



Impact Justice, PREA Resource Center  
1342 Florida Avenue NW  
Washington, DC 20009

July 11, 2023

re: auditor non-compliance with audit requirements, TDCJ Smith Unit

To the PREA Resource Center:

Trans Pride Initiative (TPI) is filing an objection to the acceptance of the audit report for the Texas Department of Criminal Justice (TDCJ) Smith Unit conducted by auditor Pam Sonnen. We believe that for a number of reasons this audit fails to meet the spirit or letter of audit requirements. The onsite audit was conducted May 10 and 11, 2023, so where specific data is given in the audit report, it reflects the auditor's report of "facts" at that time. The final audit report was submitted June 24, 2023.

### **Summary of Audit Report Deficiencies**

TPI has documented a total of 392 incidents of violence against persons housed at Smith Unit, including 62 that occurred in the past 12 months. Of the total documented incidents, 82 involved non-compliance with some element of the PREA standards, with 18 PREA non-compliance issues documented in the last 12 months. Our data is not comprehensive for the unit but only encompasses what is reported to us, so it should be considered only a small portion of the incidents of violence, including sexual violence, that is actually occurring.

Although TPI does not have as much data for Smith Unit as we do for some other TDCJ facilities (we have only relatively recently begun receiving reports from the unit, and our first documented incident occurred in 2020), we feel there is sufficient data available to question compliance in some areas and to indicate the most recent PREA audit is deficient. There are deficiencies in compliance with the most basic PREA § 115.11 requirements; and indications the unit does not comply with PREA § 115.15; that training is insufficient in terms of proper and professional treatment of LGBTI<sup>1</sup> persons under PREA § 115.31; that investigations are not

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1. PREA identifies LGBTI as lesbian, gay, bisexual, transgender, and intersex persons. TPI is much more affirming and comprehensive in our understanding of vulnerabilities and marginalization, and as such we include under the LGBTI umbrella all non-cisgender non-hetero-normative persons. We believe this is the only interpretation consistent with the spirit of PREA.



conducted in compliance with PREA §§ 115.34 and 115.71, and that the auditor seriously misinterprets or was misled in the evaluation of PREA §§ 115.42, 115.43, and 115.68.

### **Request for Action**

We are requesting that:

- Senior Warden Bryan Williams be investigated for interference with general PREA compliance operations as defined under PREA § 115.11, as well as for refusing to address the endangerment of transgender and other LGBTI persons in his custody;
- Senior Warden Bryan Williams be required to undergo additional training in PREA requirements and compliance;
- Smith Unit be required to conduct a subsequent audit to address deficiencies in the audit referenced above and discussed in this report;
- the auditor be required to follow PREA § 115.401(o) and contact additional advocates that may have information about the unit, and publicly document each organization and advocacy group contacted, as well as a general description of the data provided, and if no entities were contacted to justify that deficiency;
- Smith Unit be required to address corrective actions for any issues determined to be non-complaint; and
- the subsequent report document the data identified by community-based organizations and community advocates to show compliance with PREA § 115.401(o).

### **Details of Audit Report Deficiencies**

The audit report states that the population at the Smith Unit is “males,” when in fact this is false. The Smith Unit houses cisgender males, transgender females, and other persons who may not belong to either of those two populations. The Smith Unit may abusively classify transgender women and other non-male persons as “male,” but that is not an accurate description for PREA assessment purposes of the populations housed at the unit. To identify transgender females as “males” is an act of violence that not only denies the identity of transgender persons but also encourages violence, sexual harassment, and sexual abuse of transgender persons by dismissing our core identity.

### **General Audit Information**

**Audit entry 10** states that the auditor only contacted one community-based organization that has an MOU (Memorandum of Understanding) with the unit. PREA § 115.401(o) clearly states that “[a]uditors shall attempt to communicate with community-based or victim advocates who may have insight into relevant conditions in the facility.” This does not limit that contact to one advocate, nor does it limit contacts to entities that are party to an MOU. TPI was not contacted concerning the information we have about Smith Unit, and no reference to our data freely



available online was made. For auditor convenience, that information can even be easily viewed and downloaded at our web page for auditors: [https://tpride.org/projects\\_prisondata/prea.php](https://tpride.org/projects_prisondata/prea.php).

**Audit entry 45 and 46** state as per the Auditor Handbook that the auditor should note the “Inmates who reported sexual abuse that occurred in the facility” and “Inmates who reported prior sexual victimization during risk screening,” and the auditor noted zero for both these numbers. However, in audit entry 67, the auditor documents interviewing one of those zero persons, and in audit entry 68, the auditor documents interviewing two of those zero persons. This indicates a failure to accurately identify and confirm unit data collection on target populations, and thus casts doubt on all claims (or acceptance of counts provided by the unit administrative staff) for all target populations.

**Audit entry 47** states that zero persons housed at the unit had ever been placed in segregated housing or isolation for risk of sexual victimization. This represents a major failure to document and audit segregated housing, or protective custody under PREA. This also indicates a failure to investigate and understand how segregated housing is defined confusingly (and appears to be purposefully manipulated by TDCJ to cause confusion) and a failure to perform due diligence in confirming such a claim that no person housed at Smith Unit had ever been placed in segregated housing or isolation for risk of sexual victimization. This will be discussed further below under PREA § 115.43. That failure to understand how TDCJ uses (and misuses) applications of segregated housing is made explicit in **audit entry 69**, where the auditor states “I observed no inmates in segregation for safe keeping.” According to online descriptions, Smith Unit does not house any safekeeping status persons, but safekeeping is absolutely not the only way TDCJ places persons at risk of sexual victimization in segregated housing.

**Audit entry 65** notes that one person identified as lesbian, gay, or bisexual was interviewed. According to Table 1 in the Auditor Handbook, the minimum number of interviews for a unit with the overall population of Smith Unit should have been two. Although this is deficient, we are happy to see that the auditor interviewed ten transgender and intersex persons.

**Audit entries 95 and 97** note that of 25 allegations of sexual abuse by other incarcerated persons, zero were substantiated, 19 unsubstantiated, and six unfounded (the evidentiary standard is a preponderance of evidence, so this says zero of 25 allegations had even a 51 percent likelihood of happening, a difficult assertion to believe. Likewise, no allegations of sexual harassment had even a 51 percent chance of being true. Additionally, the unit reported no allegations of sexual harassment by staff were even filed, which is especially difficult to believe due to the number of staff complaints TPI receives about Smith Unit staff (unfortunately, many of these reports lack specifics to identify them as sexual harassment or more general harassment—that may be due to people being afraid to put too many details in communications that Smith Unit staff can view and the potential for reprisal<sup>2</sup>).

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2. See the audit report discussion of PREA §§ 115.63 and 115.67, to which we would object to the auditor’s note that a review of “retaliation paperwork from the monitor and all monitoring was completed with no issues” would not be an appropriate means of determining whether incarcerated persons were not reporting sexual violence



### **PREA § 115.15 discussion, cross-gender strip and body cavity searches**

The audit states that Smith Unit staff “shall not conduct cross-gender strip searches or cross gender [sic] visual body cavity searches . . . except in exigent circumstances or when performed by medical practitioners.”

