinator are also posted on all bulletin boards at the compound and Annex.

The auditor confirmed adequate staff supervision was provided throughout both shifts during the on-site visit. Confirmation of adequate staff supervision was based on a review of the staffing plan at both the main facility and the Annex. Although COVID-19 has affected the operation of facility non-essential programs, there appeared to be no shortage of staff on those post assignments identified as critical. Critical post identified as vacate are immediately filled by the reassignment of staff at non-critical post and/or via staff assigned to work overtime. The auditing team also identified all storage areas, janitor

closets, program areas, resident work and offices not occupied were secured during the walk throughout at the main compound, Annex, TRICOR and warehouse.

The facility was identified an ongoing camera project for upgrade and the installation of additional cameras. One additional camera had been installed in a classroom at the time of the on-site visit for a total of 52 cameras. The auditor was observant to the video monitoring, and mirrors installed throughout the facility that allowed viewing of areas from a distance and the prevention of blind spots during staffing monitoring in housing units, program areas, hallways, corridors, recreation, medical, and case management, that aided in the security of staff, resident population, and the prevention of sexual abuse. The auditor also identified cameras and mirrors within the housing units were not angled in a manner that allowed the observation into the residents 'cells.

All existing cameras were identified and pointed out throughout the facility during the tour by the escorting staff and the auditor. The cameras were strategically positioned throughout the facility that undoubtedly provided to assist in the prevention, and detection of sexual abuse and sexual harassment with the limited cameras. There was no camera footage that allowed a direct viewing into the inmate's cells, toilet areas, and/or shower areas. Two video cameras are in each housing unit on the main compound. Four cameras are in the main resident dining room and 1 on serving line, 1 in pantry, and two additional ones in the kitchen and 1 is in the gym. The cameras are closed circuit cameras that monitors trap gates, main building housing unit doors, pedestrian entrances and most recently a classroom. In addition to video monitoring the installation of convex mirrors/safety mirrors were installed in a manner to assist in the elimination of blind spots.

At the conclusion of the facility tour, the auditor was given an office to begin interviews with specialized staff followed by random residents. Sampling techniques for interviews with residents from each housing unit was selected via current daily rosters. Residents were selected from each housing unit on the main compound that was occupied by residents. Residents were also selected for interview from the 4 housing units at the Annex.

#### Second day of on-site visit

On the second day of the onsite visit, the auditor continued with interviews of staff and the resident population.

Specialized staff was selected for interviews based on their position. Staff selected for random interviews were selected by daily shift rosters assignment during the on-site visit. Staff interviews included TCA training staff, mailroom staff, maintenance staff non-security staff security staff contract staff, grievance officersThe auditor conducted interviews with security, non-security, specialized staff, Sexual Assault Response Team (SART) Members and contractors that included male and female staff .The auditor conducted 10 random sample staff interviews and the following 23 specialized staff interviews: (1) Agency Head Designee; (1) Superintendent; (1) Staff charged with monitoring retaliation; (1) Human Resource Manager; (2) Investigators; (1) Incident Review Team Member; (1) Intermediate/higher-level staff (unannounced rounds); (1) Non-Security first responder; (1) MLTC PCM; (1) Officer of Inspector

General State-wide PREA Coordinator; (1) MLTC PREA Coordinator; (1) Facility Victim Advocate; (1) Contract Behavior Health Staff; (1) Health Service Administrator; (1) Agency Contract Monitor; (1) Regional One Health Medical Center Nurse Supervisor (SANE); (1) Staff assigned to Volunteer Coordinator; (1) Staff who supervise segregation; (3) Staff who perform risk screening for victimization or abusiveness during 72 hour and 30 day follow.

The facility resident base count on the first day of the on-site visit was 149. Therefore, the auditor was required to conduct 20 resident interviews. Twenty-three residents were interviewed during the on-site visit that consisted of 21 random interviews and 2 targeted group interviews. Residents were selected for random interviews from the various housing units to include those assigned to the main compound and the Annex. One resident identified as hearing impaired and (1) resident identified as gay was interviewed. There were no residents at the MLTC during the on-site visit in the following target groups: inmates who reported sexual victimization during risk assessment; inmates who reported sexual abuse; residents identified as transgender; intersex; bi-sexual; vision impaired; resident with a cognitive disability; physical disabled; youthful offenders; nor in segregated housing for high risk of sexual victimization. All residents interviewed acknowledged receipt and understanding of their rights and responsibilities regarding the facility's zero tolerance of sexual abuse and sexual harassment. All was aware of numerous methods to report PREA allegations that included but not limited to the PREA Hotline numbers and/or to staff. All acknowledged receiving PREA training that included the PREA video," PREA: What You Need to Know," attending orientation/intake, and/or receiving a facility handbook.

At the completion of interviews, the auditor met with the MLTC Superintendent, TDOC Director of Compliance and TDOC State-wide PREA Coordinator to review documentation submitted on the PAQ for the 39 standards, investigative files, policies, and any additional documentation that would be needed. The auditor had identified and made a request to the MLTC PREA Coordinator specific documentation prior to arrival for the on-site visit. The Superintendent was instrumental in ensuring the requested documentation was presented for review and copies were provided.

The MLTC Staffing Plan addresses the eleven requirements as indicated in this provision and is based on 454 residents. The average resident count for the previous 12 months prior to the global pandemic of COVID-19 was 279. However, due COVID -19 the average daily population began to reduce due to the resident releases.

The auditor utilized rosters provided by the MLTC PCM to select random personnel files for the 19 new hires and the 10 staff selected for promotions during the review period. The 19 background checks and 10 self-evaluation PREA forms were reviewed. No new staff are hired or allowed entrance until a thorough background check was completed. The auditor selected and carefully examined a random sampling of personnel files, staff training files, and volunteer/ contractor files of completion of PREA training. The auditor viewed signatures of residents documenting completion of PREA education.

The auditor selected various staff from rosters for review of PREA training and received a computer-generated roster of all security and non-security staff. Specialized training was also provided for medical, investigative staff, and mental health.

The auditor utilized resident rosters to make a random selection of 40 residents PREA education, 72-hour initial risk screening and 30-day follow-up risk screenings that included residents from the main compound and Annex for review. There were no discrepancies noted in the completed resident PREA education and/or the resident PREA screenings that were conducted within 72 hours of the resident's arrival and/or the 30-day reassessments. Six Counselors are assigned to conduct the 72 hour and 30-day follow PREA Risk Assessments of all incoming residents. The review confirmed 100% of the assessments were conducted timely. In addition to the 72-hour assessment being conducted on the day after the resident's arrival within 24 hours, the 30-day risk reassessments were conducted prior to the 30<sup>th</sup> date (normally after 15 days) of the resident's arrival. The staff assigned to conduct risk assessments demonstrated their knowledge, practice, and the procedure of conducting risk assessments in accordance with TDOC policy and provisions of standard 115.41.

The TDOC Office of Investigations and Conduct (OIC) is responsible for conducting all investigations to include sexual harassment and sexual abuse. The OIC Institution Investigator conducts administrative investigations. The OIC Special Agent is assigned to conduct all criminal investigations. The auditor was provided all cases for review. The review of these case files identified they were very well organized while also possessing the inmate documented notification of findings, sexual assault incident reviews and retaliation monitoring for applicable cases. All investigative cases were conclusive in determining the finding of the investigations.

There were 2 reported allegations for sexual abuse and 2 reported allegations of sexual harassment reported from October 1, 2019 – October 30, 2020. One sexual abuse allegation of staff on resident was investigated by the OIC Special Agent with an investigative finding of Substantiated. The second sexual abuse allegation was determined as Unsubstantiated; however, a resident received a disciplinary sanction for sexual harassment at the conclusion of the investigation. One reported sexual harassment allegation was determined as Unsubstantiated and the second was determined as Unfounded. An incident review was conducted for all 4 reported PREA allegation. Retaliation monitoring followed the provisions of standard 115.67 (Retaliation Monitoring). Notification of the investigative findings were documented for the 4 residents and maintained within the casefiles.

The PAQ indicates there were 0 forensic exams performed in the extended review period. The lead auditor was unable to conduct an interview with the SAFE because they report to the hospital only as needed 24/7. However, the auditor was able to conduct an interview with the Regional One Health Center Nurse Supervisor. She confirmed it is the hospital's protocol to contact a SANE or SAFE who is required to report to the hospital within one hour of being notified. She continued in stating, it is also the hospital's protocol to offer a victim advocate to all victims of sexual abuse and the protocol include residents/inmates from local correctional facilities. However, the victim has the option of accepting or refusing the offer of victim advocate services. Medical staff will only contact a victim advocate if the victim request one.

The facility identified a Memorandum of Understanding with Shelby County Crime Victims and Rape Crisis Center. An interview was conducted with a Counselor employed at the Center. She indicated upon the Center receiving notification of victim being sexual assault, a SAFE/SAFE nurse is notified ot report to the hospital to conduct the forensic medical examination. She continued in stating, a victim advocate would be provided if requested by the victim.

The auditor later conducted an exit briefing with the MLTC Superintendent Mr. Taurean J. James; Office of Inspector General Director of Compliance Ms. Kimberly Gulden; Office of Inspector General TDOC State-wide PREA Coordinator Mr. Blake Pollock; Chief Counselor Ms. Angela Porter and Fiscal Director Mr. Cecil D. Currie; Correctional Administrator/Rehabilitation Services April Buckner Correctional Administrator Trinity Minter. The facility was thanked for their hospitality, assistance, and cooperation provided during the pre-audit, and onsite audit. Discussion included general observation and preliminary findings. The post audit phase was described and the timeliness of any further requested documents as determined to be needed. The auditor acknowledged staff on their preparedness for the audit, organization skills, professionalism of staff, positive interaction with the resident population, expression of trust from the resident population to address their PREA related concerns and staff and resident knowledge of PREA education provided.

## 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 Tennessee Department of Corrections (TDOC) - Mark Luttrell Transition Center is located at 6000 State Road, Memphis, Tennessee. Mark Luttrell Transition Center is a time building prison with minimum trustee to minimum restrict security designation for housing adult males for the state of Tennessee.

The Mark H. Luttrell Transition Center opened in 1976 as the Memphis Correctional Center. The facility was originally designed to hold 366 residents. The Memphis Correction Center was the first regional facility built by the Tennessee Department of Corrections with the concept of housing residents near their families. The facility transitioned through a variety of missions as part of TDOC agency over following years. Due to the influx of residents from the Shelby County Areas in 1980s', the facility was re-designated as the reception center for the West Region. In 1989, the Memphis Correctional Center became the Mark H. Luttrell Reception Center. It was named in honor of the facility's first Superintendent, Mark H. Luttrell. In 1997, the facility began receiving female residents at the 120-bed Annex, while the male residents remained at the main building until June 1999. The facility continued to be a reception center, as well as a time building, until February 2000, at which the facility changed from a reception center and became a female only time building facility. The Mark H. Luttrell Reception Center officially became the Mark H. Luttrell Correction Center, and the rate capacity was 445, which includes the 120 bed Annex. The staff break down total is 186; 103 security; 56 support staff and 27 contract staff.

In November 2016, the facility was rebirth as the Mark H. Luttrell Transition Center with a rated capacity of 454, that includes the capacity of 120 at the Annex. The resident base count on the first day of the on-site visit was 149. Fifty-one residents were assigned to the Annex and the remaining 98 was housed at the main facility. There were 149 residents housed at MLTC on the first day of the on-site visit. The facility security levels resident custody level are Level II, Minimum Restricted and Minimum Trustee. The average length of resident stay is 30 months, and the resident age ranges from 20 – 66 years old.

Effective in March 2020, the number of transfers/incoming inmates from other TDOC facilities has decrease due to COVID-19. Newly arriving residents and court returns who had contact with the public are required to be placed on quarantine status for 14 days. These residents' complete showers during their allotted recreation time. Residents' programs and the number of residents assigned to various areas has decreased in effort to allow proper social distances of residents and staff. Classroom sizes has been reduced from 20 residents to 10.

The mission of the Mark Luttrell Transition Center (MLTC) is to enhance public safety by providing offenders with a supportive living environment and evidence-based transitional services. The offenders, who will be referred to as residents, will have the opportunity to develop the social skills, employment skills and self-discipline necessary to successfully reenter society.

MLTC provides evidence-base programs designed to prepare the resident population for reentry into society as productive citizens. Phase-based programming focus on cognitive and behavioral care, education, and job skill building. There are three phases of the program.

Phase I includes an assessment and orientation phase in which participants will being intensive treatment for a 6-month program. Residents in the phase 1 program are issued TDOC uniforms. Programming includes smart work ethics, thinking for a change and group therapy (referral only).

The Phase II function is career development, a 6-month program (cap). Residents focus on community services and employment readiness skills. Emphasis is placed on the types of identification that are required of reemployment/work release. Residents in this program color scheme is green polo/khaki pants. Residents in this phase are assigned to community service crews and institutional grounds. They attend a 2-hour class time in career management success and computer application.

Phase III, residents may participate in supervised job assignments. They may obtain pre-approved jobs in the community. The phase addresses reentry employment and employment retention until the resident 's release date. These residents leave the facility daily for medical appointments and other prior approved assignments. Civilian attire is the residents approved uniform for this phase.

Eligible residents are assigned as Residential Advisors. The resident's uniform consists of a blue polo and khaki pants. They are assigned to the following jobs: interior landscape, interior maintenance, commercial cleaner, laundry services and food service.

The Resident Jobs Coordinator is responsible for resident job assignments inside and outside the facility. Four Surveillance Corporals are responsible for monitoring residents who are assigned to work or education release from the Annex. He/she is also responsible for collecting information regarding a resident's behavior and work habits on outside job sites.

The staff complement consisted of 186 staff during the on-site visit. Nineteen staff was hired during the 12-month review period and 10 staff was promoted. Non-security staff are assigned in administrative and/or executive positions. One hundred positions are allotted to security staff who are assigned to one of the two shifts 6:00 a.m. – 6:00 p.m. or 6:00 p.m. - 6: 00 a.m. The facility had the following vacancies in the security department: 17 correctional officers, 1 Lieutenant and 1 Captain. The food service department is contracted through Armark (4). Medical staff consist of both TDOC staff (4) and contracted staff (20) through CORIZON. The five mental health staff are contracted through Centurion. A total of 41 active volunteers provides services at MLTC that consist of 32 religious services, 6 with

Alcohol Anonymous and 3 with HopeWorks. Volunteers have not been allowed entry into any TDOC facilities since March 2020 due to COVID-19.

The facility consists of 11 buildings. Eight buildings are located outside the main compound perimeter and 3 buildings are located inside the main compound. There are 3 towers strategically located around the main building perimeter and are no longer used.

The warehouse building receives, and stores food items, supplies, and other items necessary for the daily operation of the facility. The Resident Commissary, MLTC Safety Officer and Sanitation Officer offices are in this area. The auditor identified two blind spots within the warehouse that could be eliminated with the addition of 360 degree convex/safety mirrors installed over two doors that would provide observation of the hallways and work areas of residents from three angles from a distance. These mirrors were installed, and photographs were provided to the auditor on February 12, 2021.

The maintenance building houses the offices of the Facilities Manager and Facilities Supervisor. A boiler room is also located outside the perimeter and the Key Control Supervisor's office is in this building.

The MLTC Annex building is located outside the secure perimeter and has 4 housing units (1-4) for minimum custody offenders who are approved for work release in the local community. The four housing units are designated for work release. Housing units 1, 2, and a dayroom are located at the front of the building. Housing units 3 and 4 and another dayroom are located at the back of the building. Housing unit #1 has a resident capacity rate of 28 single stalls. Housing unit #2 has a resident capacity rate of 32 single stalls. Housing unit #3 has a resident capacity rate of 30 single stalls. Housing unit #4 has a capacity rate of 30 single stalls. Each of these housing unit have individual shower stalls with attached shower curtains that provide privacy during use. The residents have a common area restroom area with laboratories and individual toilets that has ¾ doors are each that also provide privacy while in use. Residents enter the bathroom area through a full-size entry door. Cameras had not yet been installed at the Annex during the on-site visit. Two security staff are assigned at the Annex during 2<sup>nd</sup> shift (night) and three security staff are assigned during the 1<sup>st</sup> shift (day). Surveillance officers are responsible for monitoring and visiting residents who are assigned on work release programs from the Annex. Residents have not reported for job assignments in the local community since March 2020 due to COVID-19.

Residents' telephones are in each housing unit. The PREA Hotline numbers of \*9222 internal reporting and \*9555 external reporting is located on all telephones. Calls made to the \*9555 are identified as not monitored. The bulletin boards in resident housing units contain PREA posters advising them how to report allegations of sexual abuse and sexual harassment both internally and externally. Members of the SART and victim advocate is also posted on the bulletin boards. This information was easily identified due to the use of bold bright colors as a choice of printing papers.

Annex also has a security operations area, kitchen with dining area, a medication room, an exercise area, and a library that is in the building's central portion. Offices are in the extreme front of the Annex are for the assigned correctional counselor, mental health counselor and a volunteer chaplain.

Main compound:

Newly arriving residents and court returns who had contact with the public are required to be placed on quarantine status for 14 days. These residents' complete showers during their allotted recreation time.

There are two cameras upstairs and two are downstairs in each housing unit at each entry way. Three resident telephones are located on both the top and bottom tier of the housing units. The PREA Hotline numbers of \*9222 internal reporting and \*9555 external reporting is located on all telephones. Calls made to the \*9555 are identified as not monitored. There is a main corridor that residents and staff travel through the main compound. A visual observation of all program areas is available through windows throughout the corridor. PREA information is placed on walls that identify the facility's Zero tolerance of sexual abuse and sexual harassment.

The 6 housing units located on the main compound are identified as the following:

Unit 27 (D-North) and is designated for Phase 1 Residents. There are 32 double bunk cells with a capacity for 64 residents. All cells are equipped with an all-in-one sink and toilet that is in the corner of the cell. The location of the toilet provides additional privacy when in use. Ten individual showers are within the unit and privacy is awarded by shower curtains. These residents are required to attend school. The bulletin boards in resident housing units contain continuous PREA education advising residents of the agency zero tolerance for sexual abuse, sexual harassment, and various ways to report both internally and externally. Members of the SART and victim advocate is also posted on the bulletin boards. This information was easily identified due to the use of bold bright color choice of paper. Newly arriving residents and those who are returning from court and/or outside facility medical trips are placed on quarantine status for 14 days on the top tier of this unit.

Unit 28 (D- South): is also designated for Phase 1 Residents. There are 32 double bunk cells with a capacity of 64 residents. All cells are equipped with an all-in-one sink and toilet that is in the corner of the cell. The location of the toilet provides additional privacy when in use. Ten individual showers are within the unit and privacy is awarded by shower curtains. There are two cameras upstairs and two cameras are downstairs in each housing unit at each entry way. Residents' telephones are located on both the top and bottom tier of the housing units. The bulletin boards contain PREA posters providing continuous PREA education to include how to report allegations of sexual abuse and sexual harassment both internally and externally. Members of the SART and victim advocate is also posted. This information was easily identified due to the use of bold bright color choice of paper.

Unit 30 (E-South Lower) is designated for the Resident Advisors. There are 26 double bunk cells with a capacity of 32 resident. All cells are equipped with an all-in-one sink and toilet that is in the corner of the cell. The location of the toilet provides additional privacy when in use. Four individual showers are within the unit and privacy is awarded by shower curtains. There are two cameras upstairs and two cameras are downstairs in each housing unit at each entry way. Residents' telephones are located on both the top and bottom tier of the housing units. The bulletin boards contain PREA posters providing continuous PREA education to include how to report allegations of sexual abuse and sexual harassment both internally and externally. Members of the SART and victim advocate is also posted. This information was easily identified due to the use of bold bright color choice of printed paper.

Unit 30 E-South Upper is designated as a segregation unit. There are 13 double bunk cells and two single bunk cells. The two single bunk cells are designated as mental health observation cells. There are two showers within this area. Residents are escorted by staff to the showers. There is one shower area with two shower heads but only one resident showers at a time. One of the two mental health observation cells is equipped with video monitoring. No residents and /or staff were assigned to the segregation unit as it is rarely utilized. A telephone is accessible for a resident upon assignment. There



are two cameras upstairs and two cameras are downstairs in the housing unit at each entry way. The bulletin boards contain PREA posters providing continuous PREA education to include how to report allegations of sexual abuse and sexual harassment both internally and externally. Members of the SART and victim advocate is also posted. This information was easily identified due to the use of bold bright color choice of printed paper.

Unit 31 (F-Unit) is designated for Phase II Residents. There are 36 double bunk cells with a capacity of 72 residents. All cells are equipped with an all-in-one sink and toilet that is in the corner of the cell. The location of the toilet provides additional privacy when in use. Four individual showers are within the unit and privacy is awarded by shower curtains. There are two cameras upstairs and two cameras are downstairs in each housing unit at each entry way. Residents' telephones are located on both the top and bottom tier of the housing units. The bulletin boards contain PREA posters providing continuous PREA education to include how to report allegations of sexual abuse and sexual harassment both internally and externally. Members of the SART and victim advocate is also posted. This information was easily identified due to the use of bold bright color choice of printed paper.

Unit 32 (G-Unit) is designated for the Phase II Residents. There are 36 double bunk cells with a capacity of 72 residents. All cells are equipped with an all-in-one sink and toilet that is in the corner of the cell. The location of the toilet provides additional privacy when in use. Ten individual showers are within the unit and privacy is awarded by shower curtains. There are two cameras upstairs and two cameras are downstairs in each housing unit at each entry way. Residents' telephones are located on both the top and bottom tier of the housing units. The bulletin boards contain PREA posters providing continuous PREA education to include how to report allegations of sexual abuse and sexual harassment both internally and externally. Members of the SART and victim advocate is also posted. This information was easily identified due to the use of bold bright color choice of printed paper.

Housing units Unit 31 F-Unit and Unit 32 G-Unit are located directly adjacent to Unit 30 E-South Unit. These housing unit are separated by a catwalk that housed a Unit Management office.

Cell inspection is conducted between 2:00 – 4:00 p.m. afterwards the residents can use the showers. Those residents on quarantine status can shower during their recreation period. There were no residents identified as transgender and /or intersex during the audit review period.

Segregation (E-South Upper) has 15 double bunk cells with a capacity for 30 residents. All cells are equipped with an all-in-one sink and toilet that is in the corner of the cell. The location of the toilet provides additional privacy when in use. There are two showers with shower curtains in the segregation unit. However, the segregation unit is not being utilized as such. Residents are not authorized to place in a segregation cell beyond 24 hours. Placement is only authorized while pending the completion of an investigation, transfer authorization and the arrangement of escort transportation to West Tennessee Penitentiary.

Libraries at both main compound and Annex have all bookshelves against the walls that provide a full view of area. A 360-degree convex/safety mirror that provide observation of the complete area to staff while they are attending duties from his/her desk. Bulletin boards with PREA information and PREA pamphlets are available for the residents in the library.

The main compound has a gymnasium and an outside recreation area. The Annex has an exercise room and an outside recreation yard. The areas are monitored by staff when occupied by the resident population.

Medical staff are on duty 24/7 and a Registered Nurse is always on duty to include part-time registered nurse as needed. Dentist services are available Monday – Friday through Centurion. All residents are seen by medical who also ask the residents the PREA question. The facility does not have an infirmary but does have two observation rooms. The medical area at the main compound is located directly behind the assigned security staff's desk. Only one resident is allowed in the area at a time.

Residents have access to U. S. Mailboxes and grievance boxes that located in the corridor an addition to being in their housing units to submit reports of PREA allegations to staff and/or outside facility resources.

## Summary of Audit Findings

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

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

### Standards Exceeded

**Number of Standards Exceeded:** 5  
**List of Standards Exceeded:**

- 115.211, Zero Tolerance of sexual abuse and sexual harassment: PREA Coordinator
- 115.217, Hiring and promotion decisions
- 115.231, Employee training
- 115.234 Specialized Training: Investigations
- 115.241, Screening for risk of victimization and abusiveness

### Standards Met

**Number of Standards Met:** 34

- 115.212, Contracting with other entities for the confinement of inmates
- 115.213, Supervision and monitoring
- 115.215, Limits to cross-gender viewing and searches
- 115.216, Inmates with disabilities and inmates who are limited English proficient
- 115.218, Upgrades to facilities and technologies

115.221, Evidence protocol and forensic medical examinations

115.222, Policies to ensure referrals of allegations for investigations

115.232, Volunteer and contractor training

115.233, Inmate education

115.235, Specialized training: Medical and mental health care

115.242, Use of screening information

115.251, Resident reporting

115.252, Exhaustion of administrative remedies

115.253, Inmate access to outside confidential support services

115.254, Third-party reporting

115.261, Staff and agency reporting duties

115.262, Agency protection duties

115.263, Reporting to other confinement facilities

115.264, Staff first responder duties

115.265, Coordinated Response

115.266, Preservation of ability to protect resident from contact with abusers

115.267, Agency protection against retaliation

116.271, Criminal and administrative agency investigations

115.272, Evidentiary standard for administrative investigations

115.273, Reporting to inmates

115.276, Disciplinary sanctions for staff

115.277, Corrective action for contractors and volunteers

115.278, Disciplinary sanctions for inmates

115.282, Access to emergency medical and mental health services

115.283, Ongoing medical and mental health care for sexual abuse victims and abuser

115.286, Sexual abuse incident reviews

115.287, Data collection

115.288, Date review for corrective action

115.289, Data storage, publication, and destruction

115.401 Frequency and scope of audits

115.403 Audit contents and findings

**Standards Not Met**

**Number of Standards Not Met:** 0

**List of Standards Not Met:** N/A

## PREVENTION PLANNING

### Standard 115.211: Zero tolerance of sexual abuse and sexual harassment; PREA coordinator

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

#### 115.211 (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

#### 115.211 (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

#### 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.*

Evidence Reviewed (documents, interviews, site review):

1. MLCT Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06.2 PREA Allegations, Investigations, and SART (Sexual Abuse Response Teams)
3. TDOC Index 502.06 PREA Implementation, Education and Compliance

4. MLTC Organizational Chart and TDOC Organization Chart
5. MLTC Index 502.06.2-1 PREA Allegations, Investigations, and SART
6. Interviews with:
  - a. TDOC PREA Coordinator

115.211(a) The agency and facility have a comprehensive written policy that mandates zero tolerance toward all types of sexual abuse and sexual harassment. Index TDOC.502.06 states that the Department does not tolerate sexual abuse or sexual harassment of an inmate. The Directive clearly outlines the agency's zero tolerance policy and identifies the agency's approach to the prevention, detection, and response to sexual assault incidents in their facility. The Directive includes definitions of prohibited behaviors regarding sexual abuse and sexual harassment that are consistent with PREA standards. The Directive also outlines sanctions for those that have participated in prohibited behaviors in the facility.

In addition to TDOC Index 502.06 PREA Implementation, Education and Compliance. TDOC Index 502.06.2 and the MLTC Index 502.06.2-1 policy outlines the duties and responsibilities of staff designated to serve on an organized and structure team responsible for developing and maintaining a program of prevention, detection, response, investigation, and tracking of sexual assaults and the persons involved. The Head of Agency Designee and State-wide PREA Coordinator indicated monthly PREA walks, meetings, and reports are conducted in accordance with TDOC policy and inspection standards such as why an incident occurred in a particular area, and what corrective actions could be applied if applicable. The facility has established a Sexual Abuse Incident Review Team (SART). The ART is a coordinated response team comprised of medical and mental health practitioners, facility investigators, and facility security leadership. The facility's victim advocate is also a member of the SART. The SART members conduct monthly walk throughs reviewing security equipment and submitting any recommendations for mirrors and video placement that would serves as a level protection for the residents from sexual assault or sexual abuse. A work order is submitted as needed and approved projects are required to be completed within 30 days of submission.

115.211(b) The agency has designated a State-wide PREA Coordinator with the Office of the Inspector General, who is assigned the duties of overseeing the agency's efforts regarding PREA in all its facilities. The agency's organizational chart was reviewed. The chart shows the State-wide PREA Coordinator's position reports directly to the Commissioner. The auditor interviewed the State-wide PREA Coordinator who confirmed he has the time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all its facilities.

Based on the review of policies, that include the development of MLTC Index 502.06.2-1 PREA Allegations, Investigations, and SART, TDOC Index 502.06.2 PREA Allegations, Investigations, and SART (Sexual Abuse Response Teams), TDOC Index 502.06 PREA Implementation, Education and Compliance, organization charts, duties and responsibilities of the SART and interviews it is determined MLTC exceeds in meeting the mandate of compliance of this standard. MLTC Index 502.06. 2.1 outlines the responsibilities assigned to members of the SART that provides addition measures in maintaining a safe environment in the prevention of sexual abuse and sexual harassment by ensuring compliance of the PREA standards in conducting monthly walk throughs and submitting their findings to the Commissioner for review.

## Standard 115.212: Contracting with other entities for the confinement of residents

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

#### 115.212 (a)

- If this agency is public and it contracts for the confinement of its residents 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 residents.)  Yes  No  NA

#### 115.212 (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 residents.)  Yes  No  NA

#### 115.212 (c)

- If the agency has entered into a contract with an entity that fails to comply with the PREA standards, did the agency do so only in emergency circumstances after making all reasonable attempts to find a PREA compliant private agency or other entity to confine residents? (N/A if the agency has not entered into a contract with an entity that fails to comply with the PREA standards.)  Yes  No  NA
- In such a case, does the agency document its unsuccessful attempts to find an entity in compliance with the standards? (N/A if the agency has not entered into a contract with an entity that fails to comply with the PREA standards.)  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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06 PREA Implementation, Education and Compliance
3. Contracts with other agencies
4. Interviews with the following:
  - a. TDOC State-wide PREA Coordinator/ Contract Monitor

TDOC Index 502.06 states employees of privately managed facilities shall receive PREA training as part of the pre-service and in-service training requirements established by the contractor and approved by TDOC. The Director of Contracts Administration shall ensure that all new TDOC contracts or contract renewals include language requiring compliance with the PREA standards. The TDOC has entered four contracts for the confinement of inmates with a private agency (Core Civic). Interview with the State-wide PREA Coordinator who is also the Contract Monitor indicated he communicate with the contracting agencies and address any concerns regarding maintaining compliance with all PREA standards. A review of the contracts indicated the requirement for each facility to maintain PREA certification as a condition of the contracts is documented.

The facilities' most recent PREA audits were submitted as the following: Hardeman County Correctional Facility on August 6, 2020; South Central Correctional Center on February 17, 2020; Whiteville Correctional Facility on September 16, 2020; Trousdale Turner Correctional Center most recent posted PREA audit is noted as March 2018. However, a PREA audit was recently conducted in February and the audit report is pending. Review of the contracts confirmed all contained language that required the contracted facility to comply with the requirements of the Prison Rape Elimination Act.

Based on the review of the contracts, audit reports and interview, the facility has demonstrated compliance with all provisions of this standard.

## **Standard 115.213: Supervision and monitoring**

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

### **115.213 (a)**

- Does the facility have a documented staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect residents against sexual abuse?  
 Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The physical layout of each facility?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The composition of the resident population?  Yes  No



- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The prevalence of substantiated and unsubstantiated incidents of sexual abuse?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any other relevant factors?  Yes  No

### 115.213 (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

### 115.213 (c)

- In the past 12 months, has the facility 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 assessed, determined, and documented whether adjustments are needed to prevailing staffing patterns?  Yes  No
- In the past 12 months, has the facility 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 assessed, determined, and documented whether adjustments are needed to the resources the facility has available to commit to ensure adequate staffing levels?  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.*

Evidence Reviewed (documents, interviews, site review):

1. MLCT Completed Pre-Audit Questionnaire (PAQ)

2. TDOC Index 502.06 PREA Implementation, Education and Compliance
3. TDOC Index 506.22 Security Staff Assignments
4. MLTC Annual Staffing Review
5. Post Assignment Rosters
6. MLTC Staffing Plan
7. Observation while on-site
8. Interviews with:
  - a. MLTC Superintendent
  - b. TDOC PREA Coordinator
  - c. MLTC PREA Compliance Manager
  - d. Intermediate or Higher-Level Staff

115.213(a) TDOC Index 502.06 states the requirements of a facility staffing plan that provides for the adequate levels of staffing and monitoring to protect inmates against sexual abuse. These requirements contain the eleven requirements stated in this provision. This Staffing Plan shall be completed on the PREA Annual Staffing Review form CR-3964. The Mark Luttrell Transition Center Staffing Plan addresses the eleven requirements as indicated in this provision. The staffing plan is based on 454 residents. Interviews with the TDOC PREA Coordinator, MLTC Superintendent and MLTC PCM indicated the facility develop and comply with a staffing plan as outlined in TDOC Index. The Staffing Plan was documented as reviewed by Chief of Security, Deputy Superintendent/ Facility PREA Coordinator, TDOC PREA Coordinator and the Superintendent. The Staffing Plan includes the physical layout of the facility (including blind-spots or areas where staff or residents may be isolated), composition of the resident population, the prevalence of substantiated or unsubstantiated incidents of sexual abuse, deployment of video monitoring system and other monitoring technologies, resources the facility has available to commit to ensure adherence to the staffing plan, and institution program occurring on a particular shift. Per the Superintendent the facility received additional funding to upgrade and install new cameras. He indicated video monitoring is always given a great consideration in calculating adequate staffing levels and determining the need for video monitoring each element in provision (a). The cameras aid staff in many methods to include resident monitoring, conducting investigations, and serve as a deterrence with residents committing prohibited acts to include sexual misconduct.

115.213(b) TDOC Index 506.22 identifies Critical and Non-Critical post. Critical post is a security position designated by the Warden/Superintendent that must be staffed regardless of institution circumstances and if left unstaffed, would jeopardize the security of safety of the facility, staff, offenders, or the community. Non-critical post is a security position designated by the Warden/Superintendent that when left unstaffed does not jeopardize the security of the facility, staff, inmates, or the community. A non-critical post will be left unstaffed in lieu of authorizing overtime to staff a critical post. The facility staffing plan is developed with minimum operation staffing levels in mind and a daily staff roster is reviewed to ensure adequate staff in accordance with the stated staffing

plan. The daily rosters identify positions and the staffing requirements for those positions and reconciles staffing deployment in accordance with the position requirements outlined in the staffing plan. Per an interview with the Superintendent and a random selection of security rosters for the review period, there has been no deviations from the staffing plan in the filling of critical post. The staffing plan and security roster is reviewed quarterly and post assignments allocations changes are made to manage the facility's operation. Non-critical post is vacated, and the assigned staff are assigned to a critical post. Due to COVID-19 the facility has reduced programs and activities. Therefore, some post previously identified as critical are no longer critical due to the facility's restructuring the operations of resident's programs. The Superintendent continued in stating overtime is always approved when there is no available staff to cover vacate critical post. Thus far, there has not been any deviations from the staffing plan. Throughout the on-site tour it was noted that staffing was adequate and prevalent throughout the institution.

115.213(c) TDOC Index 502.06 states that by July 1<sup>st</sup> of each calendar year each facility shall assess, determine, and document whether adjustments are needed to the facility staffing plan. TDOC Index 506.22 states the Warden shall identify on each post assignment schedule all critical posts. Posts that are critical to the security of the institution must be filled on each shift. The staffing plan review is documented on an agency-wide standardized form. MLTC provided a copy of the Staffing Plan that considered all criteria in this standard. Interviews with the TDOC State-wide PREA Coordinator, Superintendent and MLTC PCM, all indicated the facility conduct a staffing plan review at least annually. The Staffing Plan was reviewed and signed by the Chief of Security, Superintendent, and MLTC PREA Coordinator/ Deputy Superintendent on February 1, 2020. The Staffing Plan was signed by the TDOC PREA Coordinator on June 30, 2020.

Based on the review of policies, documentation, interviews and analysis, the facility has demonstrated compliance with all the provisions of this standard.

## Standard 115.215: Limits to cross-gender viewing and searches

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

#### 115.215 (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

#### 115.215 (b)

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

#### 115.215 (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 residents? (N/A if the facility does not have female residents).  Yes  No  NA

#### 115.215 (d)

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

#### 115.215 (e)

- Does the facility always refrain from searching or physically examining transgender or intersex residents for the sole purpose of determining the resident's genital status?  Yes  No
- If a resident's genital status is unknown, does the facility determine genital status during conversations with the resident, 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

#### 115.215 (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 residents 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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06 PREA Implementation, Education, Compliance
3. MLTC Index 112.08-1 Personal Hygiene Resources for Residents
4. TDOC Index 506.06 Searches
5. TDOC Index 113.37 Gender Dysphoria
6. TCA Lesson Plan- Personal Searches
7. Training records
8. Observation while on-site
9. Interviews with:
  - a. MLTC PCM
  - b. Random staff
  - c. Residents

115.215(a) TDOC Index 502.06 states female correctional officers may frisk search inmate of both genders. Male correctional officers may frisk search only male inmates. Strip searches will only be conducted by staff members of the same gender. Strip/visual body cavity searches based on reasonable suspicion/probable cause require the completion of a CR-2156 by the Warden/Superintendent/designee. The policy indicates inmates will be placed in a dry cell rather than be subjected to a manual body cavity search. Therefore, MLTC does not conduct visual body cavity searches to include cross-gender and /or by medical practitioners.

115.215(b) MLTC is designated as a male facility only. This provision of the standard is not applicable as females are not assigned.

115.215(c) As identified in TDOC Index 502.06 Searches, the agency does not allow cross-gender strip searches and does not conduct visual body cavity searches to include cross-gender. The facility does not house female residents. The facility reported zero cross-gender strip or cross-gender visual body cavity searches of residents.

115.215(d) MLTC Index 112.08-1 states the facility will ensure all staff of the opposite gender will announce their presence on housing units and other areas where a resident is likely to be showering,

performing bodily functions, or changing clothes. No officer shall stand and look into residents' cells while performing security check functions. Staff are to use good judgement when incidental viewing will happen such as conducting security checks. Staff interviews also confirmed it is a common practice that the female staff announce themselves prior to entering the housing units. During the tour it was noted that the facility implemented procedures that allow inmates to shower, change clothes, and use the toilet without being viewed by staff of the opposite gender. An all-in-one sink and toilets are in the resident's cells at the main compound. The showers within each pod of the main facility are individual and two showers' curtains are installed for privacy and only allow exposure of the resident's head and feet. A white line on the floor identifies an out of bounds area for residents not assigned to cells within the area and are not in use of the showers. This corner area is accessible to monitoring by staff through the view of the mirror from a distance within the housing units.

Showers located at the Annex are individual and have a  $\frac{3}{4}$  door that allows privacy during use while only exposing the resident's head and feet. Residents indicated they had no concerns regarding being seen by the opposite gender staff when using the toilet, showering, or changing clothes. There were no inconsistencies in this practice identified.

115.215(e) TDOC Index 506.06 Searches and TDOC Index 113.37 indicates: A strip search of a transgender or intersex inmate may not be conducted for the sole purpose of determining the inmate's genital status." If an inmate's status is unknown it may be determined by conversation with the inmate, a review of available medical records, or as part of a broader medical examination conducted in private by a licensed medical professional. All staff interviewed reported that the agency prohibits staff from searching or physically examining transgender or intersex resident for the sole purpose of determining genital status. Staff and the TDOC State-wide PREA Coordinator reported there has not been a resident identified as transgender or intersex designated to the facility to include during the onsite visit.

115.215(f) TDOC Index 506.06 Searches identifies: Security staff shall be trained on how to conduct cross-gender frisk searches and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs. The Tennessee Correctional Academy Basic Correctional Office Training Program Curriculum BCOT-10-7 Personal Searches is a two-hour training course provided to staff that outlines the correct procedures in conducting a search step by step. The training included frisk search/pat searches, strip searches, searching residents identified as transgender, intersex, transsexual, body cavity searches, male and inmates/residents. All class participants are required to participate in a skill practice section while paired with a staff member of the same sex. MLTC houses male residents only. Female staff are authorized to conduct frisk searches of the male residents but are prohibited from conducting visual searches and/or body cavity searches of the male residents and/or touching of the genital area of the male residents. Strip searches are performed exclusively by staff of the same gender. However, policy allows residents identified as transgender and/or intersex to identify the gender of staff they feel comfortable completing the pat-search and/or visual/strip search. The facility provides training on LGBTI and Frisk/ Body Searches, Restraints, and Scanning Devices. Training topics, including definitions, were found to be consistent with the definitions contained in the standards. The Pre-Audit Questionnaire noted that 100% of staff have been trained. Random staff interviews indicate they received training regarding cross gender, transgender, and intersex search procedures. There were no residents identified as transgender and/or intersex reported having been at the facility prior to, during the review audit period and/or on-site visit.