Regardless of whether a person is assigned to a facility designated as “male” or “female,” if that person is identified as transgender in the prison system or facility, then strip and visual body cavity searches by persons of a gender different from the incarcerated person’s self-identified gender are cross-gender searches unless a waiver documenting search preference has been signed. Failure to respond accordingly in an audit is a failure to properly assess whether or not cross-gender searches are conducted at a facility. Misclassifying, in this case, transgender females as “males” is inappropriate, and constitutes participation by the auditor in violence against transgender persons. Acceptance of that misclassification by the PREA Resource Center is encouraging and abetting violence against transgender persons and should not be considered compliant with PREA standards.

TPI has not documented any cross-gender strip and cross-gender visual body cavity searches at Smith Unit, but that does not mean they do not occur. Instead, it more likely means they are so routine that people do not feel they can address the issue by reporting such cross-gender searches.

The audit report states that Smith Unit only houses “male” persons. As noted above, this not only erases the existence of trans persons, this type of misclassification and erasure of transgender persons encourages violence against trans persons, including sexual abuse and sexual harassment. Refusal to affirm a person’s gender dehumanizes the person, and dehumanization is a significant step in excusing and justifying institutional harm and violence. Further, this misapplication of the PREA standards allows the auditor to ignore violations under 115.15(b), cross-gender pat-down searches of female persons, claiming in “Appendix: Provision Findings” that PREA § 115.15(b) is “na” or not applicable.

If the facility allows cisgender males and transgender males to conduct pat-down searches of transgender females, then the facility permits cross-gender pat-down searches of female incarcerated persons unless the incarcerated transgender female has completed a waiver allowing such searches. Cisgender males and transgender males are not the same gender as cisgender females and transgender females.

The failure by the auditor to document that the unit houses transgender females also results in deficient assessment of 115.15(c), requiring that the facility document all cross-gender strip searches and cross-gender visual body cavity searches (the “Provision Findings” notes the unit complies), and shall document all cross-gender pat-down searches of female incarcerated persons (the “Provision Findings” notes this is “na” or not applicable, again erasing the gender of transgender women).

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due to fear of retaliation.



The audit report states that incarcerated persons shower, change clothing, and perform bodily functions without non-medical staff of the “opposite” gender viewing their breasts, buttocks, or genitalia except in exigent circumstances or incident to cell checks.

This standard is discriminatory toward nonbinary gender persons as it only addresses “male” and “female” genders as “opposite” genders, thus erasing nonbinary identities. Such erasure is another means of dehumanization, again, an important step in excusing and justifying institutional harm and violence.

Regardless of whether a facility is designated as “male” or “female,” this policy covers “opposite” genders of “male” and “female,” including cisgender and transgender males as “opposite” to cisgender and transgender females. If the facility does not have policies and procedures that enable incarcerated persons to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia except in exigent circumstances—including cisgender and transgender males viewing transgender females, and cisgender and transgender females viewing transgender males, except in cases where a waiver has been completed by the incarcerated person—the facility is not compliant with this policy.

The auditor admits in the discussion of PREA § 115.15(d) that “[t]ransgender inmates are able to use showers in an empty open cell for one hour twice daily, 11pm and 6am.” However, this does not take into consideration what happens during lock downs and staff shortages. TPI routinely hears from units that double-cell transgender persons in ECB/high security cells that claims of offering “separate” showers fail during frequent lock downs, during staff shortages, or if staff just decide they do not want to run “special” showers for transgender persons. Claiming that separate showers are provided two hours per day without addressing these routine situations where they are not provided is a failure to adequately audit compliance with PREA § 115.15(d).

The auditor rightly notes complaints that staff can see in the showers is in violation of PREA § 115.15. Although a privacy screen appears to have been installed (after being initially refused by the warden), it was not discussed whether this screen was adequate. In many units designated for housing “males,” the screens only cover the waist area, leaving the breasts of trans women exposed. This does not fully address the deficiency in meeting PREA § 115.15(d). A screen or curtain that does not cover most of the area from shoulder to mid-thigh is inappropriate.

TPI believes that Smith Unit without doubt fails to meet compliance with PREA § 115.15.

### **PREA § 115.31 discussion, employee training**

The audit report states that Smith Unit “meets” the requirements of PREA § 115.31 concerning employee training because “I reviewed the training records to verify the training,” but TPI has received a number of complaints about unprofessional conduct by staff, particularly concerning insults and harassment due to sexual orientation or gender that fails to reflect adequate training under PREA § 115.31(a) concerning effective and professional communication with incarcerated



LGBTI persons. Training cannot be vouched by simply reviewing training materials, but must consider whether training is effected in practice. If it is not, then the training should not be considered “training” but only meaningless rote compliance with ineffective policy.

As mentioned earlier, the complaints TPI has received are often somewhat unspecific, and that may be for the same reason the auditor notes possible fear in reporting sexual violence on the unit. And again, it may be that the persons making the reports feel this behavior is so routine that providing details will not be worth their time documenting.

### **PREA § 115.34 discussion, specialized training in investigations**

TPI does not have much means of monitoring this PREA standard, but the auditor notes several things that cast doubt on whether this unit should have been determined to “meet” the standard. The auditor states that “[s]everal investigative reports were not well written and did not contain any background information” that would have helped assess the situation and incident. The auditor also noted that it is not the investigative staff that determine whether an incident was substantiated, but apparently is the Unit Classification Committee (UCC), and usually it is specifically the warden who determines whether an allegation is substantiated. This is certainly a conflict of interest. Further, the auditor notes that at least one person determining whether allegations are substantiated did not even know the evidentiary standard for such a determination. If members do not know that preponderance is the **maximum** standard that can be applied, then clearly they cannot determine whether an allegation is substantiated or not.<sup>3</sup>

### **PREA §§ 115.42, use of screening information, and 115.43, protective custody**

The auditor provides evidence of a significant misunderstanding (or is disclosing false information provided by and the manipulation of TDCJ staff) of how screening information is used in TDCJ in the discussion of this standard. This issue is also discussed under the section for PREA § 115.68.

The auditor states that

The Unit Classification Committee (UCC) uses information from the risk screening document to determine housing, bed, work, education, and program assignments with the goal of separating offenders at high risk of being sexually victimized from offenders at high risk of being sexually

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3. The auditor also notes under PREA § 115.71 that

This current practice could be the reason for 25 sexual abuse (inmate on inmate) allegations and 11 (inmate on inmates) sexual harassment investigations with zero being substantiated. I recommend the facility only have a couple of well-trained staff investigate all PREA allegations. Also having the classification committee decide the outcome of each investigation could be a conflict of interest as the Warden sits on the committee and essentially decides all the investigation outcomes. Wardens are also responsible for all incidents at the facility and could be held accountable so there is no incentive to finding any investigation as substantiated.

It seems clear that the auditor identified serious concerns with the way investigations are conducted and unsubstantiated at the unit, but what is not clear is why the unit was considered to “meet” PREA §§ 115.34 and 115.71 in spite of these serious concerns.



abusive. Offenders at high risk for sexual victimization are not placed in *protective safekeeping* unless an assessment of all available alternatives has been made and it is determined there is no available alternative means of separation from likely abusers [emphasis added].

It should be clarified that UCC cannot make this determination, they may recommend a safekeeping designation, but only the State Classification Committee (SCC) can place persons in a safekeeping designation. TPI is not certain whether UCC or SCC makes the determination that “all available alternatives” have been considered and dismissed, but it is likely UCC makes a recommendation and SCC makes the final decision.

The auditor also has not done due diligence or has been misled in understanding “protective safekeeping” in TDCJ. The auditor provides TDCJ policy that “[o]ffenders shall be assigned to protective safekeeping only until an alternative means of separation from likely abusers is arranged, for no longer than 30 days.” In TDCJ, “protective safekeeping” appears to be with few exceptions a permanent designation, and it would be very rare for the designation to only last 30 days (see the discussion below). That “[o]ffenders placed in protective safekeeping for this purpose shall have access to programs, privileges, education, and work opportunities” also misrepresents that the persons in protective safekeeping appear to have access to indoor and outside recreation, but little else in terms of programs and privileges due to the nature of the designation.

The auditor does correctly state that “[t]he facility uses segregation when an investigation for sexual abuse or harassment is initiated [this is called an Inmate Protection Investigation, or IPI, discussed below]. Once the investigations are completed the inmates is [sic] either returned to one of the housing units or placed in transit to await a transfer to another facility.” The auditor seems to avoid identifying this as what it is, an “involuntary protective custody,” and even though the auditor implies this is an automatic process that does not consider “all available alternatives,” this is not identified as failing compliance. Also deficient is that when this is an automatic response, the “all available alternatives” have not been considered, and further non-compliance results when persons are remained in IPI holding for more than 24 hours, another very common practice.

The following is a discussion of several aspects of screening information and the use of screening information that also is of importance in compliance with PREA standards covering responses to reports of sexual violence.

**Protective safekeeping:** One issue of concern is the reference by this auditor to “protective safekeeping,” a designation that generally has little to do with PREA screening. We note that we have read many audit reports and have hear other comments that indicate TDCJ is manipulating the understanding of this designation and that auditors are doing little or no due diligence in understanding the various types of “protective custody” (as they should be considered under PREA) in use in TDCJ. Also, “protective safekeeping” is absolutely not the only means of separating or segregating persons at risk of sexual victimization, which is implied by the auditor.



“Protective safekeeping” is defined in the TDCJ *Classification Plan* as being “for offenders who require the highest level of protection in a more controlled environment than other general population offenders, due to threats of harm by others or a high likelihood of victimization.” This designation is more fully discussed in the *Protective Safekeeping Plan*, a document that is not made public and that TPI does not have access to. Protective safekeeping is also identified as custody levels P6 and P7, with P7 having more restrictions. When I was able to learn a little about this designation previously, only three units had protective safekeeping housing. The designation, based reports from one person with a P6 designation, is mainly used for persons who are politicians and other high-profile figures, persons with law enforcement history, and persons who have testified against powerful syndicates or cartels. This protective safekeeping is absolutely separate from all other TDCJ populations, with absolutely no mixing outside P6 and P7. As far as I know, protective safekeeping is never recommended for only a risk of sexual victimization. We have never heard of any person being designated as “protective safekeeping” due to sexual violence.

**Safekeeping status:** Safekeeping designation or status is defined in the TDCJ Classification Plan as

a status assigned to offenders who require separate housing within general population due to threats to their safety, vulnerability, a potential for victimization, or other similar reasons. Prison offenders in safekeeping are also assigned a principal custody designation, including safekeeping Level 2-P2 [minimum custody], safekeeping Level 3-P3 [minimum custody], safekeeping Level 4-P4 [medium custody], and safekeeping Level 5-P5 [closed custody].

Safekeeping status is sought by incarcerated persons who experience vulnerabilities, however safekeeping status is provided only in relatively few cases, and some people experience sexual violence over and over and are refused safekeeping status because of the length of their incarceration, their body size, or in some cases being “too intelligent.” Once on safekeeping status, many job opportunities, educational and training programs, and other benefits that may be offered to persons in general population.<sup>4</sup> Officially, safekeeping persons can access all the benefits of general population, but in practice the safekeeping population is often segregated at meals, recreation, and other unit movement and programs; this is sometimes done to harass persons on safekeeping, who are often identified as “snitches” and LGBTI persons. Safekeeping persons are denied access to educational opportunities, training programs, and other benefits, often by claiming the denial is not because of the safekeeping designation but because units where these programs are offered do not have housing for safekeeping persons.

TDCJ also seems to claim that safekeeping designation is not “protective custody” and that only “protective safekeeping” is “protective custody.” This claim is absolutely not consistent with practice. Likewise, TDCJ seems to claim that safekeeping is not “involuntary protective custody,” apparently because in most cases, people request or agree to be placed in safekeeping designation. However, it is certainly not something a person can request or volunteer for and be

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4. Note that TDCJ confusingly calls “safekeeping designation” as “general population” even though safekeeping housing is separate from general population.





assigned, and in many cases requests for removal of the safekeeping designation are denied, sometimes even after outside advocacy for removal back to general population.

**Lockup for reporting sexual violence:** TDCJ seems to go to some effort to indicate only “protective safekeeping” is “protective custody” or “involuntary protective custody” for PREA purposes, but that is not the case. In almost every report we have had documenting a TDCJ response to a report of sexual abuse, the person reporting is placed in a separate cell and isolated for an Inmate Protection Investigation (IPI). This probably generates documentation that “all available alternatives” have been reviewed, but in practice it is an automatic action that is done even if the person is reporting states definite reasons that they are in no further danger. It even happens when someone reports sexual abuse at a different unit and no danger at the current unit. In these cases, there is certainly no legitimate evaluation of “all available alternatives.” IPI lockups also routinely last for more than 24 hours, and are often handled as disciplinary actions, with the person possibly being strip searched and their property taken. Since IPI lockups are usually in the same areas as restrictive housing, they also often entail the same security restrictions that apply to those being held for disciplinary reasons. It should be clear that this treatment means the threat of being locked up discourages people from reporting sexual victimization.

**Housing in dangerous situations:** The auditor states under the discussion of PREA § 115.42 that “[m]any of the [t]ransgender inmates complained about their housing assignment. Several complained that they were placed in cells with gang members and were verbally or sexually harassed.” This seems to clearly indicate that there is much more harassment going on than is being documented, and that transgender persons are being placed in cells where they are in danger and not allowed to avoid or escape that endangerment. It is unclear how with such reports that must have been valid enough to include in the PREA audit that Smith Unit can be given a “meets” the standard rating for both the actions to create the situation and the failure to respond to the endangerment.

The auditor also notes that “TDOC [*sic*] places all known active gang members in restrictive housing. The only inmates that are in population could be suspected/non active gang members.” It is hard to justify the wholesale acceptance of such a claim by TDCJ. “Gang involvement” lists are notoriously inaccurate, including persons who are not affiliated and missing persons who are. TDCJ is currently under fire for not only holding supposed gang members in restrictive housing but also for falsely claiming persons are affiliated. This also fails to consider that only some prison organizations are considered “gangs,” and does not include groups like the nearly ubiquitous Tango Blast groups that often extort LGBTI persons for property and sexual favors. This simplistic means of dismissing very real problems caused by ignoring complaints of endangerment from LGBTI persons should not ever be considered acceptable.

The auditor continues to state that “classification staff . . . does not check if a suspected gang member is assigned in a cell when she places a transgender [person] in the cell,” which



absolutely indicates a failure to meet PREA § 115.42(a) and (b), and notes that the warden “did not want to change how cell assignments are made,” apparently requiring the person to experience sexual harassment or sexual abuse before removing them from a cell, a violation of the prevention prong of PREA § 115.11. But again, the auditor completely failed to indicate non-compliance.

**“Meets” the 115.42 and 115.43 standards:** It seems clear that there are compliance problems with both these standards, and that the auditor misunderstands—either by failure to conduct due diligence or by misdirection from TDCJ staff, or both—how the screening information is used and how protective custody and involuntary protective custody are used (and manipulated to abuse victims) in TDCJ. This assessment of “meets” the standards also seems to indicate a willingness to dismiss serious endangerment of transgender persons as “acceptable.”