Based on the review of policies, documents, interviews and analysis, the facility has demonstrated compliance with all the provisions of this standard.

## **Standard 115.216: Residents with disabilities and residents who are limited English proficient**

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

### **115.216 (a)**

- Does the agency take appropriate steps to ensure that residents 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: Residents who are deaf or hard of hearing?  Yes  No
- Does the agency take appropriate steps to ensure that residents 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: Residents who are blind or have low vision?  Yes  No
- Does the agency take appropriate steps to ensure that residents 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: Residents who have intellectual disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that residents 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: Residents who have psychiatric disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that residents 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: Residents who have speech disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that residents 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 residents 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 residents with disabilities including residents 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 residents with disabilities including residents 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 residents with disabilities including residents who: Are blind or have low vision?  Yes  No

#### 115.216 (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 residents 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

#### 115.216 (c)

- Does the agency always refrain from relying on 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?  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.*

115.216(a)(b) TDOC Index 502.06 states each facility shall take appropriate steps to ensure that inmates with disabilities (including inmates who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity



participate in or benefit from all aspects of the facility's efforts to prevent, detect, and responds to sexual abuse and sexual harassment. It continues stating facility staff shall 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, limited reading skill, or who are blind or have low vision. Agency policy also requires that, except under limited circumstances where a delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of the first responder duties, or the investigation of an inmate's allegation; inmate interpreters, inmate readers, or other types of inmate assistance are not used to communicate information required under this directive for other inmates. TDOC Index 103.10.1 policy indicates that an assessment during the intake process will determine if the inmate requires language or literacy assistance. The review of "Plan for Providing Inmates with Limited English Proficiency Access to Programs and Activities (As required by the Civil Rights Act of 64) outlines the specifics for ensuring methods are identified for communicating with inmates who are LEP. The plan identifies the duties of staff within the various facility departments to include but not limited to medical/mental health services, classification assignment and hearing; disciplinary procedures, grievance procedures, education /programs. Housing assignment, court appearances, parole hearings program availability. The plan list outside agencies that are available to provides a variety of services for inmates with a range of disabilities to include LEP. A list of bilingual staff is identified within the plan and updated as needed. The inmate will be offered Language Identification Guide to make the determination. An interpreter will be provided through utilization of institution staff, volunteers, or contract interpreters to determine the extent of their proficiency. The staff member will document the provision of an interpreter by name on E-TOMIS Contact Notes (LCDG). At orientation residents are provided a copy of the Resident Orientation Handbook that covers the agency's zero-tolerance policy. Additionally, inmates also participate in a video that specifically covers PREA topics to include the agency's zero-tolerance policy; how to report sexual abuse and sexual harassment; agency policy regarding sexual abuse and sexual harassment; and inmate rights regarding sexual abuse, sexual harassment, and retaliation. The video presentation has audio and is also available in Spanish. Sign language services are available through Statewide Visual Communication Services. An Interagency agreement between the State of Tennessee Department of Corrections and Tennessee Foreign Language Institute has been established for the contractor to provide qualified language interpreter services for non-English speaking inmates. During the interview with the agency head/designee, she indicated the language line and sign language services are available to inmates. There were no residents identified as LEP at MLTC. One resident was identified to have a disability during the on-site visit for interview. This resident identified himself as hearing impaired (hearing aid). He stated he was received PREA information regarding sexual abuse and sexual harassment in formats he was able to understand and he has no problem in understanding the PREA information posted throughout the facility.

115.216(c) TDOC Index 502.06 states, "Inmate interpreters, inmate readers, or other types of inmate assistance are not used to communicate information required under this directive to other inmates, except under limited circumstances where a delay in obtaining an effective non-inmate interpreter would compromise the inmate's safety, the performance of first responder duties, or the investigation of an inmate's allegation. Contact Note LCDG shall be posted identifying the name of the assistor and their organization. During interviews, staff indicated they were aware that residents' interpreters should not be used regarding a PREA allegation. The auditor presented a variety of scenarios to random staff during the interview process. The 10 random staff indicated they were aware a resident is not allowed to

provide translations services for a another when reporting an allegation of sexual abuse and/or sexual harassment. Staff was aware of the official staff member assigned to provide translation services. An interview with the MLTC staff member indicated upon a residents' arrival and his language is identified as Spanish, she completes the translation services for staff and the resident. Staff are required to utilize to the language line for translation services when she is not on duty.

Based on the review of policies, observation, interviews and analysis, the facility has demonstrated compliance with all the provisions of this standard.

## Standard 115.217: Hiring and promotion decisions

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

#### 115.217 (a)

- Does the agency prohibit the hiring or promotion of anyone 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)?  Yes  No
- Does the agency prohibit the hiring or promotion of anyone who may have contact with residents 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 residents 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 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)?  Yes  No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with residents 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 residents who: Has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above?  Yes  No

#### 115.217 (b)

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

### 115.217 (c)

- Before hiring new employees who may have contact with residents, does the agency: Perform a criminal background records check?  Yes  No
- Before hiring new employees who may have contact with residents, 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

### 115.217 (d)

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

### 115.217 (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 residents or have in place a system for otherwise capturing such information for current employees?  Yes  No

### 115.217 (f)

- Does the agency ask 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?  Yes  No
- Does the agency ask all applicants and employees who may have contact with residents 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

### 115.217 (g)

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

### 115.217 (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**

*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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 301.04 Job Requirements
3. TDOC Index 502.06 PREA Implementation, Education and Compliance
4. TDOC PREA Self Declaration Form
5. TDOC PREA Questionnaire for Prior Institution Employees
6. Hiring and Promotional Records
7. Criminal History Background Records Check Documentation
8. Interviews with:
  - a. TDOC PREA Coordinator
  - b. Administrative (Human Resources) Staff

115.217(a) TDOC Index 301.04 states all applicants for employment or promotions, all contract employees, and all volunteers who may have any contact with inmates shall sign PREA Self-Declaration of Sexual Abuse/Sexual Harassment, CR-3819 to ensure compliance with PREA Standards which states the agency shall not hire or promote anyone who may have contact with inmates and shall not enlist the services of any contractor who may have contact with inmates who has been convicted of engaging or attempting to engage 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. The Human Resource Administrator request for background checks is forward from the facility to the West Tennessee State Penitentiary where they are completed and returned. Human resources staff verified the agency prohibits the hiring or promotion of anyone who do not meet the requirements of this provision. It also prohibits the acquisition of services from any contractor who does not meet the requirements of this provision.

115.217(b) TDOC Index 301.04 states, "The HRSD shall consider incidents of sexual harassment when determining to hire or promote an employee or contract with a service provider if the individual may have contact with an inmate." Human resources staff reported that incidents of sexual harassment are considered during the application, interview, background investigation, and orientation processes.

Human resources staff indicated this also true for contactors regarding sexual harassment. The auditor selected 19 staff personnel files that included 19 new TDOC employees, 10 contract staff and 10 staff who received promotions. The review of these personnel records confirmed indicated applicants are required to complete a Self-Declaration questionnaire regarding all the elements of this standard.

115.217(c) TDOC Index 301.04 indicates that a NCIC criminal history record check shall be conducted on all prospective departmental, contract, and TRICOR employees. HRD staff will make efforts to contact all prior institutional employers of new employees utilizing the CR-3962 PREA Questionnaire for Prior Institution Employers. Consistent with Federal, State and local law, the TDOC will make its best effort to contact all prior institution employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse. Nineteen new hires and 10 promotions was conducted between October 2019 through October 2020. Records indicate that applicants were asked about the types of behavior described. The auditor requested copies of the new hires files for confirmation of completed background checks prior to hiring. The 19 files reviewed confirmed a thorough background investigation was completed in accordance with the provision of this standard.

The auditors' review of staff personnel files confirmed a criminal background check and efforts to contact all prior employers was performed for all applicants. Furthermore, it was noted that prior employer contact was not limited solely to institutional employers.

115.217(d) TDOC Index 301.04 states before enlisting a contractor to perform services that involve contact with an inmate, the HRSD shall conduct a criminal background records check of the contractor's employees who may have contact with an inmate." Per an interview with the HRM, she explained the medical and mental health staff are contracted through Centurion and food service staff are contracted through Armark. Both agencies have their own human resource department, and each conduct their staff background investigations. The contract worker reports to an outside vendor to complete their fingerprints. The information collected goes directly to the Tennessee Bureau of Investigation and possibility the Federal Bureau of Investigations (FBI). She added the information received from the fingerprint check is submitted to the West Tennessee State Penitentiary who in turn forwards it to her at MLTC. If the applicant background check is clear, she contacts Centurion and/or Aramark and advise them that one of their staff has applied for employment at the facility. The Chaplain also hold the position of volunteer coordinator. The review of 10 contractor worker background checks confirmed completion prior to hiring.

An interview with the Chaplain confirmed he collect the required information from the volunteers and forward the information to the Central Office who conducts the background check and return to him upon completion. He added on occasion, there has been some request to become a religious service volunteer has been denied due to information obtained during the background checks.

115.217(e) TDOC Index 301.04 indicates that each subordinate employee and contractor service provider who may have contact with an inmate, an appointing authority, or a designee, shall conduct a criminal records background check annually during the employee's birth month. An interview with the Human Resource Administrator indicated background checks are conducted on all TDOC staff during their birthday month. Background checks are completed on contract staff annually in June/July.

115.217 (f) TDOC Index 301.04 indicates all applicants for employment or promotions, all contract employees, and all volunteers who may have any contact with offenders shall sign PREA Self-Declaration of Sexual Abuse/Sexual Harassment, CR-3819 to ensure compliance with PREA Standard #115.17 which states that the agency shall not hire or promote anyone who may have contact with inmates and shall not enlist the services of any contractor, who may have contact with inmate: 9a0 Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution. (b) 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 no consent or was unable to consent or refuse, or (c) Has been civilly or administratively adjudicated to have engaged in the activity describe in (b). (d) The Department shall consider many 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

115.217(g) TDOC Index 301.04 indicates that a material omission regarding conduct described in this directive or providing materially false information may result in disqualification from further consideration for employment and shall be grounds for termination of employment. Additionally, the Self-Declaration Application Form states I hereby certify that to the best of my knowledge and belief, all the information I provide in this form is true, complete, and made in good faith. I understand that false and fraudulent information provided herein may disqualify me from further consideration for employment and, if employed, may result in termination of employment if discovered later.”

115.217(h) TDOC Index 301.04 states that officials receiving the results of the criminal history record check will use it only for authorized purposes and will not retain or disseminate it in violation of federal statute. An interview with the HRM confirmed 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 for employment. The applicant seeking employment must documented their signature giving authorization prior to forwarding the request. The PREA questionnaire is forwarded to the OIC Institution Investigator for completion and return to the inquiring facility by the HRM. Per the HRM there were no instances within the review period where a request was received.

Based on the review of policies, documentation, interviews and analysis, the facility has demonstrated they exceed in the requirement to conduct background investigation at least every 5 years. Specifically, TDOC policy require and the facility ensures a background check is completed every year on all staff during their birth month. Additionally, on a yearly basis each staff member is required to sign a new Self Declaration form. Background checks are completed on contract staff every year in June/July.

## **Standard 115.218: Upgrades to facilities and technologies**

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

#### **115.218 (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 residents 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

### 115.218 (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 residents 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

*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.*

115.218(a) TDOC Index 108.01 states, "When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the Department shall consider the effect of the design, acquisition, expansion, or modification upon the Department's ability to protect inmates from sexual abuse. The Superintendent explained there has been no substantial modifications to the facility since the last PREA audit.

An interview with the Agency Head/Designee indicated when designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, ACA and PREA standards are given consideration. All recommendations are processed through the chain of command to the Commissioners. She continued in stating the Commissioners does not approve the recommendations without communicating with the Director of Compliance with the Office of the Inspector General and reviewed by the State-wide PREA Compliance Manager of the Office Inspector General. All facilities have cameras and mirrors installed and recently a budget has been awarded to add and/or upgrade cameras throughout all TDOC facilities.

115.218(b) An interview with the Superintendent and MLTC PCM indicated the facility recently added a video camera in a classroom since the previous PREA audit dated April 30, 2018. The facility now has a total of 52 cameras to assist staff in the prevention and detection of sexual abuse and/or sexual harassment. An interview with the Superintendent indicated he considers statistics (e.g. a prevalence if incidents), past problem areas, blind spots, and evidence-based practices.

Based on the review of policies, observation, interviews and analysis, the facility has demonstrated compliance with all the provisions of this standard.

## RESPONSIVE PLANNING

### Standard 115.221: Evidence protocol and forensic medical examinations

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

#### 115.221 (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

#### 115.221 (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

#### 115.221 (c)

- Does the agency offer all residents who experience sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily 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

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

#### 115.221 (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

#### 115.221 (f)

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

#### 115.221 (g)

- Auditor is not required to audit this provision.

#### 115.221 (h)

- If the agency uses a qualified agency staff member or a qualified community-based staff member for the purposes of this section, has the individual been screened for appropriateness to serve in this role and received education concerning sexual assault and forensic examination issues in general? (N/A if agency *always* makes a victim advocate from a rape crisis center available to victims.)  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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Office of Investigation and Compliance Evidence Protocol #005
3. TDOC Index 502.06.3 Medical, Behavior Health, Victim Advocacy and Community Support for PREA Victims
4. TDOC Index 502.06.2-1 PREA Allegations, Investigation and Sexual Abuse Response Team (SART)
5. MLTC Index 502.06.2-1 PREA (SART)
6. MOU with The Sexual Assault Center
7. PREA First Responder PREA Allegation Procedures
8. Investigation Files
9. Interviews with:
  - a. OIC Institution Investigator and OIC Special Agent
  - b. Superintendent

115.221(a) TDOC Index 502.06.2 and MLTC Index 502.06.2-1 state it is the policy of the TDOC to investigate all PREA sexual abuse and sexual harassment allegations in a timely, efficient, and confidential manner in accordance with federal guidelines (Title 28 CFR Part 115). The Agency employs investigators who have received special training in conducting sexual abuse investigations in confinement settings. The Office of Investigations and Conduct Investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence. An OIC Institution Investigator is assigned to conduct administrative investigation at all TDOC facilities . The OIC Special Agent is authorized to conduct administrative and criminal investigations. Interviews with the Superintendent, OIC Special Agent and OIC Institution Investigator identified both administrative and criminal investigations are conducted by TDOC OIC Investigators.

115.221(b) TDOC has developed an appropriate protocol to coordinate appropriately with the most recent edition on the U.S. Department of Justice's Office on Violence Against Women Publication. The TDOC Operation Protocol was revised on July 27, 2019. The Notification and Response Procedure identify the following: (1) It shall be the protocol of the Investigations Unit to appropriately respond to incidents and/or allegations of sexual abuse which occur on TDOC institutional property. When notification is made in a timely manner, Agents will respond as the situation mandates to the site of examination for the purpose of evidence collection and preservation. The Department's response to sexual assault follows the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," dated April 2013, or the most current version. (2) Upon notification of alleged sexual abuse within any TDOC institution, the institution shall immediately have the alleged victim examined by qualified medical personnel. After the initial

examination and collection of clothing for potential evidence, the alleged victim will be transported to the nearest Emergency Room. The ER physician or SANE will perform an examination utilizing a sexual assault evidence kit provided by TBI. This kit will be retained by the ER staff until received by an IU Agent. (3) The responding Agent shall process the alleged crime scene if feasible, receive the evidence from the attending medical staff, conduct an interview with the alleged victim and suspect at the earliest convenience, and determine the appropriate action to best facilitate the investigation. (4) Upon evaluation of all information and evidence obtained, IU staff shall deliver evidence obtained from the investigation to the Tennessee Bureau of Investigations (TBI) Crime Laboratory for evaluation as possible evidence. (5) The Agent will present all evidence in the case to the appropriate District Attorney for review, adoption, and prosecution of any suspects.

The TDOC website [www.TennesseeDepartmentofCorrections](http://www.TennesseeDepartmentofCorrections) was reviewed where the policy was noted as posted. Interviews with investigative staff indicates all allegations of sexual abuse and sexual harassment are investigated. TDOC Index 502.06.3 outlines that if medically appropriate or necessary to preserve evidence, offer the victim access to a medical forensic exam at no cost to the victim.

115.221 (c) TDOC 502.06.3 indicate upon receiving a report of an alleged sexual abuse within the 72-hour time frame SART members that includes medical staff and the OIC institution Investigator shall determine if SAFE/SANE response is indicated at an outside medical facility. If the services of an outside medical facility are determined as warranted, the victim shall be transported by security to an outside medical facility with SAFE/SANE personnel for a forensic examination at no cost to the victim.

Upon receiving a report to an alleged sexual abuse outside of the 72-hour time frame, SART members shall determine if SAFE/SANE response is indicated at an outside medical facility with SAFE/SANE personnel. The alleged victim shall be transported only to medical facilities trained and equipped with SANE personnel. Interviews with the MLTC PCM, medical staff, and Superintendent each confirmed MLTC is scheduled to utilize the Regional One Health Medical Center for all forensic examinations however, these services have not been required. An interview was conducted with a nurse supervisor assigned at the Regional One Health Medical Center who confirmed the facility is a level one trauma center and provide SANE/SAFE for all victims of sexual assault. SANE/SAFE Nurse are on call 24/7 and report to the hospital as needed. There have been zero instances in where a resident reported sexual abuse and a resident required medical services to include by a SANE/SAFE.

115.221(d) TDOC established a Memorandum of Understanding (MOU) with The Shelby County Rape Crisis Center for MLTC on September 9, 2015 that remain in effect. The MOU identify (1) involvement of trained sexual assault advocates is a component of the standard response to a report to sexual assault and/or a request for help from a survivor of sexual assault. (2) Respect the nature of privileged communication between the sexual assault advocate and client. (3) Facilitate follow-up and ongoing contact between the client and sexual assault advocate without regard to the presence of status of an investigation. The Shelby County Rape Crisis Center also agrees to maintain confidentiality of survivors of sexual violence who are incarcerated at MLTC and maintain available crisis counseling through organization's crisis hotline at any time 24-hours a day. The counseling service may be provided in person or by telephone. Victim Advocate training is also available to MLTC staff who will be assigned as one. Per the PAQ, interviews with Superintendent and MLTC PCM and review of the 2 reported allegations of sexual abuse casefiles, there has been zero reported sexual abuse allegations that required

an examination by a SANE/SAFE nor the request for a victim advocate by a resident. The reported allegations of sexual abuse did not include penetration.

An interview was conducted with an assigned Counselor at the Shelby County Rape Crisis Center. She confirmed the agency does provide a variety of services to victims of sexual abuse to include residents/inmates assigned to TDOC facilities. She stated upon being notified of a sexual abuse allegation, a SANE/SAFE nurse reports to the hospital. Also, a victim advocate is made available to the alleged victim. Counseling services would be offered on a continuous basis as requested by the victim. However, due to COVID -19 numerous services would be provided via telephone rather than as previously done in person.

A designated MLTC staff member has completed training by the “Women/Men Resource Rape Assistance Program (WRAP)” to serve as a victim advocate for the facility. Completion of the appropriate training was confirmed through a certificate of completion to the staff. The course was identified as “Working with Male Sexual Assault Survivors and the Neurobiology of Trauma and Sexual Assault presented by Women/Men Resource Rape Assistance Program (WRAP).”

115.221 (e, f, h) TDOC Index 502.06.3 indicates a PREA victim advocate shall be made available to the alleged victim, when requested, to accompany and support the victim through the forensic medical examination and the investigation process. Per the PAQ, interviews with the Superintendent, and MLTC PCM and review of PREA case log and investigative casefiles there were no reported allegations of sexual abuse that required a forensic examination and/or resident’s use of a victim advocate. The MLTC staff member designated has been appropriately trained in her role as a victim advocate through the completion of the training course “Working with Male Sexual Assault Survivors and the Neurobiology of Trauma and Sexual Assault presented by WRAP.” A certificate was presented for review. TDOC Office of Investigations and Conduct is responsible for conducting all administrative and criminal investigations of sexual abuse. An interview with the designated Victim Advocate confirmed her receipt of training to serve as a victim advocate and she have experience of meeting with victims of alleged sexual abuse, but these services has not been required at MLTC. She continued in stating if a resident report to the hospital for a forensic examination, she would also report to the hospital and offer support while making a referral to mental health and medical staff. She added she would continue services with the resident even if they were seeing mental health services while maintaining confidentiality with the resident.

Based on the review of policies, interviews and analysis, the facility has demonstrated compliance with all the provisions of this standard.

## **Standard 115.222: Policies to ensure referrals of allegations for investigations**

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

### **115.222 (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

#### 115.222 (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

#### 115.222 (c)

- If a separate entity is responsible for conducting criminal investigations, does the policy describe the responsibilities of both the agency and the investigating entity? (N/A if the agency/facility is responsible for conducting criminal investigations. See 115.221(a).)  Yes  No  NA

#### 115.222 (d)

- Auditor is not required to audit this provision.

#### 115.222 (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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Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06.2 PREA Allegations, Investigation and SART
3. MLTC Index 502.06.2-1 PREA Allegations, Investigation and SART
4. PREA PAS Tracking log (PREA Allegation System)
5. PREA Investigation Files
6. Interviews with:
  - a. OIC Investigators
  - b. Superintendent

115.222 (a) (b) TDOC Index 502.06.2-1 and MLTC Index 502.06.2-1 states: It is the policy of the TDOC to investigate all PREA sexual abuse and sexual harassment allegations in a timely, efficient, confidential manner in accordance with federal guidelines (Title 28 CFR Part 115). The facility shall coordinate actions taken in response to an incident of alleged sexual abuse or harassment among staff first responders and Sexual Abuse Response Team (SART), which includes medical and behavioral health practitioners, institutional investigator, and facility leadership. There were 4 reported PREA allegations between October 1, 2019 - October 30, 2020. Index 502.06.2 states these shall be conducted within 72 hours of receiving the allegations. Interviews with the OIC Institution Investigator and OIC Special Agent indicated normally the initial investigation begins on the day of the reported allegation. However, those allegations that are reported to have happened recently are given priority over allegations reported to have occurred months ago. All allegations shall be documented within 24 hours of becoming known to the facility in the PREA Allegation System (PAS). Access to the PAS is limited to those staff approved by the Warden/Superintendent and the TDOC State-wide Coordinator. Three cases were completed within 48 hours of being reported. The investigation of the remaining PREA investigation extended beyond 72 hours and was completed on the 10th day after being reported. Per interviews with the Agency Head/Designee, Superintendent and the 2 OIC Investigators, all PREA allegations to include those reported by third party, anonymously, verbally, drop note are investigated in the same manner.

An interview with the Agency Head Designee indicated TDOC conduct both administrative and criminal investigations. An OIC Institution Investigator is assigned at every correctional institution to conduct administrative investigations. A Special Agent with the OIC is responsible for conducting all investigations where criminal actions may have occurred, and criminal charges may be forthcoming. There are times when the District Attorney's Office will accept a criminal case for prosecution but not all criminal cases are accepted.

115.222(b) TDOC Index#502.06.02 and interviews with the MLTC Superintendent, OIC Institution Investigator and OIC Special Agent noted that every allegation of sexual abuse or sexual harassment is investigated by Investigators and Agents employed within the Tennessee Department of Corrections. The Special Agent Investigators has the legal authority to conduct criminal investigation, regardless of whether the allegation involves potentially criminal behavior. He continued in stating when an OIC Institution Investigator determines there is a possibility of criminal charges within a reported allegation, the case is referred to the Office of Investigations and Conduct Special Agents for completion then referred to the State Assistant District Attorney for prosecution as applicable.

The auditor reviewed the TDOC website at [www.TennesseeDepartmentofCorrections](http://www.TennesseeDepartmentofCorrections). TDOC included a section regarding investigation of sexual assault and sexual misconducts. The department is dedicated to producing quality investigations of alleged sexual abuse incidents. All investigators receive specialized training specific to sexual assault in correctional institutions. The TDOC Law Enforcement Unit, in consultant with the department legal office, aggressively refer substantiated cases of sexual assault by offenders or employees to the local district attorney's office for criminal prosecution.

115.222(c) TDOC is responsible for investigations of sexual abuse and sexual harassment. Therefore, this provision is not applicable.

Based on the review of policies, interviews and analysis, the facility has demonstrated compliance with all the provisions of this standard.

## TRAINING AND EDUCATION

### Standard 115.231: Employee training

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

#### 115.231 (a)

- Does the agency train all employees who may have contact with residents on: Its zero-tolerance policy for sexual abuse and sexual harassment?  Yes  No
- Does the agency train all employees who may have contact with residents 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 residents on: Residents' right to be free from sexual abuse and sexual harassment  Yes  No
- Does the agency train all employees who may have contact with residents on: The right of residents 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 residents on: The dynamics of sexual abuse and sexual harassment in confinement?  Yes  No
- Does the agency train all employees who may have contact with residents on: The common reactions of sexual abuse and sexual harassment victims?  Yes  No
- Does the agency train all employees who may have contact with residents 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 residents on: How to avoid inappropriate relationships with residents?  Yes  No

- Does the agency train all employees who may have contact with residents on: How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents?  Yes  No
- Does the agency train all employees who may have contact with residents on: How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities?  Yes  No

#### 115.231 (b)

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

#### 115.231 (c)

- Have all current employees who may have contact with residents 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

#### 115.231 (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.*

Evidence Reviewed (documents, interviews, site review):



1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 110.05 In-Service Training
3. TDOC Index 502.06 PREA Implementation, Education, and Compliance
4. Tennessee Correctional Academy Program Curriculum/ PREA Inmate Sexual Abuse/Assault
5. PREA Training records and Rosters
6. Interviews with:
  - a. MLTC PCM
  - b. Tennessee Correction Academy (TCA) Training Staff
  - c. Random staff

115.231(a) TDOC Index 502.06 states, “The Tennessee Correction Academy (TCA) will be responsible for the development and distribution of the course lesson plans annually. All lesson plans or materials utilized for pre-service and in-service training on inmate sexual abuse and sexual harassment shall be approved by State-wide PREA Coordinator and TDOC General Counsel. TDOC utilizes the TCA PREA lesson plans. The lesson plans cover the 10 topics specified in this provision.

115.231(b) TDOC Index 502.06 states, “Such training shall be tailored to the gender of the inmates at the employee’s facility. MLTC is designated as a male correctional facility. TDOC 502.06 indicates employee training shall be tailored to the gender of the inmates at the employee’s facility. The employee shall receive additional training if the employee is reassigned from a facility that houses female inmates, or vice versa. However, a review of the TCA PREA Assault and Sexual Abuse lesson plan provides training for both male and female inmates/residents. The identified TCA lesson plan is utilized for both per-service and in-service training to all staff.

115.231 (c) (d) An interview was conducted with a TCA training instructor who was providing pre-service training to new staff at the MLTC during the on-site visit. He indicated staff attend PREA training annually during CORE training and new staff attend during pre-service orientation. He stated due to COVID-19 the training classes have been reduced in size from 35 to 5 to 1 and TCA staff were currently conducting training at the facilities rather than the academy. Staff complete PREA training on-line through the Learning Management System to include during annual in-service training. Seventeen computers were in the training area that are available to staff. At the completion of training, staff acknowledge receipt and understanding of training. One hundred eighty-six were employed at MLTC during the review period. Each of those employees was required and received PREA training that are noted in standard 115.231 (a). PREA training is part of the annual training curriculum. A review of staff training records was performed to confirm staff completed the required PREA training. Random staff interviews indicated in-service training is provided annually and that PREA is part of this training. 100% (10) random staff interviewed reported in-service training contains all the information required by this provision. Anyone who has not completed training or may have been unable to attend for various reasons (i.e. injury, illness, schedule conflict) and would be required to make up any missed training by the required deadline. As of September 2019, seasoned staff are scheduled to complete in-service PREA training on-line. New hires continue to complete PREA training during their orientation in Day 1 CORE Training. Those staff who do not have access to a computer and/or need to be relieved from your

assigned duty post, are scheduled weekly for the computer lab. The auditor presented staff with a variety of scenarios during the interview process. The 10 staff selected for random interviews and all specialized staff were confident and competent with their responses in PREA education during their interview training.

TDOC Index 502.06 states, “The TCA Department and facilities shall document, through employee signature or electronic verification that employees understand the training they have received using Employee PREA Training Acknowledgement, CR-3965. The auditor requested a computer-generated roster of all staff completion of PREA training. A review of the presented roster confirmed staff’s completion.

Based on the review of policies, training lesson plans, training records, interviews and analysis, the facility has demonstrated exceeds in compliance of this standard. The facility provides refresher PREA training for employee annually rather every two-year requirement. Additionally, PREA education on bulletin boards throughout the institution that is easily detected to all, staff are issued and carry PREA education refresher cards, and staff responses during the interview process confirm the commitment of MLTC to TDOC policies and the Department of Justice PREA standards with continuous PREA education.

## Standard 115.232: Volunteer and contractor training

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

#### 115.232 (a)

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

#### 115.232 (b)

- Have all volunteers and contractors who have contact with residents 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 residents)?  Yes  No

#### 115.232 (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**

*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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 110.01 Pre-Service (Basic) Training and Employee Orientation
3. TDOC Index 502.06 PREA Implementation, Education, and Compliance
4. TDOC Volunteer Orientation & Training Manual
5. PREA Training records and Rosters
6. Interviews with:
  - a. Training Staff
  - c. Chaplain/Volunteer Coordinator
  - d. Contractor staff

115.232 (a), (b) TDOC Index 110.01 states that part-time employees, volunteers, contract staff and other transferring employees NEO; part-time employee, volunteer, contract staff and employee who are permanent transferring from one location to another shall receive a minimum of 20 hours of work site orientation appropriate to their assignment. The TCA Curriculum for PREA will be used. Per interviews with contract staff, they attend annual in- service using the department's PREA lesson plan. Volunteers and contractors who have minimal resident contact receive the pre-service training.

Food service staff are contracted through Armark. Medical and Mental Health/Behavior Health staff are contracted through Centurion and their training will be defined in more detail in standard 115.235. Contract staff attend the Non-Academy Pre-service Orientation training for new employees and annual in-service training with TDOC staff in Day 1 CORE Training. All contract staff was truly knowledgeable of TDOC policy against sexual abuse and/or sexual harassment and how to report it.

The volunteers receive PREA training from the Chaplain during certification and recertification. Per an interview with the Chaplain/Volunteer Coordinator, the volunteers complete a course that consist of 4 – 5 hours. The TDOC rules and the ZERO tolerance for sexual abuse and sexual harassment, how to report it and their responsibility as a first responder in reporting to security staff. He indicated the volunteers receive training annually and are not allowed to serve as a volunteer until they have completed the required training. The volunteers acknowledged the training by signing the three

acknowledgement sheets presented by him at the conclusion of the course. Due to COVID-19, he conducts the training quarterly or every month via conference calls and Microsoft teams by providing a copy of the spreadsheet that details the upcoming training. The Chaplain and MLTC PCM identified 6 volunteers with Alcohol Anonymous, 3 with HopeWorks and 32 active volunteers are assigned to religious services. Due to COVID-19, volunteers have not been allowed entry into the facility since March 2020 throughout the submission of the audit report.

115.232(c) Each volunteer and contractor receive their training at the facility. Training acknowledgement for volunteers and contractors is documented through signature on CR-3965 noting that they understand the training received. The auditor randomly selected confirmation of PREA training for contract and volunteers. The auditor was presented 41 with copies of active and inactive volunteers' completed training. At the time of the on-site, the food service department had numerous vacate positions. The food service department was operated by 1 contract staff (Armark) and assigned security staff. Three new Armark staff were attending training during the on-site visit. Copy of the contract's staff completed training was presented with the computer-generated roster of MLTC staff training.

Based on the review of policies, training lesson plans, training records, interviews and analysis, the facility has demonstrated compliance with all the provisions of this standard.

## **Standard 115.233: Resident education**

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

#### **115.233 (a)**

- During intake, do residents receive information explaining: The agency's zero-tolerance policy regarding sexual abuse and sexual harassment?  Yes  No
- During intake, do residents receive information explaining: How to report incidents or suspicions of sexual abuse or sexual harassment?  Yes  No
- During intake, do residents receive information explaining: Their rights to be free from sexual abuse and sexual harassment?  Yes  No
- During intake, do residents receive information explaining: Their rights to be free from retaliation for reporting such incidents?  Yes  No
- During intake, do residents receive information regarding agency policies and procedures for responding to such incidents?  Yes  No

#### **115.233 (b)**

- Does the agency provide refresher information whenever a resident is transferred to a different facility?  Yes  No

#### **115.233 (c)**

- Does the agency provide resident education in formats accessible to all residents, including those who: Are limited English proficient?  Yes  No

- Does the agency provide resident education in formats accessible to all residents, including those who: Are deaf?  Yes  No
- Does the agency provide resident education in formats accessible to all residents, including those who: Are visually impaired?  Yes  No
- Does the agency provide resident education in formats accessible to all residents, including those who: Are otherwise disabled?  Yes  No
- Does the agency provide resident education in formats accessible to all residents, including those who: Have limited reading skills?  Yes  No

#### 115.233 (d)

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

#### 115.233 (e)

- In addition to providing such education, does the agency ensure that key information is continuously and readily available or visible to residents through posters, resident 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

*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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06 PREA Implementation, Education, and Compliance
3. TDOC Index 103.10.1 LEP Policy
4. PREA Hotline signs (English and Spanish)
5. MLTC Resident Inmate handbook

6. PREA Sexual Assault Awareness Brochure (English and Spanish)

7. Resident PREA Orientation Receipts

8. Observation on site

9. Interviews with:

a. Counselors

b. Random and target residents

115.233(a)(b) (c) TDOC Index 502.06 states that all inmates entering the TDOC system shall receive verbal and written information concerning sexual abuse within 24 hours of intake at the diagnostic centers. Each facility shall take appropriate steps to ensure that inmates with disabilities have an 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.

The facility schedules an orientation program that is held in the Chapel for all incoming residents the following day after their arrival due to the incoming arrival at the facility between 6:00 p.m. and 7:00 p.m. Per the PAQ and MLTC PCM 133 residents were admitted to the facility. All arriving residents stay at MLTC was beyond 30 days. Interviews were conducted with Counselors who conduct PREA risk screening during intake. The Counselors confirmed the residents receive a MLTC Resident Orientation Handbook, PREA pamphlet and are shown the PREA video titled "PREA: What You Need to Know" doing the orientation (intake) screening process within 72 hours of their arrival during the intake process. The PREA education given to the residents provides information on the agency's zero tolerance policy for sexual abuse or sexual harassment, how to report incidents or suspicions of sexual abuse or sexual harassment, the residents' right to be free from sexual abuse and sexual harassment, the resident's right to be free from retaliation for reporting such incidents and information regarding the agency policies and procedures for responding to reports of PREA allegations. Residents at MLTC are those inmates who were previously designated at other TDOC facilities and approved for the transition program at MLTC. All residents attend refresher PREA training at MLTC during intake/orientation.

TDOC Index 502.06 states, "Each facility shall take appropriate steps to ensure that inmates with disabilities (including, inmates who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an 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. A resident identified as hard of hearing stated he was provided PREA information understood in addition to the PREA education posted throughout the facility and his housing unit. Orientation/Classification Assignment and Hearing are conducted by the Counseling Service Team who evaluates the ability of the offender to understand without an interpreter. If it is evident that the offender's knowledge of the English language is insufficient then interpretation services shall be provided. The unit team will evaluate the ability of the inmate to understand the classification procedures and conduct a structural interview through an interpreter if necessary, for understanding, and provide an explanation of the sentence structure. The Chief Counselor/designee will conduct all classification hearings through an interpreter (if necessary) and provide an explanation of the results of the hearing and the recommendations made during the hearing.

115.233 (d) The auditor identified 40 residents through the selection of the current roster for review of receipt of PREA training. The review revealed all residents acknowledged orientation included the PREA video, receipt of the resident handbook, and how to report PREA allegations. Copies of the completed PREA education is maintained in the resident's file and the spread sheet consisting of additional residents' signatures are maintained by the presenting counselor.

115.233 (e) PREA information was observed to be continuously and readily available to the resident population throughout the facility. PREA signage containing hotline contact information and sexual abuse information was noted as being posted throughout the institution. Signage was observed to be available in English and Spanish. Inmates are provided with personal copies of PREA brochures and the resident handbook.

The auditor conducted interviews with 23 residents who indicated they received the handbook, pamphlet and observed the PREA video the day following their arrival during orientation. They identified the information presented to them included their right to not be sexually abused or sexually harassed, how to report sexual abuse or sexual harassment and their right not to be punished for reporting sexual abuse of sexual harassment. The residents also mentioned the PREA information that is posted on the bulletin boards, signage on the walls, and on every telephone providing PREA information and how to report PREA allegations.

Based on the review of policies, residents' files, residents' interviews and analysis, the facility has demonstrated compliance with all the provisions of this standard.

## Standard 115.234: Specialized training: Investigations

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

#### 115.234 (a)

- In addition to the general training provided to all employees pursuant to §115.231, does the agency ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators receive training in conducting such investigations in confinement settings? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.221(a).)  
 Yes  No  NA

#### 115.234 (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 115.221(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 115.221(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 115.221(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 115.221(a).)  
 Yes    No    NA

#### 115.234 (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 115.221(a).)  
 Yes    No    NA

#### 115.234 (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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06.2 PREA Allegations, Investigation, and SART
3. TDOC Index 107.01 Office of Investigation and Compliance Unit Authority, Responsibility, Personnel Selection and Training
4. Documentation of Specialized Training for Agency Investigators
5. Interviews with:
  - a. OIC Institution Investigator
  - b. OIC Special Agent

115.34(a) TDOC 107.01 states: All newly selected OIC Special Agents will attend and successfully complete at a minimum, an accredited law enforcement academy (e.g., Tennessee Correction Academy,



Tennessee Bureau of Investigation, Memphis Police Academy, Walter State Community College, etc.) An interview with the OIC Special Agent and confirmation by the State-side PREA Coordinator, the OIC Special Agent has 15 years prior experience as a police officer with the Tipton County Sheriff Office and the Memphis Police Department. The OIC Special Agent completed training provided by Tennessee Police Academy, Tennessee Bureau of Investigation and the online PREA training titled: Conducting Sexual Abuse Investigations in a Confinement Setting through the National Correction Institution (NIC). The OIC Special Agent is responsible to conducting PREA investigations that may include criminal charges. Certificates documenting training were reviewed.

MLTC has an OIC Institution Investigator who conducts administrative investigation. During an interview, she indicated she completed the National Institute of Corrections (NIC) courses “Conducting Sexual Abuse Investigations in a Confinement Setting” and “Your Role Responding to Sexual Abuse.” Confirmation of training was through the presentation of training certificates.

TDOC Index 502.06.2 states that where the allegation of alleged sexual misconduct involves sexual abuse, the investigation shall be conducted within 72 hours of receiving the allegation. SART team members/investigators who have received specialized training related to conducting sexual abuse investigations in a confinement setting shall investigate. The OIC Institution Investigator is a member of the SART. She contacts the OIC Special Agent immediately when circumstances warrant further actions pursuant to criminal findings. OIC Special Agents gather and preserve direct and circumstantial evidence and interview alleged victims, suspected perpetrators, and witnesses; and review prior complaints and reports of sexual abuse involving the suspected perpetrator.