### **PREA § 115.51 discussion, inmate reporting**

TPI commends the auditor for identifying and addressing the lack of a secure means to report sexual violence in the ECB/high security cell areas. Although the warden refused to address the issue for an extremely fatuous reason (which should in itself be considered a failure to generally meet PREA § 115.11), it appears that the issue may have been addressed. We would, however, prefer that something so serious as the failure to provide a means of securely submitting documentation and refusal by the warden to address result in the development of a corrective action plan and reassessment of compliance.

### **PREA § 115.68 discussion, post-allegation protective custody**

As with the discussion under PREA §§ 115.42 and 115.43, this discussion indicates serious manipulation of what “protective safekeeping” is by TDCJ staff, serious misunderstanding and lack of due diligence by the auditor, or both.

The auditor notes accurately that “protective safekeeping” provides the maximum supervision and protection, and that it is an “option available” (to TDCJ staff; protective safekeeping is not a designation that incarcerated persons can “opt” to take) that “limits the ability to participate in work, education, and other privileges.”

However, the auditor is seriously mistaken that protective safekeeping is provided “only until an alternative means of separation from likely abusers is arranged, for no longer than 30 days.” This statement seriously misrepresents how “protective safekeeping” functions in TDCJ, and I would say is in no way representative of the use of this designation.

TPI has only heard from one person in protective safekeeping since 2013, so we do not have any relevant hard data on whether or not PREA placements in protective safekeeping that may have occurred are compliant with PREA § 115.43, as required under PREA § 115.68, but this should be a topic of investigation in any PREA audits that identify such placements.



## **PREA § 115.71 discussion, criminal and administrative investigations**

This standard is discussed under PREA § 115.34.

### **Conclusion**

TPI has documented a total of 392 incidents of violence against persons housed at Smith Unit, including 62 that occurred in the past 12 months. Of the total documented incidents, 82 involved non-compliance with some element of the PREA standards, with 18 PREA non-compliance issues documented in the last 12 months. Our data is not comprehensive for the unit but only encompasses what is reported to us, so it should be considered only a small portion of the incidents of violence, including sexual violence, that is actually occurring.

Although TPI does not have as much data for Smith Unit as we do for some other TDCJ facilities (we have only relatively recently begun receiving reports from the unit, and our first documented incident occurred in 2020), we feel there is sufficient data available to question compliance in some areas and to indicate the most recent PREA audit is deficient. There are deficiencies in compliance with the most basic PREA § 115.11 requirements; and indications the unit does not comply with PREA § 115.15; that training is insufficient in terms of proper and professional treatment of LGBTI<sup>5</sup> persons under PREA § 115.31; that investigations are not conducted in compliance with PREA §§ 115.34 and 115.71, and that the auditor seriously misinterprets or was misled in the evaluation of PREA §§ 115.42, 115.43, and 115.68.

We are requesting that:

- Senior Warden Bryan Williams be investigated for interference with general PREA compliance operations as defined under PREA § 115.11, as well as for refusing to address the endangerment of transgender and other LGBTI persons in his custody;
- Senior Warden Bryan Williams be required to undergo additional training in PREA requirements and compliance;
- Smith Unit be required to conduct a subsequent audit to address deficiencies in the audit referenced above and discussed in this report;
- the auditor be required to follow PREA § 115.401(o) and contact additional advocates that may have information about the unit, and publicly document each organization and advocacy group contacted, as well as a general description of the data provided, and if no entities were contacted to justify that deficiency;
- Smith Unit be required to address corrective actions for any issues determined to be non-complaint; and

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5. PREA identifies LGBTI as lesbian, gay, bisexual, transgender, and intersex persons. TPI is much more affirming and comprehensive in our understanding of vulnerabilities and marginalization, and as such we include under the LGBTI umbrella all non-cisgender non-hetero-normative persons. We believe this is the only interpretation consistent with the spirit of PREA.



- the subsequent report document the data identified by community-based organizations and community advocates to show compliance with PREA § 115.401(o).

I hope that these issues can be addressed in the interest of increasing the safety of all trans and queer persons, and in the interest of more full compliance with PREA standards requiring “zero tolerance toward all forms of sexual abuse and sexual harassment” and legitimate instead of specious efforts to prevent, detect, and respond to such conduct.

Sincerely,

Nell Gaither, President  
Pronouns: she/her/hers  
Trans Pride Initiative

Attachment: Information for PREA Auditors: Smith Unit, by Trans Pride Initiative

cc: Department of Justice, Special Litigation Section  
TDCJ CEO Bryan Collier  
TDCJ PREA Ombudsman  
Smith Unit Senior Warden Bryan Williams  
Smith Unit PREA manager Carri Rodriguez

# **Information for PREA Auditors:**

## **Smith Unit**

**Data Provided by Trans Pride Initiative**

**Data generated on July 8, 2023 at 12:59:08 PM**

## **PREA Auditor General Information**

Under PREA Standard 115.401(o), “Auditors shall attempt to communicate with community-based or victim advocates who may have insight into relevant conditions in the facility.” Since 2013, TPI has been contacted by less than five auditors, representing a gross failure of PREA auditors to comply with this standard.

TPI does not have data concerning all prisons and prison systems, but we do have significant data for a number of units in the Texas prison system.

Because the National PREA Resource Center provides oversight and quality control, this also constitutes a gross failure by NPRC to comply with their own requirement that “auditors must demonstrate that they attempted to communicate with a community-based or victim advocate to gather information about relevant conditions in the facility.”

TPI will be increasing our monitoring of PREA reports and filing complaints both with and against the NPRC for each unit audited where TPI has "insight into relevant conditions in the facility" yet we were not contacted.

## **Overall Data, System and Smith Unit**

### **For the current system**

- Total incidents documented for system: 13391
- Incidents from the last 12 months: 1145
- PREA incidents documented in system: 3324
- PREA incidents from the last 12 months: 373

### **For the current unit**

- Total incidents documented at unit: 392
- Incidents from the last 12 months at unit: 62
- Incidents from the last 36 months at unit: 188
- PREA incidents documented at unit: 82
- PREA incidents from the last 12 months at unit: 18
- PREA incidents from the last 36 months at unit: 29

# PREA Incidents Reported for Smith Unit

For reference, here are lists of PREA incidents documented at the unit.