115.34(b) An interview with the OIC Special Agent indicated the specialized training for the OIC Special Agents is through the Tennessee Police Training Academy, Tennessee Bureau of Investigations, and the Tennessee Law Enforcement Academy and he previously completed this training as a police officer with the Tipton County Sheriff Office and the Memphis Police Department. The lesson plan is intended for use with Department personnel assigned to investigate an allegation of misconduct that involves a sex related offense. This training gives participants information they will need to conduct criminal and administrative investigations compliant with the Prison Rape Elimination Act standards. Training includes the definition, purpose, history of PREA, definitions, first responder duties, medical examinations, comprehensive investigations, evidence collection, interviewing the victim, suspect and witnesses, Miranda rights, Garrity rights, and handling false accusations. The OIC Institution Investigator also identified the inclusion of this provision in the Conducting Sexual Abuse in a Confinement Setting training presented through the NIC.

The State -wide PREA Coordinator provided PREA Investigation Training by utilization of a Power Point to all TDOC staff assigned the following position: OIC Special Agents, TDOC Institutional Investigators, TDOC Associate Wardens of Treatment/Deputy Superintendent, TDOC PREA Compliance Managers, Core Civic Associate Warden of Treatment, and Core Civic Investigators. The training consisted of an 18-slide presentation that discussed the role of the investigator and provided numerous scenarios as table-top activities for discussion on conducting thorough PREA investigations and the determining findings of the scenarios. The training also allows less experienced investigators the opportunity to interact and gather knowledge from more experience investigators. The formation of investigative files was also a topic during the training. In addition to the investigators receipt of the training, the Associate Wardens of Treatment gained knowledge of the PREA investigative method as some had not received training and/or experience in the review of PREA investigations in their prior

roles. The State-wide PREA Coordinator also serve as the Monitoring Agent for Core Civic. To be consistent with TDOC policies regarding PREA investigations, it was beneficial to the agency to include the Core Civic investigators and Core Civic Associate Wardens of Treatment in the training for a clear understanding of the standard, consistency in conducting PREA investigations and the maintenance of the investigative files.

115.234(c) The Department shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations. The auditor reviewed training records and certification of the OIC Special Agent and OIC Institution Investigator completed specialized training for conducting sexual abuse investigations in a confined setting.

Based on the review of training lesson plans, training records, interviews, and analysis, the facility has demonstrated a level of exceeding in the compliance with all the provisions of this standard. The facility is beyond the standard requirement of specialize training for investigators of sexual abuse allegations performed by the facility, Tennessee Bureau of Investigations, Tennessee Police Academy, NIC on-line courses, and special session conducted by the State-wide PREA Coordinator, MLTC exceeds in the provisions of this standard. The inclusion of the Associates Wardens and Core Civic personnel in the investigative training strength their knowledge and understanding of the investigative process and review of case files.

## **Standard 115.235: Specialized training: Medical and mental health care**

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

### **115.235 (a)**

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: How to detect and assess signs of sexual abuse and sexual harassment? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)  
 Yes    No    NA
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: How to preserve physical evidence of sexual abuse? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)  Yes    No    NA
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: How to respond effectively and professionally to victims of sexual abuse and sexual harassment? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)  Yes    No    NA
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: How and to whom to report allegations or suspicions of sexual abuse and sexual harassment? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)  
 Yes    No    NA

### 115.235 (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 does not employ medical staff or the medical staff employed by the agency do not conduct forensic exams.)  
 Yes  No  NA

### 115.235 (c)

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

### 115.235 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.231? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners employed by the agency.)  Yes  No  NA
- Do medical and mental health care practitioners contracted by and volunteering for the agency also receive training mandated for contractors and volunteers by §115.232? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners contracted by or volunteering for the agency.)  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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06 PREA Implementation, Education and Compliance
3. TDOC Index 502.06.3 Medical, Mental Health, Victim Advocacy, and Community Support Services for PREA Victims

4. PREA Resource Center Lesson Plan – Specialized Training for Medical/Mental Health Care Standards

5. Training Certificates

6. Training records

7. Interviews with:

a. Medical and Behavior Health Staff

115.235(a) TDOC Index 502.06 states all full and part-time medical and mental health care practitioners who work regularly in the facility shall be trained in: how to prevent, detect, and respond to acts of sexual abuse or sexual harassment. Medical and mental health staff consist of both state and contract staff. The medical department consist of 20 contract employees and 4 TDOC employees. Confirmation of specialized training for medical staff was provided for 2017 -2020. The mental health department consists of 5 contract staff. Documentation of their completed specialized training was provided to the auditor. The training curriculum Specialized Training: PREA Medical and Mental Health Care Standards Presentation was reviewed. The curriculum covers the agency’s zero tolerance policy, methods of reporting, consequences for participating in prohibited activities, and basic actions to take (i.e. separate victim and aggressor) during an incident. This includes a duty to report and how to report allegations of sexual abuse and sexual harassment. The information also covers characteristics of at-risk populations, predatory inmates, and the warning signs associated with victimization. During interviews with medical and behavioral health staff each acknowledged the specialized PREA is a requirement of completion of all staff within their department. Each of these departments maintain documentation of the staff’s training confirmation as staff are required to sign the attendance sheet.

115.35(b) The agency nor the facility conducts forensic medical exams. All forensic examinations are performed off-site at a local medical facility, Regional One Medical Center in Memphis, TN. However, there were zero sexual abuse allegations reported that required a forensic examination.

115.35(c) (d) The auditor reviewed training records, signature sheets confirming completion of training and certificates that medical and mental health staff attended and completed the 6-hour course Specialized Training: PREA Medical and Mental Health Care Standards.

Based on the review of policies, training lesson plans, training records, interviews and analysis, the facility has demonstrated compliance with all the provisions of this Standard.

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

### **Standard 115.241: Screening for risk of victimization and abusiveness**

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

#### **115.241 (a)**

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

#### 115.241 (b)

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

#### 115.241 (c)

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

#### 115.241 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident has a mental, physical, or developmental disability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: The age of the resident?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: The physical build of the resident?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident has previously been incarcerated?  
 Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident's criminal history is exclusively nonviolent?  
 Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident 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 residents for risk of sexual victimization: Whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the resident about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the resident 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 residents for risk of sexual victimization: Whether the resident has previously experienced sexual victimization?  Yes  No

- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: The resident's own perception of vulnerability?  Yes  No

#### 115.241 (e)

- In assessing residents 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 residents 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 residents 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

#### 115.241 (f)

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

#### 115.241 (g)

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

#### 115.241 (h)

- Is it the case that residents 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

#### 115.241 (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 resident's detriment by staff or other residents?  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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115.241(a) (b) TDOC Index 502.06.1 establishes policy and assigns responsibilities for screening individuals housed in a correctional facility under the authority of the TDOC to assess the risk of the individual being sexually abused or being sexually abusive towards other inmates. Residents designated to MLTC are inmates who have transferred from other TDOC facilities and meet the criteria for the program eligibility at MLTC. Screening staff receives notification within 24 – 48 hours of the residents' arrival between 6:00 p.m. to 7:00 p.m. The Counselors' work schedules are adjusted to accommodate the arrival of the arriving residents. An interview with the Chief Counselor indicated the agency uses the PREA Screening System Application located on the TDOC intranet to assess a resident's risk of sexual victimization and risk of sexually abusing another resident. The PAQ and MLTC PCM identified the arrival 133 residents at the facility who stay was beyond 72 hours and 30-days. The auditor randomly selected of 40 residents risk screening for review to include their 72 hour and 30-day screenings for confirmation of timely completion. The review confirmed 100% of the residents were screened within 72 hours of their arrival and the reassessments were completed within 30 days of their arrival. The residents received their initial 72-hour screening not later than 24 hours of their arrival and the 30-day reassessments were completed normally on the 15th day of their arrival. There were no newly arriving residents at MLTC during the on-site visit for observation of the intake and/or screening for risk of victimization and abusiveness.

MLTC goes beyond the requirement of this standard in the performance of risk screening for victimization and abusiveness of the resident population. All residents who depart the facility for an outside medical trip and/or court appearance and return on the following day after departure receive a new screening for risk of victimization and abusiveness. An example is when a resident departs the facility on October 1, 2020 at 4:00 p.m., to a local medical facility and return on October 2, 2020, at 12:01 a.m., staff will perform a new screening for risk of victimization and abusiveness. The State-wide PREA Coordinator explained this procedure was put in place to offer an additional safety measure for the resident population while allowing the resident to report any concerns or occurrences of sexual abuse and/or sexual harassment while away from the facility.

115.241(c) TDOC Index 502.06.1 requires authorized users to utilize the PREA Screening System Application located on the TDOC intranet. User security access to this system is authorized by the Associate Warden of Treatment. The PREA Screening System Application form is the agency-approved standardized screening instrument. Copies of the Tennessee Inmate Management Information System (E-TOMIS system) PREA Screening form was provided with the PAQ in addition to those of random

selected inmates completed forms. The PREA Screening form assigns a numerical point value to questions regarding risk of victimization and risk of abusiveness categories. The form considers 12 separate resident risk of victimization factors and risk of abusiveness factors. Each risk factor is assigned a numerical point value based on the information obtained from an interview with the resident and information from the resident record.

115.241(d) The auditor reviewed the screening instrument and instructions and found that it addresses nine of the criteria required by this provision. The PREA Screening System Application does not consider whether the inmate is detained solely for civil immigration purposes. However, documentation indicates that the TDOC does not house inmates solely for civil immigration purposes.

115.241(e) The PREA Screening System Application factors considered in the risk of abusiveness category include prior acts of sexual abuse, prior convictions for violent offenses and a history of prior institutional violence or sexual abuse. The instrument also considers a history of violent crimes including pending and current charges and a history of domestic violence including pending and current charges. A review of the PREA Screening System Application revealed that it does consider all the criteria required by this provision.

115.241(f) TDOC Index 502.06.1 requires unit management staff to re-assess each inmate within 30 days of the inmate's arrival at the facility using the PREA Screening Application. A random sample of 40 resident PREA Screening Application forms was reviewed for compliance with the reassessment being completed within 30 days of arrival. 100% of the PREA Intake Screening forms reviewed were compliant with the 30-day requirement. The PAQ indicated that MLTC admitted 133 residents whose stay was both longer than 72 hours and 30 days. Staff who perform risk screening re-assessments indicated that re-assessments are conducted 15 days after the first day of the resident's arrival at the facility. Interviews were conducted with the Chief Counselor and two additional Counselors who conduct risk screenings. The Counseling staff indicated the 30-day follow-up risk assessment are normally conducted at not later than 15 days and never more than 30 days of the resident's arrival. This statement was confirmed during the review of the residents' reassessments. Residents who arrived at the facility within the 12 months acknowledged being asked questions related to the PREA Screening Application forms by Counselors in a private office and many recalled being asked twice.

115.241(g) TDOC Index 502.06.1 requires unit management staff to re-assess an inmate's risk level when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or potential for abusiveness. The PREA Screening System Application is utilized to conduct any re-assessment. Three Counselors who perform risk screening indicated that a re-assessment is conducted upon receiving information of new information to include PREA related disciplinary sanctions for PREA actions, the resident has been abused, harassed, or something has changed regarding the initial assessment. Confirmation of a resident's reclassification was documented after the resident was determined to be guilty of sexual harassment. The resident was reclassified that resulted with an increase in scoring and transferred to another TDOC facility.

115.241(h) TDOC Index 502.06.1 states that inmates will not be disciplined for refusing to answer or disclosing complete information in response to screening questions. Staff who perform risk screening were interviewed reported an inmate is not disciplined for refusing to respond or for not disclosing complete information and stated most inmates are cooperative and provide responses. During interviews



with residents, none reported being advised of receiving discipline if they refused to answer PREA risk screening questions.

115.241(i) TDOC Index 502.06.1 indicates that screening information is strictly need-to-know. Access to the PREA Screening System Application is controlled through authorized user security access. Unit Management staff will ensure screening information is entered in the PREA Screening System Application, E-TOMIS. Per the State-wide PREA Coordinator, Counselors have access to conduct the risk assets but cannot review the responses in E-TOMIS after the input is upload. The counselors can only observe the resident's score once uploaded. Counselors stated the information is confidential and maintained in the computer system. The information is shared with OIC Institution Investigator, PREA victim, PREA Coordinator, PREA victim advocate and only others with the need to know.

Per an interview with the State-wide PREA Coordinator, a weekly report "Monitoring Due Report" is automatically forward to each TDOC institution via E-TOMIS that is automatically generated to the PCM, Associate Warden (T)/Deputy Superintendent, Chief Counselor and himself. The monitoring of victims and aggressors are conducted every 90 days for a minimum of 12 months, and each require approval by the State-wide PREA Coordinator for removal. The victim may request removal prior to 12 months of completion however, this option of removal from monitoring is not available to an aggressor. Negative conduct, additional sexual abuse allegations are some of the circumstances that may prolong an aggressor monitoring to extend beyond 12 months.

The practice of staff performing an additional screening for risk of victimization and/or abusiveness for all residents who depart the facility and their return to the facility is the following day as an additional safety measure for the resident population exceeds the provisions of this standard. Therefore, based on the review of policies, documents, interviews and analysis, the facility has demonstrated compliance at an exceed level of this standard.

## Standard 115.242: Use of screening information

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

#### 115.242 (a)

- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents 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 § 115.241, with the goal of keeping separate those residents 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 § 115.241, with the goal of keeping separate those residents 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 § 115.241, with the goal of keeping separate those residents 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 § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Program Assignments?  Yes  No

#### 115.242 (b)

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

#### 115.242 (c)

- When deciding whether to assign a transgender or intersex resident to a facility for male or female residents, does the agency consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether a placement would present management or security problems (NOTE: if an agency by policy or practice assigns residents 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 residents, does the agency consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether a placement would present management or security problems?  Yes  No

#### 115.242 (d)

- Are each transgender or intersex resident'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

#### 115.242 (e)

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

#### 115.242 (f)

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

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex residents, does the agency always refrain from placing intersex residents in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I residents pursuant to a consent decree, legal settlement, or legal judgement.)  
 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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 506.14 Housing Assignments
3. TDOC Index 502.06.1 PREA Screening, Classification, and Monitoring
4. TDOC Index 113.37 Gender Dysphoria
5. TDOC Index 112.08 Personal Hygiene Resources for Inmates

Interviews with:

- a. Agency Head Designee
- b. PREA Compliance Manager
- c. Counselors
- d. Residents

115.242(a) TDOC Index 502.06.1 states, “Decisions concerning individual housing assignments and group activities for inmates who enter TDOC and identifies as a sexual aggressor or prior sexual victims are under the supervision the unit management/Associate Warden/Deputy Superintendent/Designee. Housing, cell assignments, work, education, and program assignments shall be made with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being

sexually aggressive. The facility does not house victims and abusers together. Staff who perform screening reported inmates at risk of victimization are separated from inmates at risk of abusiveness based on the risk assessment score. Those who are at risk of victimization cannot be housed with those who are at risk of abusiveness. When the Job Coordinator attempt to assign residents' job or staff attempt to assign resident who are incompatible, they receive notification that they are incompatible and the E-TOMIS system will not allow the resident to assigned to jobs and/or cell assignment together.

115.242(b) TDOC Index 502.06.1 states no inmate will be double celled until the required screening has been completed. Inmates who are deemed sexual aggressors or sexual victims will be appropriately housed until assessed by behavioral health professionals or classification.

115.242(c) TDOC Index 502.06.1 states decisions to assign a transgender or intersex inmate to a facility for male or female inmates and in other housing and programming assignments are made on a case-by-case basis. TDOC Index 113.37 states Facility and housing assignments shall be made on a case-by-case basis and documented on pages 1 and 2 of the PREA Housing and Program Review, CR-4086, considering the patient' health and safety, as well as potential management and security concerns. An inmates' own views regarding safety shall be solicited and considered. Inmates who have completed surgical sexual reassignment therapy prior to incarceration shall be placed in a correctional facility as determined by the Gender Dysphoria, Transgender, Transsexual, Intersex, and Gender Non-Conforming Accommodation Review Committee. For the purposes for facility placement, self-inflicted genital mutilation does not constitute surgical sexual reassignment therapy and does not qualify an inmate for placement in a facility for opposite-gender inmates.

A review of the PREA Screening System Application forms revealed that it does affirmatively inquire as to whether an inmate/resident is transgender or intersex. An interview with a Counselor indicated she is responsible for overseeing the transfers of incoming and outgoing residents identified as transgender and/or intersex, however, there has not been any identified as such received at the facility.

115.242(d) TDOC Index 502.06.1 indicates that placement for inmates identified as transgender or intersex shall be considered on a case-by-case basis. Theses identified inmates shall be reclassified every six months by the assigned counselor to review any threats to safety experienced by the inmate. The inmate's own views with respect to his safety shall be given serious consideration. There were no residents identified as transgender and/or intersex designated to MLTC within the 12-month audit period nor during the on-site visit for an interview. Counselors reported there has not been a resident identified as transgender and/or intersex designated to the facility at any time. However, counselors assigned to perform risk screening indicated upon the arrival of a resident identified as transgender or intersex they would be considered on a case-by-case basis only. The Counselors were aware those residents identified as such are to be re-assess twice yearly.

115.242(e) TDOC Index 502.06.1 indicates that a transgender or intersex inmate's own view with respect to personal safety shall be seriously considered. Three Counselors who performed risk assessment indicated stated they have not had a resident identified as transgender or intersex on their caseload. However, the residents' showers are in individual stalls, but a resident identified would be allowed to shower during times, other residents were not allowed too. There were no residents who were identified as transgender and /or intersex during the interview process.

115.242(f) TDOC Index 112.08 indicate transgender and intersex inmates shall be given the opportunity to shower separately from other inmates. The MLTC PCM indicated that transgender and intersex

residents would be given the opportunity to shower separately from other residents. Staff who perform screening for risk assessments indicated all showers at the facility are in individual staff with concrete walls between each shower with shower curtains. Therefore, residents who identify as transgender and/or intersex would be allowed to shower separately and at different times from the remaining resident population as stated by the Superintendent, MLTC PCM and Chief Counselor. There were no residents designated and/or identified as transgender and/or intersex for interview at MLTC.

115.242(g) TDOC Index 113.37 Gender Dysphoria states, “Lesbian, gay, bisexual, transgender, or intersex inmates may not be placed in dedicated facilities, units, or wings solely based on such identification or status. There were zero residents at MLTC who identified themselves bi-sexual, transgender, or intersex and only one resident who identified himself as gay. Per an interview with the Superintendent, residents identified as gay, bisexual, transgender, or intersex would not be placed in dedicated housing units.

Based on the review of policies, documents, interviews and analysis, the facility has demonstrated compliance with all the provisions of this standard.

## REPORTING

### Standard 115.251: Resident reporting

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

#### 115.251 (a)

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

#### 115.251 (b)

- Does the agency also provide at least one way for residents 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 resident reports of sexual abuse and sexual harassment to agency officials?  Yes  No
- Does that private entity or office allow the resident to remain anonymous upon request?  Yes  No

#### 115.251 (c)

- Do staff members accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties?  Yes  No

- Do staff members promptly document any verbal reports of sexual abuse and sexual harassment?  Yes  No

#### 115.251 (d)

- Does the agency provide a method for staff to privately report sexual abuse and sexual harassment of residents?  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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06.2 PREA Allegations, Investigations, and SART
3. MOU Between TDOC and The Sexual Assault Center
4. TDOC Website
5. PREA Tip line Posters
6. PREA Posters
7. Resident Orientation Handbook
8. Interviews with:
  - a. Random staff
  - b. MLTC PCM
  - c. Residents

115.251(a) TDOC Index 502.06.2 states the Department shall provide multiple internal ways for inmates to privately report sexual abuse and sexual harassment. These include but are not limited to: (a) written communication (includes electronic documents); (b) Reporting directly to staff (Verbally); (c) Third-

party reporting; or (d) Facility PREA Tip Line. The Resident Orientation Handbook and posters contain information on how to report sexual assault. Resident interviews indicate all were aware of the reporting options available. They indicated signage on walls for the calling the PREA Hotline as the most common response. Random staff interviews indicated all staff were aware of the internal and external reporting options available to the inmates and themselves.

The auditor utilized the Facility PREA Tip Line to test the reporting procedure. The call was placed utilizing a telephone used by the resident population. The call was made in the presence of the State-wide PREA Coordinator, TDOC Compliance Director and MLTC Superintendent. Immediately upon testing the phone line, the MLTC Superintendent, State-wide PREA Coordinator, MLTC Deputy Superintendent, and Institution OIC Investigator received notification that the PREA Hotline had been contacted. The immediate notification to staff in the presence of the auditor and a telephone call to the Superintendent from the MLTC PREA Coordinator who was not at the facility confirmed the immediate notification to staff when residents use the PREA Hotline. The auditor also conducted a test on the external PREA hotline at \*9555 with appropriate results.

115.251(b) TDOC Index 502.06.2 the Department shall provide at least one way for inmates to report abuse or harassment to an outside governmental entity that is not affiliated with the agency or that is operationally independent from agency leadership. TDOC has a MOU with the Shelby County Rape Crisis Center to serve an entity that allows residents to report immediately reports of sexual abuse and sexual harassment to agency officials. The information for contacting the Shelby County Rape Crisis Center is noted in the residents' handbook, on posters throughout the facility and on resident bulletin boards in all housing unit. Residents has the option to submit a letter to The Shelby County Rape Crisis Center, 1750 Madison Avenue Memphis, TN 38103 or dial \*9555 to speak with a Counselor. Letters to the Crisis Center are handled as legal letter and calls made to \*9555 are not monitor by facility staff and the caller may remain anonymous. This information is noted on all facility telephones utilized by the resident population. This procedure was confirmed during an interview with a Counselor employed at the Shelby County Rape Crisis Center.

115.251(c) TDOC Index 502.06.2 indicates that all staff are required to report immediately to their supervisor any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, even if not part of TDOC. The residents also have access to a toll-free hotline number which will refer any reports for investigation. The 23 residents selected for interview were able to identify the two PREA hotline numbers to the auditor as \*9222 internal and \*9555 for external reporting. Each indicated the hotline numbers were posted throughout the facility and on each resident telephone. Resident interviews indicated they were aware they could report sexual abuse or sexual harassment either verbally, in writing, anonymously or via third parties. Most residents also indicated they could report sexual abuse or sexual harassment anonymously. All random staff reported residents could report sexual abuse or sexual harassment either verbally, in writing, anonymously, and via third parties. Staff indicated they would document verbal reports of sexual abuse or sexual harassment immediately and definitely prior to the end of their shift.

115.251(d) TDOC Index 502.06.2 indicates staff may privately report sexual abuse and sexual harassment of residents to the Central Office PREA Tip Line (615-253-8178). Interviews with random staff indicated that staff are knowledgeable in how to privately report sexual abuse or sexual harassment. Most staff cited the staff PREA hotline and notifying a supervisor as the primary ways to make a private

report of sexual abuse or sexual harassment. The auditor noted all staff carry a PREA Refresher Card on their ID Badge for review as needed.

Based on the review of policies, documents, website, interviews and analysis, the facility has demonstrated compliance with all the provisions of this standard.

## Standard 115.252: Exhaustion of administrative remedies

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

#### 115.252 (a)

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

#### 115.252 (b)

- Does the agency permit residents 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 a resident 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

#### 115.252 (c)

- Does the agency ensure that: A resident 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

#### 115.252 (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 residents in preparing any administrative appeal.) (N/A if agency is exempt from this standard.)  Yes  No  NA
- If the agency determines that the 90-day timeframe is insufficient to make an appropriate decision and claims an extension of time (the maximum allowable extension of time to respond is 70 days per 115.252(d)(3)) , does the agency notify the resident 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 resident does not receive a response within the time allotted for reply, including any properly noticed extension, may a resident 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

#### 115.252 (e)

- Are third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, permitted to assist residents 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 residents? (If a third-party files such a request on behalf of a resident, 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 resident declines to have the request processed on his or her behalf, does the agency document the resident's decision? (N/A if agency is exempt from this standard.)  
 Yes  No  NA

#### 115.252 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that a resident 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 a resident 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 resident 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

### 115.252 (g)

- If the agency disciplines a resident for filing a grievance related to alleged sexual abuse, does it do so ONLY where the agency demonstrates that the resident 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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 501.01 Inmate Grievance Procedures
3. Interviews with:
  - a. State-wide PREA Coordinator
  - b. MLTC PCM
  - c. OIC Institution Investigator
  - d. MLTC Grievance Chairperson

115.252(a) TDOC Index 501.01 indicates the agency has an administrative remedy program that may be used to file an allegation of sexual harassment or sexual abuse. It states that an inmate may submit a grievance alleging sexual abuse at any time. Per the PAQ, and interviews with the MLTC PCM and Grievance Chairperson there were no grievances alleging sexual abuse filed by inmates during the review period. All information received in relation to sexual abuse and/or sexual harassment would immediately be submitted to the Deputy Superintendent who forwards it to the OIC Institution Investigator for an immediate investigation. All correspondence with the resident would be conducted

by the OIC Institution Investigator. Per the OIC Institution Investigator, the allegation is required to be logged in the PAS and the investigation is required to be completed within 72 hours.

115.252(b) TDOC Index 501.01 states applicable time limits shall apply to any portion of a grievance that does not allege an incident of sexual abuse. The index also address inmates shall not be required to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

115.252(c) TDOC Index 501.01 states 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 and such grievance shall not be referred to a staff member who is the subject of the complaint.

115.252(d) TDOC Index 501.01 states a final decision on the merits of any portion of a grievance alleging sexual abuse shall be issued by the Associate Warden of Treatment or Deputy Superintendent within 90 days of the initial filing of the grievance. Computation of the 90-day limit shall not include time used by inmates in preparing the grievance. The inmate shall be notified by the Associate Warden of Treatment/or Deputy Superintendent if an extension is needed. At any level of the grievance if the inmate does not receive a response within the time allotted to reply, including any extension, the inmate may consider the absence of a response to be a denial at that level.

115.252(e) TDOC Index 501.01 states that third parties shall be permitted to assist inmates in filing grievances related to allegations of sexual abuse and shall also be permitted to file such grievances on behalf of the inmate. If a third-party file such a grievance on behalf of an inmate, that inmate shall agree to have the grievance filed and document such on the Inmate Grievance form. The inmate shall be required to personally pursue any subsequent steps in the grievance process. The inmate may decline to have the grievance processed on his/her behalf and the decision shall be documented on the original Inmate Grievance.

115.252(f) TDOC Index 501.01 states that after receiving an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse, the grievance chairperson shall immediately forward the grievance to the Associate Warden of Treatment or Deputy Superintendent for any corrective action to be taken. The grievance chairperson will provide a response within 48 hours and a final decision within five calendar days. Per the PAQ, MLTC PCM and Grievance Chairperson there were no emergency grievances alleging substantial risk of imminent sexual abuse filed during the review period. However, the initial response and final decision would be provided within the PREA Allegation System (PAS) and shall document the facility's determination as to whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

115.252(g) TDOC Index 501.01 states that an inmate may be disciplined for filing a grievance related to alleged sexual abuse only when it is demonstrated that the inmate filed the grievance in bad faith. An interview with OIC Institution Investigator explained although policy allow disciplinary sanctions of inmates who file the grievance in bad faith, no inmates have received disciplinary actions for this action.

Interviews with the MLTC PCM, MLTC Grievance Chairperson and review of the PAQ, MLTC has not had any grievances or emergency grievances filed regarding PREA allegations. Based on random interviews with residents at MLTC, they are aware of the grievance process and they could file an emergency grievance. The grievance process is explained in the Resident Orientation Handbook. Grievance boxes are available all resident housing units for submission.

Based on the review of policies, documents, interviews and analysis, the facility has demonstrated compliance with all the provisions of this Standard.

## Standard 115.253: Resident access to outside confidential support services

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

### 115.253 (a)

- Does the facility provide 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, of local, State, or national victim advocacy or rape crisis organizations?  Yes  No
- Does the facility enable reasonable communication between residents and these organizations and agencies, in as confidential a manner as possible?  Yes  No

### 115.253 (b)

- Does the facility inform residents, 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

### 115.253 (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 residents 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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06.3 Medical, Behavioral Health, Victim Advocacy, and Community Support Services for PREA Victims
3. MOU with Shelby County Crime Victims and Rape Crisis Center

115.253(a) TDOC has established a Memorandum of Understanding with the Shelby County Crime Victims and Rape Crisis Center that provide residents with access to outside victim advocates for emotional support services related to sexual abuse. A copy of the MOU was presented for review. The documents the agreement the involvement of trained sexual assault advocates as a component of the standard response to a report to sexual assault and/or a request for help from a survivor of sexual assault. The MOU also agree to maintain confidentiality of survivors of sexual violence who are incarcerated in the facility while maintaining available crisis counseling through organization’s crisis hotline at any time and/or 24 hours a day. The said counseling may take place in person or by telephone. Prior to accessing services, residents are informed to the extent to which their communications will be monitored. Each resident upon arrival to MLTC is given a Resident Orientation Handbook which outlines PREA reporting and response. The information is provided in English and Spanish. It states “Residents are provided a way to report sexual abuse to an outside agency that is not a part of TDOC. This contact information is available tor visible to resident through posters, resident handbooks or other written information and the outside agency information is: Shelby County Rape Crisis Center, 1750 Madison Avenue – Memphis, TN 38103, phone number \*9555.” This information was also noted on PREA posters throughout the tour of the facility.

115.253 (b)TDOC 502.06.3 states staff shall ensure that inmates are informed, 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. Interviews with medical and behavior health staff confirmed at the initiation of services the residents must sign a consent form and if the resident refuse to sign, they cannot be seen unless they have a change of mind and elect to sign unless it is an emergency and at that point the resident would be seen. A note is located on the residents’ telephones that states “The call will be confidential and TDOC will not record the conversation \*9555 or 615-259-9055.”

115.253 (c) The agency maintains a copy of the MOU with the with Shelby County Crime Victims and Rape Crisis Center and presented a copy to the auditor for review.

Based on the review of policies, documents, and analysis, the facility has demonstrated compliance with all the provisions of this Standard.

## **Standard 115.254: Third-party reporting**

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

### **115.254 (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 a resident?  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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 506.06.2 PREA Allegations, Investigations, and SART
3. MLTC Resident Rules and Regulation Handbook
4. TDOC website
5. Interviews with:
  - a. MLTC PCM
  - b. Resident Interviews

115.254(a) TDOC Index 502.06.2 states, The Department shall provide multiple internal ways for inmates to privately report sexual abuse and sexual harassment. It indicates that third-party reporting is included in the ways to report. It states this information shall be made available through the Resident Handbook. MLTC Rules and Regulations Handbook indicates any MLTC employee may receive a report of sexual misconduct from many different sources, including outside persons or agencies. The reported incident may be in writing, verbal, anonymous or from third parties.

The auditor reviewed the agency's website. It contains the necessary PREA contact information. The information provided on the website includes a Tip line for third-party reporting of sexual abuse and sexual assault at (615) 259-9055.

Interviews with the 23 residents revealed most were aware that a third-party could report a sexual assault allegation such as a family member, friend, or another resident and identified this information is on the PREA posters throughout the facility.

Based on the review of policies, documents, website, interviews and analysis, the facility has demonstrated compliance with all the provisions of this standard.

## OFFICIAL RESPONSE FOLLOWING A RESIDENT REPORT

### Standard 115.261: Staff and agency reporting duties

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

#### 115.261 (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 residents 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

#### 115.261 (b)

- Apart from reporting to designated supervisors or officials, do 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

#### 115.261 (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 residents of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services?  Yes  No

#### 115.261 (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

## 115.261 (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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06.2 PREA Allegations, Investigations, and SART
3. TDOC TCA Lesson Plan
4. Interviews with:
  - a. MLTC Superintendent
  - b. TDOC State-wide PREA Coordinator
  - c. MLTC PCM
  - d. Random staff
  - e. OIC Institution Investigator
  - f. medical and mental health staff

115.261(a) TDOC Index 502.06.2 states, "All staff are required to report immediately to their supervisor 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 TDOC, retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Interviews with staff indicated they are aware of their responsibility and duty to report any and all knowledge of PREA allegations. Staff carry a PREA refresher card on their badge with reporting guidelines. The 10 random staff selected for interview indicated they would immediately report to the Shift Commander and complete a documented report of their awareness to



include from third-party as soon as possible and always prior to departing from their shift. Non-security staff identified they would report the information to their direct supervisor, SART Coordinator, in addition to the Shift Commander.

115.261(b) TDOC Index 502.06.2 states staff shall not reveal 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. TDOC utilizes a PREA Allegation System (PAS) on their intranet. Selected staff have access. Staff interviewed was aware of the extent in which information of sexual abuse and/or sexual harassment should be shared only with authorized staff necessary to make treatment, investigation and other security and management decisions.

115.261(c) TDOC Index 502.06.2 states, "Unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse as outlined in this policy and to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services." Interviews confirmed medical and mental health staff are aware of their duties required by this provision and this information is shared with the resident upon the initiation of services.

115.261(d) MLTC does not house residents under the age of 18 years old. The average age range of residents at MLTC are between the ages of 20 – 66 years old. However, if an alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, the Department shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws. TDOC received guidance from Adult Protective Services which indicates that TDOC may investigate within their facilities.

115.261(e) TDOC 502.06.2 states, Facility staff shall report all allegations of sexual abuse and sexual harassment, including third-party, and anonymous reports, to the OIC Institution Investigator for an investigation. Per the OIC Institution Investigator, and OIC Special Agent, each conduct thorough investigations of all PREA allegations in the same manner regardless of how the incident was reported.

Based on the review of policies, documents, interviews and analysis, the facility has demonstrated compliance with all the provisions of this Standard.

## Standard 115.262: Agency protection duties

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

### 115.262 (a)

- When the agency learns that a resident is subject to a substantial risk of imminent sexual abuse, does it take immediate action to protect the resident?  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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06.2 PREA Allegations, Investigations, and SART
3. Interviews with:
  - a. Agency head
  - b. Superintendent
  - c. MLTC PCM
  - d. Random staff

TDOC Index 502.06.2 states It is the policy of the TDOC to investigate all PREA sexual abuse and sexual harassment allegations in a timely, efficient and confidential manner in accordance with federal guidelines (Title 28 CFR Part 115. TDOLC 502.06.2 states "If facility staff receives information that an inmate is subject to a substantial risk of imminent sexual abuse, staff shall take immediate action to protect the inmate." The auditor interviewed random and specialized staff. All stated they would remove the resident from the area of threat and notify the Shift Commander. Staff to include contract and volunteers are issued and carry a PREA Refresher Training card on their badge which list the steps to take to protect an inmate. However, volunteers have not been allowed in the facility since March 2020 due to COVID-19. The facility documented in the PAQ there has been no instances where an imminent threat was reported.

An interview with the Agency Head Designee indicated upon receipt of information that an inmate is subject to a substantial risk of imminent sexual abuse, the inmate would be immediately removed from danger, the incident would be investigated, and the appropriate steps would be followed. The alleged aggressor would be placed in segregation throughout the investigation and upon completion, the alleged aggressor would be moved to another housing unit or transferred to another prison. Aggressors and victims are monitored for further incidents.

Interviews with the Superintendent, MLTC PCM and security supervisor indicated the alleged aggressor would be moved to another housing unit. Residents are not allowed to interact with residents not assigned to their designated housing unit. An investigation would be conducted by the OIC Institution Investigator and a decision of further actions to include possible transfer of the aggressor to another TDOC facility would be made based of the findings of the investigative report. The facility also has two cells within a segregation unit that is not being used as such. However, as needed, a resident may be held there for not longer than 24 hours for the completion of an investigation and completion of required

transfer paperwork. The review of PREA reported allegations confirmed the OIC Institution Investigator has completed PREA investigations on the same day the PREA allegation was reported.

The auditor used a variety of scenarios when interviewing staff regarding actions they would take regarding this standard. Each staff interviewed responded appropriately and stated they would immediately remove the resident subject to a substantial risk of imminent sexual abuse and notify their supervisor.

Based on the review of policies, documents, lesson plan, interviews and analysis, the facility has demonstrated compliance with all the provisions of this standard.

## Standard 115.263: Reporting to other confinement facilities

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

#### 115.263 (a)

- Upon receiving an allegation that a resident 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

#### 115.263 (b)

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

#### 115.263 (c)

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

#### 115.263 (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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06.2 PREA Allegations, Investigations, and SART
3. PSA entries, PREA investigative case files
4. Interviews with:
  - a. Agency head
  - b. Superintendent
  - c. MLTC PCM
  - d. OIC Institution Investigator

115.263 (a) TDOC Index 502.06.2 states that upon receiving an allegation that an inmate was sexually abused while confined at another facility, the Warden of the facility that received the allegation shall notify the head of the facility where the alleged abuse occurred. In interviews with the MLTC Superintendent and OIC Institution Investigator they would make the notification immediately.

115.263 (b) TDOC Index 502.06.2 indicates that such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. In an interview with the OIC Institution Investigator, she stated upon notification that an incident had previously occurred at MLTC, she would initiate an investigation. However, there has been no circumstances reported within the review period that such allegations were received.

115.263(c) TDOC Index 502.06.2 states the facility shall document that it has provided such notification. The OIC Institution Investigator indicated the notification would be made via email and telephone call.

115.263 (d) TDOC Index 502.06.2 states “The Warden who receives such notification shall ensure that the allegation is investigated in accordance with TDOC policy. An interview with the MLTC Superintendent indicated he would ensure the notifications are made and documented. According to the PAQ, in the past 12 months, the facility has not received any notifications where an allegation occurred at another facility from an assigned resident and no notifications was received that a resident was abused while confined at MLTC received from another facility. Per interview with the Superintendent and OIC Institution Investigator all such reported allegations would be handled in accordance with the provisions of this standard.

Based on the review of policies, documents, interviews and analysis, the facility has demonstrated compliance with all the provisions of this standard.

## **Standard 115.264: Staff first responder duties**

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

### **115.264 (a)**

- Upon learning of an allegation that a resident 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 a resident 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 a resident 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 a resident 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

#### 115.264 (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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06.2 PREA Allegations, Investigations, and SART
3. MLTC Index 502.06.2-1 PREA Allegations, Investigations, and SART

4. TDOC TCA Lesson Plan on PREA

5. Interviews with:

- a. Superintendent
- b. MLTC Compliance Manager
- d. Medical Staff
- e. Random staff

115.264(a) TDOC Index 502.06.2 and MLTC Index 502.06.2-1 indicate that the first security staff on scene of an alleged sexual abuse shall separate the alleged victim and abuser. The security staff shall preserve and protect any crime scene until appropriate steps can be taken to collect any evidence. If the alleged sexual abuse occurred within a 72-hour period of reporting, the security shift supervisor who is notified of the allegation shall initiate the Sexual Abuse Incident Check Sheet, CR-3776. There were no security and/or non-security staff first responders that required immediate actions that included preserving the crime scene and/or collecting physical evidence.

115.264(b) TDOC Index 502.06.2 states, “If the first staff responder is not a security staff member, he/she is required to instruct the alleged victim not to take any actions that could destroy physical evidence and then immediately notify the shift commander. All staff interviewed, security and including non-custody staff, were aware of their responsibilities as first responders. All reported they would immediately separate resident and maintain sight of a victim, do what they could to preserve a crime scene including advising involved inmates not to shower, change clothing, brush teeth, eat, drink, or use the toilet. All staff are trained as first responders and wear a pocket card on their badge that list the steps to take when responding to an allegation that an inmate was sexually abused. The Chief Counselor served as a non-security first responder to a resident who reported a PREA allegation that had previously occurred 10 days prior. The allegation did not involve penetration and did not require the collect evidence and securing of the scene. The second sexual abuse allegations were reported by a letter routed through the facility mail to staff. This allegation also did not involve penetration and did not require the collect evidence and securing of the scene. The first responder duties included ensuring separation of the alleged aggressor from the alleged victim and notification to the Shift Commander, SART Coordinator and OIC Institution Investigator.

Based on the review of policies, interviews and analysis, the facility demonstrated compliance with all the provisions of this Standard.