## PREA incidents last 12 months

PREA Issue	All	Staff	Prisoner	Other
115.11 - Sexual abuse	3	0	2	1
115.15(d) - Cross-gender viewing during showering, bodily functions, changing clothing	1	1	0	0
115.31(a)(9) - Training not implemented, unprofessional or abusive communication	2	2	0	0
115.41(d) - Screening, criteria not appropriately considered	6	6	0	0
115.41(g) - Screening, failure to reassess due to additional information	1	1	0	0
115.42(f) - Screening info use, no separate shower	5	5	0	0

## PREA incidents last 36 months

PREA Issue	All	Staff	Prisoner	Other
115.11 - Sexual abuse	4	0	3	1
115.11 - Sexual harassment	2	0	2	0
115.15(d) - Cross-gender viewing during showering, bodily functions, changing clothing	1	1	0	0
115.31(a)(9) - Training not implemented, unprofessional or abusive communication	3	3	0	0
115.41(d) - Screening, criteria not appropriately considered	6	6	0	0
115.41(g) - Screening, failure to reassess due to additional information	1	1	0	0
115.42(a),115.42(b) - Screening info use, improper safety considerations	2	2	0	0
115.42(e) - Screening info use, trans persons own views not considered	1	1	0	0
115.42(f) - Screening info use, no separate shower	8	8	0	0
115.61(a) - Response, ignore reports of sexual violence or retaliation	1	1	0	0

**PREA incidents, all documented**

<b>PREA Issue</b>	<b>All</b>	<b>Staff</b>	<b>Prisoner</b>	<b>Other</b>
115.11 - Sexual abuse	24	0	23	1
115.11 - Sexual harassment	8	0	8	0
115.15(d) - Cross-gender viewing during showering, bodily functions, changing clothing	1	1	0	0
115.31(a)(9) - Training not implemented, unprofessional or abusive communication	8	8	0	0
115.34,115.71(a) - Investigation not done properly, deliberate misclassification	1	1	0	0
115.34,115.71(a) - Investigation not done properly	1	1	0	0
115.41(d) - Screening, criteria not appropriately considered	6	6	0	0
115.41(g) - Screening, failure to reassess due to additional information	6	6	0	0
115.42(a),115.42(b) - Screening info use, improper safety considerations	2	2	0	0
115.42(e) - Screening info use, trans persons own views not considered	1	1	0	0
115.42(f) - Screening info use, no separate shower	9	9	0	0
115.43(a),115.43(c) - Protective custody, forced short-term	1	1	0	0
115.61(a) - Response, ignore reports of sexual violence or retaliation	12	12	0	0
115.67(a) - Retaliation, fail to protect	2	2	0	0



# TPI Information for Auditor

One of the few auditors who have contacted us submitted a list of questions concerning our activities and involvement with the unit being audited. This section is based on those questions.

## *Basic auditor questions and responses*

### **1. Does your organization currently have a relationship with the Smith Unit?**

*Response:* TPI has no formal relationship with any prison system or any institution within a prison system, but we will respond to all communications received from incarcerated persons at prison units.

### **2. Does your organization have an MOU or other agreement for provision of services?**

*Response:* No.

### **3. Describe any past interactions with the Smith Unit.**

*Response:* We have exchanged 511 letters with and on behalf of 80 persons between the dates of November 03, 2016, and June 10, 2023.

### **4. At any time, has the prison staff invited your organization to the facility for a tour, meetings, training, or other collaboration?**

*Response:* No, we have never been invited or offered a tour, meeting, training, or other collaboration with any prison unit or agency.

Most of our contact is with the Texas Department of Criminal Justice, and we have found staff to be very antagonistic to our work. One client reported that our reference to PREA 115.31 and proper use of pronouns for trans persons as per PREA training materials was "bullshit," several clients have reported being told not to contact us (a violation of PREA Standard § 115.52(e) concerning third-party assistance in reporting sexual violence), and some years ago it appears that one unit PREA manager tried to accuse us of sending in unidentified contraband.

We would expect that most prison systems are equally antagonistic to our work. The Bureau of Prisons has never even responded to a concern or complaint submitted.

### **5. If no MOU exists, describe whether or how you came to an agreement about the provision of services.**

*Response:* Our mission is to support and advocate for trans and gender non-conforming persons in areas that include housing and healthcare access, including general issues of violence that impact housing and healthcare access, whether in the free world or in prison. The mission also covers broad anti-violence work concerning safety from sexual misconduct and other forms of violence. We do not require permission from any operator of an institution or system of incarceration to do our work.

### **6. Describe relevant conditions at the prison based on your organization's experience with the facility related to sexual abuse or sexual harassment.**

*Response:* Please see the specific data in the detail sections below. If no detailed data is provided, we do not have a specific response.

However, conditions for trans persons across jail and prison systems are generally abysmal. Based on our experience related to interactions with survivors of sexual abuse and sexual harassment, particularly against trans and queer persons (and all LGBTQI+ persons), such misconduct is sometimes committed by staff, and where committed by other incarcerated persons, is often abetted by staff from guards to wardens telling trans and queer persons they must "fight or fuck" to stay safe, sexual misconduct reports are commonly manipulated to result in

disciplinary cases against the survivors by claiming rape or other sexual violence was “consensual,” persons reporting sexual misconduct are commonly coerced under threat of disciplinary cases or other retaliation into making statements denying vulnerability by staff (including, in Texas, TDCJ safe prisons department staff), and persons reporting sexual misconduct are often placed in greater danger by being exposed as “snitches” in the way reports are processed and investigations handled.

## 7. What other local / regional / national organizations should be contacted about relevant conditions at the prison?

*Response:* We are only familiar with Texas organizations and a few regional and national organizations:

- Organizations listed in the TAASA Resource Directory
- TAASA's prison support section
- Transgender Gender-Variant & Intersex Justice Project
- Disability Rights Washington, Trans In Prison Justice Project
- Transgender Law Center, Detention Program
- American University Washington College of Law, Center for Human Rights and Humanitarian Law
- Just Detention International

## 8. Questions about Specific PREA survivor services standards

- **Does the facility transport people to a community site for forensic exams?**

*Response:* We will have no knowledge of the actual actions undertaken by any facility related to transport to a community site.

- **If yes, what hospital or medical site does it use to provide SANE / SAFE exams for incarcerated persons?**

*Response:* We have no knowledge of which facilities they may use to provide medical services to survivors of sexual violence.

- **If no, please describe how the facility provides incarcerated and detained persons access to a qualified SANE / SAFE for a forensic medical exams, including if a SANE / SAFE is on staff and/or comes into the facility.**

*Response:* We have no knowledge of if or how the facility provides access to qualified SANE / SAFE forensic exams.

- **Does your organization provide services to incarcerated survivors of sexual abuse from the prison?**

*Response:* Yes, on request, we provide support and advocacy as best we can for any person requesting such services.

- **Are these services part of an MOU or other formal agreement?**

*Response:* No, we have no MOU in place.

- **Which of the following types of support services does your organization provide to incarcerated and detained survivors from the prison?**

- **Accompaniment during forensic medical exam:**

*Response:* No.

- **Accompaniment during investigatory interviews and court proceedings:**

*Response:* No.

- **Emotional support services:**

*Response:* Yes.

- **Crisis intervention:**

*Response:* Yes.

- **Information:**  
*Response:* Yes.
- **Relevant referrals:**  
*Response:* Yes.
- **Other:**  
*Response:* Trans and queer community specific understanding and support.

○ **How are these services provided?**

- **Over the phone:**  
*Response:* Not generally, but sometimes.
- **Via mail:**  
*Response:* Yes.
- **Onsite at the prison:**  
*Response:* No.
- **Onsite at the hospital:**  
*Response:* No.

○ **For services provided over the phone, describe your organization's understanding of how incarcerated and detained persons access the phone for this purpose:**

*Response:* We generally do not provide services over the phone.

○ **Describe any time the phone is not available (example: no one to answer the phone, or the facility does not allow access).**

*Response:* We generally do not provide services over the phone.

○ **How are services provided to non-English speaking incarcerated persons?**

*Response:* We try to get a native speaker come in and write to the incarcerated person.

**9. If you do not provide services to the facility, can you share why you do not?**

*Response:* Not applicable.

**10. Can you identify a locally-based organization which might be able to provide such services?**

*Response:* For Texas, the main clearinghouse for this information would be the Texas Association Against Sexual Assault.