## Standard 115.265: Coordinated response

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

#### 115.265 (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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06.2 PREA Allegations, Investigations, and SART
3. MLTC Index 502.06.2-1 PREA Allegations, Investigations, and SART
4. Interviews with:
  - a. Superintendent
  - b. MLTC PCM
  - c. Random staff

115.265 TDOC Index 502.06.2 and MLTC Index 502.06.2 states, "The facility shall coordinate actions taken in response to an incident of alleged sexual abuse or harassment among staff first responders and SART, which includes medical and behavioral health practitioners, OIC Institution Investigator, and facility leadership. The purpose of this policy is to establish standardized procedures to request, approve, and govern the actions; reporting procedures; and authority of the TDOC regarding PREA investigations and the role of the Sexual Abuse Response Teams (SART). MLTC Index 502.06.2-1 includes a section on First Responder duties to include a PREA First Responder Checklist which, lays out the steps of the plan of action for first responders. The policy also includes the SART Response, Investigations, Compliance Monitoring, and responsibilities of the Review Team. All staff interviewed were aware of the steps of the action plan and all carry a PREA refresher card on their badge if needed.

Based on a review of the policy, interviews and analysis, the facility has demonstrated compliance with this standard.

## **Standard 115.266: Preservation of ability to protect residents from contact with abusers**

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

### 115.266 (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 residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted?  Yes  No

### 115.266 (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.

- MLTC Completed Pre-Audit Questionnaire (PAQ)
- Tennessee Code Annotated 50-1-207
- Interviews with:
  - Agency Head Designee

115.266(a)TCA Code 50-1-207 states "Prohibition against requiring any employer or employee to waive their rights under the National Labor Relations Act or require acceptance or agreement to any provisions that are mandatory or non-mandatory subject of a collective bargaining under Federal law. The Agency Head designee reported that TDOC does not have a union. TDOC has discretion regarding the assignment, hiring and firing of staff and no limitations to the agency's ability to remove employee sexual abusers from contact with inmates.

Based on a review of the code, interviews and analysis, the facility has demonstrated compliance with this standard.

## Standard 115.267: Agency protection against retaliation



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

### 115.267 (a)

- Has the agency established 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?  Yes  No
- Has the agency designated which staff members or departments are charged with monitoring retaliation?  Yes  No

### 115.267 (b)

- Does the agency 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?  Yes  No

### 115.267 (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 residents 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 residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents 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 resident 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 resident 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 resident 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

#### 115.267 (d)

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

#### 115.267 (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

#### 115.267 (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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06.2 PREA Allegations, Investigations, and SART
3. Retaliation Monitoring forms
4. Interviews with:
  - a. Agency Head
  - b. MLTC Superintendent

c. MLTC PCM

d. Staff charged with Retaliation Monitoring.

115.267 (a) TDOC Index 502.06.2 indicates inmates and staff who are involved in reporting sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation by other inmates or staff. Appointed members of the facility SART shall monitor staff and inmates for protection from retaliation utilizing PREA Retaliation Review (Inmates) for inmates, CR-3963, and PREA Retaliation Review (Staff), CR-3982, for staff. MLTC has designated the Deputy Superintendent to monitor retaliation.

115.267(b) TDOC Index 502.06.2 indicates the facility shall 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. Per interviews with the Agency Head Designee and Superintendent, there are multiple options available to protect residents and staff from retaliation. The Superintendent identified he would refer the victim to mental health and move the victim to a different area of the facility that would not disrupt his status in the program. The individual targeting the victim would also be moved to another section of the facility. If a resident and/or staff member was found guilty of retaliation upon the completion of an investigation, they would be discipline based on the circumstances determined.

115.267(c) (d) TDOC Index 502.06.2 states, "For at least 90 days following a report of sexual abuse, the Department shall monitor the conduct and treatment of inmates or staff who reported the sexual abuse and of inmates who were reported to have suffered sexual abuse. Departmental monitoring shall involve looking for any changes that may suggest possible retaliation by inmates or staff. Institutional SART members shall act promptly to remedy any such retaliation. TDOC Index 502.06.2 also states If an offender who is being monitored for retaliation transfers to another facility whose primary purpose is to house TDOC inmates, The PREA Coordinator from the sending facility shall notify the PREA Coordinator at the receiving facility of the required monitoring. The receiving facility will be responsible for conducting the monitoring and forwarding the required PREA Retaliation Review (Inmate) for inmates, CR-3963, to the sending facility for placement in the PREA investigative file. Should the offender transfer to another facility prior to completing the 90-day cycle of monitoring, the original sending facility shall be notified by the original receiving facility so that notification of the monitoring requirement can be sent to the new facility by the original sending facility so the process can begin again with no break in monitoring for the offender. The retaliation monitoring shall continue beyond 90 days if the initial monitoring indicates a continuing need. This monitoring shall include, but not be limited to inmate disciplinary reports; inmate housing or programming changes; or negative performance reviews or reassignments of staff. The auditor reviewed the Retaliation Monitoring forms that includes resident name investigative case number, the facility, victim, report date, retaliation monitor and preliminary protection measures. The tracking portion of the form identifies housing changes, programming changes, disciplinary record, etc., as items to monitor, and provides an area for reporting at 30 days, 60 days, final 90 days, and space for extended monitoring if required. It also includes a column for the retaliation monitor to include notations regarding negative interactions with staff or inmates.

The auditor reviewed the retaliation monitoring for the 4 residents who reported PREA allegations of both sexual abuse and sexual harassment. There were two reported allegations of sexual harassment and two reported allegations of sexual abuse. One sexual abuse investigation was determined by the OIC Special Agent as Substantiated. The resident was released from TDOC to the local community the day after reporting the allegation. A second resident who reported an allegation of sexual abuse investigative packet was determined as Unsubstantiated. Documentation confirmed the resident was monitored for retaliation monitoring for 90 days.

One resident reported an allegation of sexual harassment in which the investigation was completed the day following his report and determined as Unfounded. Retaliation monitoring was noted as ending within 30 days of the reported allegation. A second resident also reported an allegation of sexual harassment and the investigative finding was determined as Unsubstantiated. Documentation supported the resident was placed on retaliation monitoring for 90 days. There no residents placed on extended retaliation monitoring during the on-site visit.

Based on the review of policies, retaliation forms, interviews and analysis, the facility has demonstrated compliance with all provisions of this standard.

## INVESTIGATIONS

### Standard 115.271: Criminal and administrative agency investigations

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

#### 115.271 (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 115.221(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 115.221(a).)  Yes  No  NA

#### 115.271 (b)

- Where sexual abuse is alleged, does the agency use investigators who have received specialized training in sexual abuse investigations as required by 115.234?  Yes  No

#### 115.271 (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

#### 115.271 (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

#### 115.271 (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 resident or staff?  
 Yes  No
- Does the agency investigate allegations of sexual abuse without requiring a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding?  Yes  No

#### 115.271 (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

#### 115.271 (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

#### 115.271 (h)

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

#### 115.271 (i)

- Does the agency retain all written reports referenced in 115.271(f) and (g) for as long as the alleged abuser is incarcerated or employed by the agency, plus five years?  Yes  No

#### 115.271 (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

### 115.271 (k)

- Auditor is not required to audit this provision.

### 115.271 (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 115.221(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

*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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06.2 PREA Allegations, Investigations, and SART
3. TDOC PREA Allegation Documentation Checklist
4. Interviews with:
  - a. OIC Special Agent and OIC Institution Investigator

115.271(a) TDOC 502.06.2 states it is the policy of TDOC to investigate all PREA sexual abuse and sexual harassment allegations in a timely, efficient, and confidential manner in accordance with federal guidelines (Title 28 (CFR Part 115). Staff shall accept reports made verbally, in writing, anonymously, and from third parties. Allegations shall be documented within 24 hours of becoming known to facility staff in the PREA Allegation System (PAS). These investigations shall be conducted within 72 hours of receiving the allegation. SART team members/investigators who have received special training in conducting sexual abuse investigations in confinement settings shall investigate all allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. There were 4 administrative and 0 criminal allegations of sexual abuse/harassment PREA allegations reported during the review period.

115.271(b) TDOC 502.06.2 states, “where sexual abuse is alleged, the agency shall use investigators who have received special training in sexual abuse investigations”. A Sexual Abuse Response Team (SART member who have received special training in conducting sexual abuse investigations in confinement settings shall investigate. The OIC Institution Investigator is a member of the SART and conduct all administrative investigations of alleged sexual abuse and sexual harassment. The OIC Institution Investigator refer all investigations that could result in criminal charges to the OIC Special Agent for investigation. Training records noted all investigations were completed by investigators who had received specialized training.

115.271(c) TDOC Index 502.06.2 indicates that OIC Special Agents 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. A review of investigation files demonstrated that the investigators utilized all available evidence and data. There was no physical and DNA evidence required for collection for the two reported allegations of sexual abuse. The reported incidents did not include penetration and/or other body fluid exchange.

115.271(d) TDOC Index 502.06.2 states when the quality of evidence appears to support criminal prosecution, the Department shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. An interview with the OIC Special Agent indicated as a sworn law enforcement officer, the OIC Special Agents are not required to consult with the prosecutor prior to conducting compelled interviews. However, if he felt there was a need, he would communicate with the State Assistant District Attorney based on the circumstances of the cases.

115.271(e) TDOC Index 502.06.2 states, “The credibility of a victim, suspect, or witness, shall be assessed on an individual basis, and shall not be determined by the person’s status as inmate or staff. Inmates who allege sexual abuse shall not be required to submit to a polygraph examination or other truth telling devices as a condition for proceeding with the investigation of such an allegation.” Review of investigation files did not indicate the use of a polygraph or other truth-telling device or examination. Investigators interviewed stated that credibility of an alleged victim, suspect, or witness is considered on an individual basis. Additionally, neither investigator indicated any circumstance when a resident would be required to submit to a polygraph examination. A review of the 4 PREA investigative case files did not reveal any indication that the alleged victim was requested to participate in a polygraphy or other truth-telling device.

115.271(f) TDOC Index 502.06.2 indicates that administrative investigations shall include an effort to determine whether staff actions or failures to act facilitated the abuse and shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative findings. A review of administrative investigations and sexual abuse incident reviews demonstrated the investigators and SART team members include a review to determine the effect of staff actions or failures as it pertains to the reported allegation. An interview with both the OIC Institution Investigator and the OIC Special Agent confirmed they include detailed information in the investigative report if staff ‘s actions or lack of responsibilities contributed to facilitating the abuse.

115.271(g) TDOC 502.06.2 states that criminal investigations shall be documented in a written report which contains a thorough description of physical, testimonial, and documentary evidence. The review of the PREA investigative casefiles and interviews with both the OIC Institution Investigator and OIC Special Agent, there were zero reported PREA allegations that was determined to include possible criminal charges in relation to sexual misconduct.

115.271(h) TDOC Index 502.06.2 states, “Substantiated allegations of conduct that appear to be criminal shall be referred for prosecution. There was one Substantiated allegation of sexual abuse determined during the 12-month review period. This case did not involve touching and was not referred for criminal prosecution.

115.271(i) TDOC Index 502.06.2 states that such investigative records shall be retained for as long as the alleged abuser is incarcerated or employed by the Department, plus five additional years. This practice was confirmed by the OIC Institution Investigator and OIC Special Agent.

115.271(j) TDOC Index 502.06.2 states that the departure of the alleged abuser or victim from the employment or control of the facility or Department shall not provide a basis for terminating an investigation. Review of investigative files and interviews with both the OIC Institution Investigator and OIC Special Agent confirmed although staff resigned during an investigation, the investigation continues to include the arrest and prosecution of staff when applicable. The investigation also continues if a resident is transferred or released to include the alleged victim and/or alleged aggressor.

115.271 (k)(l) The Office of Investigations and Conduct is part of the Tennessee Department of Corrections and conducts its own criminal as well as administrative investigations into cases of sexual abuse and sexual harassment. Therefore, this provision is not applicable.

Based on the review of policies, documents, interviews and analysis, the facility has demonstrated compliance with all provisions of this Standard.

## Standard 115.272: Evidentiary standard for administrative investigations

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

#### 115.272 (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

*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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06.2 PREA Allegations, Investigations, and SART
3. PREA Investigation Case Files
4. Interviews with:
  - a. MLTC Superintendent
  - b. OIC Institution Investigator and OIC Special Agent

115.272(a) TDOC Index 502.06.2 states, “The Department shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse are substantiated.” A review of the investigation documents indicates that the Department does not impose a standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse and/or sexual harassment are substantiated. The OIC Special Agent and OIC Institution Investigative both identified a preponderance of evidence is the standard necessary to substantiate an allegation of sexual abuse or sexual harassment.

Based on the review of policies, documents, interviews and analysis, the facility has demonstrated compliance with this standard.

## Standard 115.273: Reporting to residents

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

### 115.273 (a)

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

### 115.273 (b)

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

### 115.273 (c)

- Following a resident'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 resident's unit?  Yes  No
- Following a resident'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 a resident'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 a resident'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

#### 115.273 (d)

- Following a resident's allegation that he or she has been sexually abused by another resident, 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 a resident's allegation that he or she has been sexually abused by another resident, 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

#### 115.273 (e)

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

#### 115.273 (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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06.2 PREA Allegations, Investigations, and SART
3. TDOC PREA Status Notification CR-3984
4. Interviews with:
  - a. MLTC Superintendent
  - b. MLTC PCM
  - c. OIC Institution Investigator and OIC Special Agent

115.273(a) TDOC Index 502.06.2 states that following an investigation into an inmate's allegation that he or she suffered sexual abuse in a facility, the Department shall inform the inmate in writing as to whether the allegation has been determined to be substantiated or unsubstantiated or unfounded. There were 2 administrative investigations of alleged resident sexual abuse and 2 administrative investigation of alleged sexual harassment completed by the facility in the past 12 months. The four residents were notified verbally and in writing by the investigative staff of the investigative findings of Substantiated, Unsubstantiated and/or Unfounded.

115.273(b) The agency conducts its own criminal as well as administrative investigations into cases of sexual abuse and sexual harassment. Therefore, this provision is not applicable.

115.273(c) TDOC Index 502.06.2 states that following an inmate's allegation that a staff member has committed sexual abuse, the Department shall subsequently inform the inmate in writing whenever: the staff member is no longer posted within the inmate's unit; the staff member is no longer employed at the facility; the staff member has been indicted on a charge related to sexual abuse within the facility; and the staff member has been convicted on a charge related to sexual abuse within the facility. One Substantiated sexual abuse case involved a staff member. The resident received a copy of the TDOC PREA Status Notification CR-3984 form that documented the staff was no longer employed at the facility. There were zero pending criminal charges pertaining to the allegations of sexual abuse and/or sexual harassment referred for prosecution.

115.273(d) TDOC Index 502.06.2 indicates that following an investigation into an inmate's allegation that he or she suffered sexual abuse in a facility, the Department shall inform the inmate in writing whenever the facility learns that an alleged abuser has been indicted on a charge related to sexual abuse within the facility. There were 1 Substantiated case of sexual abuse and 1 Unsubstantiated case of sexual abuse in the past 12 months of the audit period. The alleged victim was notified in writing by the

investigative staff. There were zero allegations of sexual abuse sexual abuse reported by a resident-on-resident during the review period. No residents were indicted on criminal charges related to sexual abuse and/or sexual harassment.

115.273(e) TDOC Index 502.06.2 states that all notifications shall be done in writing using Inmate PREA Allegation Status Notification, CR-3984, and the inmate shall acknowledge by signature that he/she has received such notification. The notification shall become part of the allegation file. If the inmate refuses to sign the acknowledgement, an additional staff member shall sign and date acknowledging the inmate refusal. Interviews with the Investigative staff and the MLTC Superintendent indicated that both were aware of the agency requirement for notifications to be made by Investigative staff. The auditor reviewed the investigative files and confirmed the residents received notification of the investigative findings by the OIC Investigators. The notification was dated and signed by the investigator and resident. However, one resident refused to document his signature as receipt of the investigative findings. An additional staff member documented the notification form noting the resident's refusal to sign. Copies of the residents' notification of investigative finding are maintained in the PREA investigative casefiles.

Based on the review of policies, documents, interviews and analysis, the facility has demonstrated compliance with this standard.

## DISCIPLINE

### Standard 115.276: Disciplinary sanctions for staff

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

#### 115.276 (a)

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

#### 115.276 (b)

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

#### 115.276 (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

#### 115.276 (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

*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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06.2 PREA Allegations, Investigations, and SART
3. Interviews with:
  - a. Superintendent

115.276 (a-d) TDOC Index 502.06.2 states that Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse, sexual harassment, or PREA policies. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual touching only after conclusion of investigation. Sanctions shall be 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. All terminations for violations of the Department's sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies (unless the activity was clearly not criminal) and to any relevant licensing bodies. A memorandum from the Director of the OIC Investigative Unit dated May 1, 2020, reference this standard that Special Agents in Charge (SAC's) who substantiated cases must also be report to "relevant licensing bodies and documentation of the report to the relevant licensing bodies should be provided to the facility for file. Per interview with the Superintendent, employees are disciplined based on the outcome of sexual misconduct investigation. The facility would use progressive discipline 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. The Superintendent explained the Department has a zero tolerance for sexual abuse and he applies the appropriate immediately action that includes termination upon awareness. Per interviews with the investigative staff, and Superintendent in

addition to the review of the 4 PREA investigations, there have been 1 Substantiated allegations of staff sexual misconduct during the audit review period. The investigation was completed within hours of being reported. The staff member was immediately terminated. The staff member's position within MLTC was not applicable of reporting to relevant licensing bodies.

Based on the review of policies, interviews and analysis, the facility is compliant with all provisions of this standard.

## Standard 115.277: Corrective action for contractors and volunteers

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

#### 115.277 (a)

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with residents?  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

#### 115.277 (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 residents?  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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)

2. TDOC Index 502.06.2 PREA Allegations, Investigations, and SART
3. TDOC Index 115.01 Standards for Volunteers and Coordination of Community Involvement
4. Director of OIC Investigative Unit Memorandum

5. Interviews with:

a. Superintendent

115.277(a), (b) TDOC Index 502.06.2 states that any contractor or volunteer who engages in sexual abuse is prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies and if found to have engaged in sexual abuse or sexual harassment of an inmate shall be prohibited from further contact with any inmate. TDOC Index 115.01 states that if after investigation it is necessary to limit the services of a volunteer, the approving authority shall notify the volunteer in writing of such action. The approving authority may restrict a volunteer to entering only the assigned TDOC location which shall be designated as the volunteer’s primary site. The approving authority may terminate the services of a volunteer, and such termination shall apply to all institutions. A memorandum from the Director of the OIC Investigative Unit dated May 1, 2020, reference this standard that Special Agents in Charge (SAC’s) who substantiated cases must also be report to “relevant licensing bodies and documentation of the report to the relevant licensing bodies should be provided to the facility for file. Per interview with the Superintendent, access would be restricted to volunteers and contractors from entering TDOC facilities. Notification would be immediately made their contracting agency through the human resource department. An investigation would be initialed against the contractor or volunteer. If the case is determined as substantiated, the individual would be terminated and subject to criminal prosecution and reported to relevant licensing bodies as applicable. There were zero reported allegations of sexual misconduct alleged against volunteers and/or contract staff during the review period.

Based on the review of policies, interviews and analysis, the facility is compliant with all provisions of this standard.

## **Standard 115.278: Interventions and disciplinary sanctions for residents**

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

### **115.278 (a)**

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

### **115.278 (b)**

- Are sanctions 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?  Yes  No

### **115.278 (c)**

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

#### 115.278 (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 resident to participate in such interventions as a condition of access to programming and other benefits?  Yes  No

#### 115.278 (e)

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

#### 115.278 (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

#### 115.278 (g)

- If the agency prohibits all sexual activity between residents, does the agency always refrain from considering non-coercive sexual activity between residents to be sexual abuse? (N/A if the agency does not prohibit all sexual activity between residents.)  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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)



2. TDOC Index 502.06.2 PREA Allegations, Investigations, and SART

3. Interviews with:

a. Superintendent

b. MLTC PCM

115.278(a) TDOC Index 502.06 states, "Inmates shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse. There were zero Substantiated allegation of sexual abuse against a resident at MLTC during the 12-month review period.

115.278(b) & (c) TDOC Index 502.06.2 states that sanctions shall be 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. Per an interview with the Superintendent, residents who are classified and charged as an aggressor would be disciplined to include external charges. Staff would follow the guidelines for the alleged charge and the resident would be dismissed from the facility's program and charged accordingly.