**11. Answer the following only if your organization provides services to incarcerated persons at the facility.**

○ **Describe how your organization is contacted to provide advocacy services when an incarcerated or detained person reports sexual abuse.**

*Response:* Generally by mail. Sometimes we receive a phone call from a relative or friend to contact the person, in which case we may initiate contact. We must hear from the person before undertaking any advocacy actions.

○ **In the past year, how many times has your organization been contacted to provide advocacy services to incarcerated or detained persons from the facility?**

*Response:* We have received 119 letters from 27 persons in the past 12 months from Smith Unit. These letters have resulted in the documentation of 62 incidents of violence, 18 of which included enough information about sexual harassment or sexual abuse to document PREA-related abuses. Please see the detailed information below for more specifics.

- **Following a report of sexual abuse?**

*Response:* Please see the detailed information below.

▪ **During a forensic exam?**

*Response:* We are not generally contacted during a forensic exam, and it is highly unlikely that such contact would be allowed.

▪ **During an investigatory interview or other law enforcement contact?**

*Response:* We have never been contacted during an investigatory interview or other law enforcement contact.

▪ **Does the prison use facility staff to provide advocacy services?**

*Response:* The only agency for which we have any knowledge or experience is TDCJ, and based on our experience, it is highly unlikely any units in the TDCJ system provide anything that could be called advocacy services.

▪ **If “yes,” who is this person?**

*Response:* Not applicable.

▪ **If you know, please describe how this person was selected.**

*Response:* Not applicable.

▪ **If you know, please describe the training this person received:**

*Response:* Not applicable.

○ **Has your organization received reports of sexual abuse and sexual harassment from incarcerated persons at this facility?**

*Response:* In total, we have received reports of 82 counts of sexual abuse or sexual harassment from Smith Unit.

○ **If yes, is this reporting responsibility part of the MOU or other formal agreement?**

*Response:* We do not have an MOU or other formal agreement with Smith Unit.

○ **If no, please explain how your program came to provide these services.**

*Response:* TPI will respond to anyone who contacts us. Each prison has a responsibility to make third-party contact information available to incarcerated persons in order to be PREA compliant.

○ **To your knowledge, can incarcerated or detained persons remain anonymous, upon request, when making a report?**

*Response:* In our experience, no. Persons reporting sexual violence are nearly always outed for their reporting in some manner, either by direct or indirect disclosure.

○ **Who do you notify at the facility or the prison system about the report?**

*Response:* If the endangerment is immediate, we attempt to notify the building supervisor, safe prisons staff, or someone in upper administration. We have been told we cannot directly contact staff even in an emergency at TDCJ Hughes Unit, so we expect that other units could also refuse to take direct reports from us. In cases that are less time sensitive, we contact the PREA Ombudsman Office, Office of the Ombudsman, sometimes the Office of the Inspector General, and other offices.

o **How many reports has your organization received for the facility in the past 12 months?**

*Response:* For Smith Unit, we have received reports of 62 incidents of violence occurring during the last 12 months. Of that total, 18 included a PREA violation. Note that not all PREA violations are related to sexual harassment or sexual abuse. Evidence of ineffective training and improper search practices can be examples.

o **What kinds of reports did your organization receive?**

*Response:*

- All violence reported for the last 12 months: 62
- All sexual violence: 3
- Sexual harassment: 0
- Sexual abuse: 3
  
- Sexual harassment by staff: 0
- Sexual harassment by incarcerated persons: 0
- Other sexual harassment: 0
  
- Sexual abuse by staff: 0
- Sexual abuse by other incarcerated persons: 2
- Other sexual abuse: 1
  
- Other reported violence by staff: 34
- Other violence by incarcerated persons: 24
- Other violence by unknown persons: 1

o **How many unique individual incarcerated persons made the reports?**

*Response:* The number of individuals reporting these incidents was 9.

o **Please describe any trends of abusive conduct in the reports:**

*Response:* The trends we have noticed across our work include the following. To discuss current trends at any specific unit, please contact TPI.

- Claims that rape is consensual.
- Claims that sex is consensual if the rape survivor did not fight back.
- Use of DNA evidence as “proof” of consensual sex.
- Retaliation against those reporting by increased cell searches, failure to secure property before segregation, allowing property to be stolen or “lost,” solitary confinement instead of less abusive alternatives when the survivor requests not to be placed in solitary.
- Treatment of survivors in ways that out them as the person reporting, which increases the danger of retaliation by the accused and their affiliates.
- Forced statements to retract reports in exchange for removing a threat or to gain some benefit such as safer housing.

o **Please explain what happens when your organization receives a report.**

*Response:* We will assess the information, determine priority, and decide next steps based on what the client or survivor has indicated they want us to do. If we are dealing with sexual assault or threat of sexual assault and the person wants us to advocate for them and has provided sufficient information, we contact the Office of the Ombudsman, PREA Ombudsman Office, and possibly other offices. In emergency situations, we may try to contact the facility. We also contact the client with a copy of our communication so they know what we said (after receiving the copy we have sent, some clients have reported prison staff have lied about what we reported). We may take other steps depending on specific circumstances.

- **Can incarcerated and detained persons remain anonymous, upon request, when making a report?**

*Response:* Yes, but we note that we cannot do much to advocate for them if they remain anonymous. However, we will record anonymous incidents of violence.

- **Who (if anyone) do you notify at the facility or the prison system about the report?**

*Response:* This depends on what is being reported, but it can be a building manager, PREA manager, or others that we might determine appropriate.

- **Does your organization provide confidential emotional support services to any incarcerated person at the facility?**

*Response:* Yes, we would provide confidential emotional support services as our capacity and experience allows at the facility.

- **Has this been discussed as something that your organization could provide?**

*Response:* Not applicable.

## 12. Describe what you tell incarcerated persons about limits to confidentiality.

*Response:* Most of our experience is with TDCJ, and we will tell them that TDCJ will do nothing to address an issue if the survivor or victim remains confidential. We expect this is true of most prison systems, that they use non-disclosure as an excuse to quote policy and fail to address systemic problems and failures to follow policy. We also let persons know that in most cases, we will not be able to effectively advocate for them or their situation if they wish to remain confidential. There are, however, some exceptions.

## 13. Please describe how incarcerated persons learn about the following:

- **The services your organization provides.**

*Response:* Most is by word of mouth and sharing our letters and information. We are listed in some resource directories as well.

- **How to contact your organization.**

*Response:* Generally by the address on letters, the listing in a resource directory, or by word of mouth.

- **Limits to confidentiality.**

*Response:* Generally by direct communication with us by letter.

## 14. Are the services provided by your organization available to all incarcerated persons regardless of whether they have reported sexual abuse or sexual harassment?

*Response:* We respond to all letters and requests to communicate with us.

## 15. What do you do if an incarcerated person discloses sexual abuse that they have not previously reported?

*Response:* We follow their lead and wishes on disclosure and advocacy. We will not report or otherwise advocate for a person if they do not wish. We will document all instances of sexual abuse, and the person reporting remains anonymous.

## 16. Please describe the response based on where the sexual abuse occurred:

- **Current facility.**

*Response:* Generally receives high priority. We may contact administration at the unit, email the PREA

Ombudsman Office, send letters to PREA Ombudsman and the Office of the Ombudsman, possibly to other offices as well.

- **Previous facility.**

*Response:* Reports of sexual violence at a previous facility are documented in our data and may be used to support a request for safekeeping or other safety advocacy. Our experience with TDCJ is that a report of sexual violence at a previous facility will be ignored, and the only response will be to claim the survivor is appropriately housed.

- **In route to the facility.**

*Response:* We only have experience with TDCJ in transportation issues related to sexual violence. Our experience with TDCJ is that they claim their transportation department is not covered by PREA. We know that is absolutely untrue, so we generally report to the Office of the Ombudsman and the PREA Ombudsman Office.

- **In the community.**

*Response:* We would discuss options with the client and determine a plan of action based on how they wish to proceed and address issues, contingent also on our capacity to assist them.

**17. Is there any other information you can provide to assist my audit of this facility?**

*Response:* Please contact us at P.O. Box 3982, Dallas, Texas 75224, or by phone at 214-449-1439 or by email at [info@tpride.org](mailto:info@tpride.org) to discuss whether we have additional information about a specific unit.

# Audit Information for Smith Unit

This section provides responses to each PREA standard and draws from the items in the pre-audit questionnaire and the audit compliance tool. Some items, like employment and contract date, we have omitted. We do not collect data on all items at this time, but we may add items in the future.

Where we have data and present individual incident information, we provide data for the past three years from the current date; the calendar year of the incident is indicated by the first four digits of the incident number, shown in the left column.

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## **§115.11 — Zero tolerance of sexual abuse and sexual harassment; PREA coordinator.**

**115.11 (a)** The agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct.

Although policy is a start, written policy is often used as an excuse to ignore and cover up abuses: “We don't do that, we have policy that says so!” TPI is interested in actual outcomes.

Totals for sexual harassment documented at the facility are:

- Past 12 months: none
- Past 36 months: 2
- All reports: 8

Totals for sexual abuse documented at the facility are:

- Past 12 months: 3
- Past 36 months: 4
- All reports: 24

The following are details about the sexual harassment and sexual abuse documented for the past three years:



## Incident Details From Prior Three Years

Incident	Quantity	Identity	Description
2020-00640: Sexual Assault -- Coerced; PREA: 115.11	1	White, Transgender unspecified, Unknown sexual orientation	Description: The subject notes that she was placed in overflow to await transfer after an assault (see incident 2020-00639). One morning she awoke to the cellmate standing over her bunk and masturbating. He ejaculated on her lower body. We note that it is curious that this technically would not be included in PREA as sexual abuse because there was no body contact, and TDCJ would likely [and incorrectly] exclude from sexual harassment because the "actions of a derogatory or offensive nature" were not "repeated."
2022-00077: Threat -- Sexual misconduct; PREA: 115.11	1	Black, Transgender woman, Unknown sexual orientation	Description: The subject states that she was approached while in her cell by a member of a prison organization that she was previously associated with, and she was told she had to leave the housing area. The person then told the subject and her cellmate, apparently a gay man, they if they they did not move they have to provide oral sex to every member of the prison organization.
2022-00323: Threat -- Harm; PREA: 115.11	1	White, Two spirit, Unknown sexual orientation	Description: The subject is housed in an ECB cell (has shower in the cell) with someone that the subject states is threatening to harm them. The subject implies they are threatening sexual abuse, but does not state that clearly. At this time we are considering this possible sexual harassment.
2022-00784: Sexual Assault -- Not further specified; PREA: 115.11 Advocacy letter sent Agency response: Denied report Agency action: No action TPI assessment: Outcome not appropriate	2	Black, Transgender woman, Unknown sexual orientation	Description: The subject states that she was sexually assaulted by a person that appears to have been her cellmate at the time. The allegation is that she experienced sexual assault, physical assault, threats with a weapon, and extortion. In a subsequent letter, the subject states the person "life threaten me, held weapon on me, force me to suck his penis/jack him off/fuck my pussy/extorted me by taking whatever \$ I came up on by gifts or hustling." [TPI has received communication from the accused during this time, who also states being threatened by gang members and in trouble for informing, and that claim was substantiated.] The subject also says there is a shower in the cell, but it seems they are generally given opportunities to shower separate except for one period on lockdown (see incident 2022-00803).  In a PREA Ombudsman response, the office misgenders the subject and claims that the subject denied sexual abuse and reported only wanting a unit transfer.
2023-00093: Sexual Assault -- Not further specified; PREA: 115.11	1	Latinx, Transgender woman, Heterosexual	Description: The subject states that she was sexually assaulted at some time in January 2023, but does not provide the date or any other information (sexual abuse incident 2023-00093). The subject also reports that she tried to take her own life as a result of the sexual assault (self-harm incident 2023-00094).

**§115.13 — Supervision and monitoring.**

**115.13 (a)** The agency shall ensure that each facility it operates shall develop, document, and make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect incarcerated persons against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration: (1) Generally accepted detention and correctional practices; (2) Any judicial findings of inadequacy; (3) Any findings of inadequacy from Federal investigative agencies; (4) Any findings of inadequacy from internal or external oversight bodies; (5) All components of the facility's physical plant (including "blind-spots" or areas where staff or incarcerated persons may be isolated); (6) The composition of the incarcerated population; (7) The number and placement of supervisory staff; (8) Institution programs occurring on a particular shift; (9) Any applicable State or local laws, regulations, or standards; (10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and (11) Any other relevant factors.

Due to the persistent problems with staff shortages within TDCJ and the agency's consistent failure to adequately address the problem, TPI has been documenting problems reported as directly attributable to staff shortages.

For this unit, we have documented:

<b>Incident Type</b>	<b>Prior 12 months</b>	<b>Prior 36 months</b>	<b>All reports</b>
Healthcare Abuse	3	4	4
Misconduct	0	2	2

**115.13 (b)** In circumstances where the staffing plan is not complied with, the facility documents and justifies all deviations from the plan.

**115.13 (c)** Whenever necessary, but no less frequently than once each year, for each facility the agency operates, in consultation with the PREA coordinator required by § 115.11, the agency shall assess, determine, and document whether adjustments are needed to: (1) The staffing plan established pursuant to paragraph (a) of this section; (2) The facility's deployment of video monitoring systems and other monitoring technologies; and (3) The resources the facility has available to commit to ensure adherence to the staffing plan.

**115.13 (d)** Each agency operating a facility shall implement a policy and practice of having intermediate-level or higher level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Such policy and practice shall be implemented for night shifts as well as day shifts. Each agency shall have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

TPI does not currently track these issues.

**§115.14 — Youthful incarcerated persons.**

**115.14 (a)** A youthful incarcerated person shall not be placed in a housing unit in which the youthful incarcerated person will have sight, sound, or physical contact with any adult incarcerated person through use of a shared day room or other common space, shower area, or sleeping quarters.

**115.14 (b)** In areas outside of housing units, agencies shall either: (1) maintain sight and sound separation between youthful incarcerated persons and adult incarcerated persons, or (2) provide direct staff supervision when youthful incarcerated persons and adult incarcerated persons have sight, sound, or physical contact.

**115.14 (c)** Agencies shall make its best efforts to avoid placing youthful incarcerated persons in isolation to comply with this provision. Absent exigent circumstances, agencies shall not deny youthful incarcerated persons daily large-muscle exercise and any legally required special education services to comply with this provision. Youthful incarcerated persons shall also have access to other programs and work opportunities to the extent possible.

TPI does not currently track these issues.