115.278(d) TDOC Index 502.06.2 states, If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to require the offending inmate to participate in such interventions as a condition of access to programming or other benefits. Per the Superintendent a resident who was determined as an aggressor would be removed from the program and transferred to another TDOC facility.

115.278(e) TDOC Index 502.06.2 states an inmate may be disciplined for sexual contact with staff only upon finding that the staff member did not consent to such contact." One resident received a disciplinary sanction for sexual harassment activity towards a staff member upon the investigative finding determining the staff member did not consent to such contact. The resident was determined guilty of a Class B Sexual Harassment and was transferred to another TDOC facility.

115.278(f) TDOC Index 502.06.2 states, "For the purpose of disciplinary action, a report sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if the investigation does not establish evidence sufficient to substantiate the allegation." There were no residents who was reported to have received disciplinary sanctions for falsely reporting an incident or lying regarding a PREA allegation during the 12-month audit review period.

115.278(g) TDOC Index 502.06.2 states, "Any prohibition on inmate-on-inmate sexual activity shall not consider consensual sexual activity to constitute sexual abuse." Per interview with the Superintendent and MLTC PCM, the facility does not consider consensual sexual activity between residents to be sexual abuse.

Based on a review of policies, interviews and analysis, the facility is compliant with all provisions of this standard.

## MEDICAL AND MENTAL CARE

### Standard 115.282: Access to emergency medical and mental health services

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

#### 115.282 (a)

- Do resident 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

#### 115.282 (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 § 115.262?  Yes  No
- Do security staff first responders immediately notify the appropriate medical and mental health practitioners?  Yes  No

#### 115.282 (c)

- Are resident 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

#### 115.282 (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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06.3 Medical, Behavioral Health, Victim Advocacy, and Community Support Services for PREA Victims
3. CORIZON Health PREA Training Lesson Plan
4. Interviews with:
  - a. MLTC PCM
  - b. Medical staff/ Behavior Health Staff
  - c. Non-Security 1<sup>st</sup> Responder

115.282(a) TDOC Index 502.06.3 states victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and behavioral health providers, according to their professional judgment, in accordance with Policy #113.30. The CORIZON Health Lesson Plan for PREA states an initial medical evaluation and subsequent intervention focused solely upon injury or trauma sustained during the assault shall be conducted. Following any report by an inmate concerning sexual assault, the inmate will be brought to medical for an examination to address any immediate medical needs. The clinician will identify and triage inmates that require medical intervention, and provide treatment (First Aide type, ice bandages etc.) necessary to stabilize the inmate prior to and during transfer to a facility for forensic examination. TDOC 502.06.3 states inmates alleging to be victims of a sexual abuse shall automatically be referred to behavior health staff utilizing the referral process. An interview with the Health Service Administrator verified victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services and in accordance with their professional judgement and doctor's orders. She also said that once the report is received, the resident would be seen immediately. An interview with the Behavior Health Administrator indicated staff within the department meets with the resident immediately upon their awareness of a sexual abuse incident or the next workday if not on duty unless they are advised to report to the facility.

115.282(b) TDOC Index 502.06.3 states, "If no qualified medical staff are on duty at the time of a report of a recent abuse is made, a correctional officer trained to render first aid may help as needed". Medical staff are on duty 24/7 at MLTC and medical services are provided as needed. All staff selected for interviews were aware that medical staff would be notified of reported PREA allegations. Their description of actions taken included notifying the Shift Commander and medical staff while keeping the victim safe and separated from the abuser.

115.282(c) TDOC Index 502.06.3 indicates that inmate victims of sexual abuse, while incarcerated, shall be offered test for sexually transmitted infections and sexually transmitted infections prophylaxis in accordance with professionally accepted standards of care and as medically appropriate. CORIZON Health has a policy which addresses the requirement of this provision which says that "prophylactic treatment and testing is offered to the patient, as well as follow-up care for sexually transmitted or other

communicable diseases. MLTC reported there were no instances in where a test for sexually transmitted infections and/or sexual transmitted infections prophylaxis was warranted during the 12-month review period due to no penetration and/or exchange of body fluids.

115.282(d) TDOC Index 502.06.3 indicates that treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with the investigation. Interviews with medical staff also verified that the services would be provided at no cost.

Based on the review of policies, documentation, interviews and analysis, the facility is compliant with all provisions of this standard.

## **Standard 115.283: 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**

#### **115.283 (a)**

- Does the facility offer 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?  Yes  No

#### **115.283 (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

#### **115.283 (c)**

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

#### **115.283 (d)**

- Are resident victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if “all-male” facility. *Note: in “all-male” facilities, there may be residents who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*)  Yes  No  NA

#### **115.283 (e)**

- If pregnancy results from the conduct described in paragraph § 115.283(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if “all-male” facility. *Note: in “all-male” facilities, there may be residents who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*)  Yes  No  NA

### 115.283 (f)

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

### 115.283 (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

### 115.283 (h)

- Does the facility attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners?  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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06.03 Medical, Behavioral Health, Victim Advocacy, and Community Support Services for PREA Victims
3. CORIZON Health Policy on Sexual Assault
4. Interviews with:
  - a. Medical staff and Behavior Health Staff

115.283(a) TDOC Index 502.06.3 addresses the requirements of this standard. If the screening process indicates that an inmate has experienced prior sexual victimization, or has perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a referral to a medical and/or behavioral health provider within 7 days of the screening. 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. CORIZON Health Procedure on Sexual Assault also provides procedures to follow in event of sexual abuse. In an interview with medical staff, they stated that they would ensure the victim is stable and then follow treatment plans per the physician or local hospital. An interview with Behavior Health Staff said they would meet with the victim immediately upon becoming aware and offer supportive counseling. Follow-up services would be based on the individual's treatment needs.

115.283(b) TDOC Index 502.06.3 indicates that 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. TDOC facilities offer follow-up services within the correctional facilities. An interview with the Behavior Health Administrator indicated the evaluation and treatment of residents who have been victimized would include an evaluation and offering support while providing therapy in dealing with signs of distress, trauma, flashbacks, unable to rest and/or sleep, sadness, and distress. The availability of these services would continue as requested by the victim. After care services upon release to the local community would be arranged by the Clinical Case Manager. There were no zero instances in where aftercare was requested for a victim of sexual abuse during the review period. The one resident involved in the Substantiated sexual abuse case did not request any aftercare services upon his release the day following his reported allegation.

115.283(c) TDOC 502.06.3 indicates the facility shall provide such victims with medical and behavioral health services consistent with the community level of care. Interviews with both the Health Services Administrator and Behavior Health Administrator indicated their belief is the level of care provided to the resident population is nothing less than equal to and/or better than the community level.

115.283(d) & (e) MLTC does not house female residents. Therefore, provisions d and e are not applicable.

115.83(f) TDOC 502.06.3 states that inmate victims of sexual abuse, while incarcerated, shall be offered test for sexually transmitted infections and sexually transmitted infections prophylaxis in accordance with professionally accepted standards of care. Per the Health Services Administrator these services would be available for the resident population. The two reported allegations of sexual abuse did not involve penetration of any sort and did not require testing for sexually transmitted infections.

115.83(g) TDOC Index 502.06.3 states treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. Per the Health Services Administrator and Behavior Health Administrator, the victim would not incur any financial cost for treatment services. There were no instances in where residents received outside medical services during the past 12 months review period of the audit.

115.283(h) TDOC Index 502.06.3 states that all facilities shall attempt to conduct a behavioral health evaluation of all known inmate-on-inmate abusers within 14 days of learning of such abuse history. They shall be offered treatment when deemed appropriate by behavioral health providers. In interview with staff who perform risk screening for victimization or abusiveness, they said that an inmate disclosing prior sexual abusiveness, as well as inmates who disclose prior sexual victimization, are

offered a referral to Behavioral Health. The resident would be given the option of being evaluated. The Behavior Health Administrator stated the aggressor would be offered an assessment. However, if the resident was determined to require and/or request specific programs related to sexual abuse offenses, the facility does not offer such programs. There were zero reported sexual abuse allegations determined as Substantiated and the resident was identified an aggressor during the 12-month review period.

Based on the review of policies, documentation, interviews and analysis, the facility is compliant with all provisions of this standard.

## DATA COLLECTION AND REVIEW

### Standard 115.286: Sexual abuse incident reviews

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

##### 115.286 (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

##### 115.286 (b)

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

##### 115.286 (c)

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

##### 115.286 (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 §§ 115.286(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager?  
 Yes  No

### 115.286 (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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06.2 PREA Allegations, Investigations, and SART
3. TDOC Sexual Abuse Incident Review Report
4. Interviews with:
  - a. Superintendent
  - b. MLTC PCM
  - c. Incident Review Team Member

115.286(a)(b)(c) TDOC 502.06.2 states, " the facility shall conduct a Sexual Abuse Incident Review Report, CR-3985, at the conclusion of every sexual abuse investigation, including investigations in which the allegation has not been substantiated, unless the allegation has been determined to be unfounded. Such reviews shall ordinarily occur within 30 days of the conclusion of the investigation. The review team shall include the Warden/Superintendent/designee, Associate Warden of Treatment/Deputy Superintendent/Assistant Warden at privately managed facilities, facility and OIC



Institution Investigator, line supervisor, and medical/mental health professionals. These individuals are members of the Sexual Assault Response Team (SART). Sexual Abuse Incident Reviews were completed for the four reported PREA allegations.

A sexual misconduct investigation was concluded with an investigative finding of Unsubstantiated. The allegation was reported on March 26, 2020. The investigation was completed on March 27, 2020 and the sexual abuse incident review was completed on April 2, 2020.

A second allegation of sexual abuse was reported on October 15, 2020. The investigation was completed on October 16, 2020 with an investigative finding of Substantiated. The sexual abuse incident review was conducted on October 27, 2020.

The Sexual Abuse Review Team also conducted reviews on sexual harassment reported PREA allegations. A sexual harassment case was reported on June 10, 2020 and completed on June 22, 2020. The investigative findings were determined as Unsubstantiated, and a sexual abuse incident review was conducted on July 8, 2020.

A sexual abuse incident review was conducted for a case concluded as a sexual harassment reported on June 25, 2020. The investigation was concluded on June 26, 2020. The sexual abuse incident review for this case was conducted on July 8, 2020. The resident involved in this case was found guilty of sexual harassment and received disciplinary sanction for Class B – Disciplinary Sexual Harassment

A Sexual Assault Incident Review was conducted following the conclusion each of the four reported PREA allegations to include sexual abuse and sexual harassment. The Sexual Abuse Incident Team consisted of members of SART that included the MLTC Superintendent, MLTC PCM, OIC Institution Investigator, MLTC PREA Coordinator, mental health professional, Line Staff, medical professional, Security Captain, and Chief Counselor. The reviews were thorough and followed the requirements of this standard and were completed within 30 days of the completion of the completed investigation.

115.286(d) TDOC 502.06.2 requires that the team consider if 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, that the team examine the area in the facility where the incident allegedly occurred to determine if there are physical plan issues that may have contributed to the incident and assess staffing levels in the area and whether monitoring technology should be deployed or augmented to supplement supervision by staff in these areas. The team is required to prepare a report of findings for the Superintendent/Warden that identifies problem areas, necessary corrective action, and recommendation for improvement. The auditor reviewed the incident review reports and found they contained the required information.

115.286(e) TDOC Index 502.06.2 indicates that the facility shall implement the recommendations for improvement or shall document the reason for not doing so. A copy of the incident review is scanned and electronically forwarded to the TDOC State-wide PREA Coordinator. Per review of the completed incident reviews, recommendations included the placement of additional staff in the kitchen area and recommendation of an additional cameras upon available funds. Per an interview with the MLTC PCM, recommendations that identify requirements in relationship to PREA standards and the safety of residents are a top priority of the Superintendent. Although cameras funding could be delayed, additional staff in areas, and the installation of mirrors are always immediately provided.

Based on the review of policies, incident reviews, interviews and analysis, the facility is compliant with all provisions of this standard.

## Standard 115.287: Data collection

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

#### 115.287 (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

#### 115.287 (b)

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

#### 115.287 (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

#### 115.287 (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

#### 115.287 (e)

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

#### 115.287 (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

*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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06 PREA Implementation, Education, and Compliance
3. 2018 Annual SSV PREA Report
4. Interviews with:
  - a. TDOC State-wide PREA Coordinator

115.287(a) TDOC Index 502.06 states that staff shall collect accurate uniform data for every allegation of sexual abuse using a standardized instrument and set of definitions. TDOC shall aggregate the incident-based sexual abuse data at least annually. Per an interview with the State-wide PREA Coordinator, data is collected by the Decision Support: Research and Planning Development Department using the Department of Justice annual reporting format and the set definitions identified in TDOC Index #502.06.

115.287(b) TDOC Index 502.06 indicates that the TDOC shall aggregated the incident-based sexual abuse data at least annually. The PREA Coordinator shall ensure that data collected is securely retained. The TDOC PREA Coordinator shall review data collected and aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training.

115.287(c) The State-wide PREA Coordinator provided a copy of their most recent SSV report that demonstrated that the data collected by the Facility is at least sufficient to answer all questions on the survey conducted by the Department of Justice, the Survey of Sexual Violence.

115.287(d) TDOC Index 502.06 states, that TDOC shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigative files, and sexual abuse incident reviews.

115.287(e) TDOC Index 502.06 states, "The TDOC PREA Coordinator shall ensure that data collected is securely retained. TDOC shall make all aggregated sexual abuse data, from TDOC facilities and private facilities with which it contracts, readily available to the public at least annually through the TDOC website.

115.287(f) TDOC 502.06 indicates that a report prepared by the State-wide-PREA Coordinator shall be prepared utilizing the Department of Justice annual format. The State-wide PREA Coordinator provided the auditors a copy of the 2018 SSV-2 which demonstrated the information was submitted to the Department of Justice timely.

Based on the review of policies, incident reviews, interviews and analysis, the facility is compliant with all provisions of this standard.

## Standard 115.288: Data review for corrective action

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

#### 115.288 (a)

- Does the agency review 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, practices, and training, including by: Identifying problem areas?  Yes  No
- Does the agency review 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, practices, and training, including by: Taking corrective action on an ongoing basis?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.287 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

#### 115.288 (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

#### 115.288 (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

#### 115.288 (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

*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.*

Evidence Reviewed (documents, interviews, site review):

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06 PREA Implementation, Education, and Compliance
3. Agency website
4. 2019-2020 Annual PREA Report
5. Interviews with:
  - a. State-wide PREA Coordinator
  - b. Agency Head Designee

115.288(a-d) TDOC Index 502.06 addresses the requirement of this standard. The Directive indicates that TDOC staff shall aggregate the incident-based sexual abuse data annually. Maintain review and collect data as needed from all available incident-based documents, including reports, investigative files, and sexual abuse incident reviews. Ensure that all aggregated sexual abuse data is included in an annual report that includes an assessment of the Department's sexual abuse prevention, detection, and response policies, practices, and training; If applicable, identifies Department-wide problem areas or problems within specific correctional facilities; Is used to facilitate corrective action at the Department and correctional facility levels; compares the current calendar year's data and activities with that available from previous years; Assesses the Department's progress in addressing sexual abuse; and is approved by the Commissioner and made readily available to the public through the Department's website. Personal identifiers shall be removed prior to the data being made publicly available. Per interviews with the Agency Head Designee and State-wide PREA Coordinator, part of the report shows the corrective actions taken. The SART conduct monthly walk throughs in the facility and identify and submit any work orders that are completed by the following monthly walk-through of not less than 30 - days. The Commissioner receive a monthly report of all allegations reported at each TDOC facility.

The State-wide PREA Coordinator confirmed he review the data collected and approval. He submits the comparison and forward to the Commissioner for review and approval via signature. Only then can the report be posted on the Department's website.

The auditor reviewed the website and verified the 2019 – 2020 Annual Report was signed by the Commissioner and published. A review of the report indicated a comparison of 2018 -2019 and 2019 – 2020. The report was dated September 8, 2020. The report is well written and addresses the requirement of this standard.

Based on a review of policy, website, annual report, interview and analysis, the facility is compliant with all provisions of this standard.

## Standard 115.289: Data storage, publication, and destruction

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

#### 115.289 (a)

- Does the agency ensure that data collected pursuant to § 115.287 are securely retained?  
 Yes  No

#### 115.289 (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

#### 115.289 (c)

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

#### 115.289 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.287 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.*

1. MLTC Completed Pre-Audit Questionnaire (PAQ)
2. TDOC Index 502.06 PREA Implementation, Education, and Compliance
3. Agency website
4. 2019-2020 Annual PREA Report

5. Interviews with:

a. TDOC State-wide PREA Coordinator

115.289 (a-d) TDOC Index 502.06 addresses the requirements of this standard. The directive indicates the TDOC PREA Coordinator shall ensure that data collected is securely retained. The TDOC State-wide PREA Coordinator is responsible for completing an Annual report and when approved by the Commissioner it is made available to the public through the Department's public website. The report should redact information that would present a clear and specific threat to the safety and security of a prison before publication indicating the nature of the redacted information and related personal identifiers shall be removed prior to being made public. Securely maintain incident-based and aggregate data ensuring only authorized personnel have access to the information. The TDOC State-wide PREA Coordinator shall maintain sexual abuse data for at least 10 years after the date of the initial collection.

Per an interview with the TDOC State-wide PREA Coordinator, he also indicated the data is securely maintained for at least 10 years in computerized system and only authorized personnel has access. The auditor reviewed the agency website and verified the 2019-2020 Annual Report was published. A review of the report indicated there were no personal identifiers.

Based on the review of policy, website, annual report, interview and analysis, the facility is compliant with all provisions of this standard.

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

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

##### 115.401 (a)

- During the prior three-year audit period, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (*Note: The response here is purely informational. A "no" response does not impact overall compliance with this standard.*)  Yes  No

##### 115.401 (b)

- Is this the first year of the current audit cycle? (*Note: a "no" response does not impact overall compliance with this standard.*)  Yes  No
- If this is the second year of the current audit cycle, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited during the first year of the current audit cycle? (N/A if this is **not** the *second* year of the current audit cycle.)  Yes  No  NA
- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency,

were audited during the first two years of the current audit cycle? (N/A if this is **not** the *third* year of the current audit cycle.)  Yes  No  NA

#### 115.401 (h)

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

#### 115.401 (n)

- Were residents 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.*

TDOC Index 502.06 PREA Implementation, Education, and Compliance was reviewed and meets the requirement of this standard. The directive requires the PREA Coordinator to ensure that Department PREA-related activities comply with federal PREA standards in the following areas, Audits, and Auditing and corrective action. This the second year of third audit cycle for MLTC. The Agency oversees 10 facilities and the agency website contained PREA audit reports posted for all facilities during the past audit cycle. The auditor had been provided with extensive files prior to the audit, for review to support a conclusion of compliance with PREA standards. While at the facility, the auditor reviewed and received sufficient sampling based on the size of the facility of case records, training records, investigative reports, additional program information and documents. The auditor interviewed the required number of staff and residents based on the population and all were knowledgeable regarding PREA requirements. The auditor was given access to and an opportunity to tour and visit all



areas of the facility. The auditor was provided with an office that ensured privacy in conducting interviews with residents and staff during the onsite visit. Although due to some of the specialized staff being affected with COVID-19, they were not available during the on-site. Those staff interviews were later conducted via telephone. All resident interviews were conducted during the on-site visit. The residents confirmed they had observed the notice of audit posted throughout the institution that noted the procedure to submit confidential correspondence to the auditor. However, the auditor did not receive any the correspondence from staff and/or the resident population.

Based on the above, the facility has demonstrated substantial compliance with all provisions of this standard.

## 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. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.)  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.*

Per TDOC directives and standard requirements, TDOC ensures all final reports will be published on their websites to be available to the public. A review of the TDOC website at [www.tn.gov/correction/sp/prisonrape-elimination-act.html](http://www.tn.gov/correction/sp/prisonrape-elimination-act.html) contained the final 15 previous PREA reports completed for TDOC. Final reports were published on the agency website within 90 days of issuance.

Based on the above, the facility has demonstrated substantial compliance with this standard.

## 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 resident 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.

*Debra D. Dawson*

**Auditor Signature**

*March 10, 2021*

**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.