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**§115.15 — Limits to cross-gender viewing and searches.**

**115.15 (a)** The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.

Regardless of whether a person is assigned to a facility designated as “male” or “female,” if that person is identified as transgender in the prison system or facility, then searches by persons of a gender different from the incarcerated person's self-identified gender are cross-gender searches unless a waiver documenting search preference has been signed. Failure to respond accordingly in an audit is a failure to properly assess whether or not cross-gender searches are conducted at a facility.

TPI does not record cross-gender visual body cavity searches in exigent circumstances or performed by medical staff as incidents of violence, so all documented cross-gender strip and cross-gender visual body cavity searches recorded were reported to have not involved exigent circumstances, and all were performed by non-medical staff.

Totals for violations of this standard reported to TPI are:

- Past 12 months: none
- Past 36 months: none
- All reports: none

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**115.15 (b)** The facility shall not permit cross-gender pat-down searches of female incarcerated persons, absent exigent circumstances. Facilities shall not restrict female incarcerated person's access to regularly available programming or other out-of-cell opportunities in order to comply with this provision.

If the facility allows cisgender males and transgender males to conduct pat-down searches of transgender females, then the facility permits cross-gender pat-down searches of female incarcerated persons unless the incarcerated transgender female has completed a waiver allowing such searches. Cisgender males and transgender males are not the same gender as cisgender females and transgender females.

All pat-down searches of incarcerated cisgender females and transgender females by cisgender males or transgender males constitute pat-down searches of female incarcerated persons conducted by male staff.

TPI does not currently document this issue because we know that any reporting would constitute an extreme undercount on units where transgender females are housed, and such an undercount would constitute a gross misrepresentation of actual conditions and practice.

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**115.15 (c)** The facility shall document all cross-gender strip searches and cross-gender visual body cavity searches, and shall document all cross-gender pat-down searches of female incarcerated persons.

It is highly likely that if a facility houses incarcerated transgender females in units designated for incarcerated male persons, or if a facility houses incarcerated transgender males in units designated for incarcerated female persons, then these are not appropriately documented.

Regardless of whether a facility is designated as “male” or “female,” if the facility allows persons of a gender different from an incarcerated persons self-identified gender to conduct strip searches and visual body cavity searches, then these are cross-gender searches except in cases where the incarcerated person has completed a waiver allowing such searches. If the facility does not document all these as cross-gender strip searches and cross-gender visual body cavity searches, then any policy requiring such documentation is not being followed.

TPI does not currently document this issue because we know that any reporting would constitute an extreme undercount on units where transgender persons are housed, and such an undercount would constitute a gross misrepresentation of actual conditions and practice.

**115.15 (d)** The facility shall implement policies and procedures that enable incarcerated persons to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering an incarcerated persons housing unit.

This policy is discriminatory toward non-binary gender persons as it only addresses “male” and “female” genders as “opposite” genders, thus erasing non-binary identities.

Regardless of whether a facility is designated as “male” or “female,” this policy covers “opposite” genders of “male” and “female,” including cisgender and transgender males as opposite to cisgender and transgender females. If the facility does not have policies and procedures that enable incarcerated persons to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia except in exigent circumstances — including cisgender and transgender males viewing transgender females, and cisgender and transgender females viewing transgender males, except in cases where a waiver has been completed by the incarcerated person — the facility is not compliant with this policy.

Total violations of this standard reported to TPI for this facility are:

- Past 12 months: 1
- Past 36 months: 1
- All reports: 1

The following are details about improper viewing documented:

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#### Incident Details From Prior Three Years

Incident	Quantity	Identity	Description
2023-00014: Misconduct -- Negligence; PREA: 115.15(d)	1	White, Transgender woman, Unknown sexual orientation	Abuser: Corrections Officer; Description: The subject states that she tried to place a "shild" (probably means hang a sheet for a curtain) for privacy while she took a shower, but the guard told her to take it down and that he wanted to see her while she showered. The subject reported that the guard told her "bitch, I fuck you up with a case."

**115.15 (e)** The facility shall not search or physically examine a transgender or intersex incarcerated person for the sole purpose of determining the incarcerated person's genital status. If the incarcerated person's genital status is unknown, it may be determined during conversations with the incarcerated person, 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.

Total violations of this standard reported to TPI for this facility are:

- Past 12 months: none
- Past 36 months: none
- All reports: none

**115.15 (f)** The agency shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex incarcerated persons, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

We note that the National PREA Resource Center has stated (<https://www.prearesourcecenter.org/sites/default/files/library/115.15.pdf>) that when conducting pat-down searches of transgender persons, “[a] case-by-case determination of the most appropriate staff member to conduct the search is necessary and should take into consideration the gender expression of the inmate.” In addition, four options are in current practice for searches of incarcerated transgender and intersex persons: “1) searches conducted only by medical staff; 2) pat searches of adult inmates conducted by female staff only, especially given there is no prohibition on the pat searches female staff can perform (except in juvenile facilities); 3) asking inmates/residents/detainees to identify the gender of staff with whom they would feel most comfortable conducting the search; and 4) searches conducted in accordance with the inmate's gender identity.” This means that a blanket rule that a person is searched or pat-searched by the gender of the unit to which they are assigned is not appropriate.

We also note that training never equates practice or compliance. The total violations of this standard have been reported to TPI for this facility are:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

### **§115.16 — Incarcerated persons with disabilities and incarcerated persons who are limited English proficient.**

**115.16 (a)** The agency shall take appropriate steps to ensure that incarcerated persons with disabilities (including, for example, incarcerated persons 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 agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

Total violations of these standards — where persons were denied opportunities to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment due to their disabilities — reported to TPI for this facility:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**115.16 (b)** The agency shall 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 incarcerated persons who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

Total violations of this standard reported to TPI for this facility:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**115.16 (c)** The agency shall not rely on incarcerated persons as interpreters, incarcerated persons as readers, or other types of incarcerated person assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the incarcerated persons's safety, the performance of first-response duties under § 115.64, or the investigation of the incarcerated person's allegations.

TPI does not currently track this issue.

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**§115.17 — Hiring and promotion decisions.**

TPI does not currently track issues under this section.

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**§115.18 — Upgrades to facilities and technology.**

TPI does not currently track issues under this section.

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**§115.21 — Evidence protocol and forensic medical examinations.**

**§115.21 (a)** To the extent the agency is responsible for investigating allegations of sexual abuse, the agency shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

**§115.21 (b)** The protocol shall be developmentally appropriate for youth where applicable, and, as appropriate, shall be 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.

TPI does not currently track these issues.

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**§115.21 (c)** The agency shall offer all survivors of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The agency shall document its efforts to provide SAFEs or SANEs.

Total reports of incarcerated persons who have been denied by this facility from accessing appropriate forensic medical examinations:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**§115.21 (d)** The agency shall attempt to make available to the survivor a survivor advocate from a rape crisis center. If a rape crisis center is not available to provide survivor advocate services, the agency makes available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member.

**§115.21 (e)** As requested by the survivor, the survivor advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the survivor through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.

Total violations of this policy, either making an advocate available in general or making an advocate available during the forensic medical examination, have been reported to TPI concerning this facility:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**§115.21 (f)** To the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall request that the investigating agency follow the requirements of paragraphs (a) through (e) of this section.

**115.21 (g)** The requirements of paragraphs (a) through (f) of this section shall also apply to: (1) Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in prisons or jails; and (2) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in prisons or jails.

**115.21 (h)** For the purposes of this section, a qualified agency staff member or a qualified community-based staff member shall be an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general.

TPI does not currently track these issues.

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### **§115.22 — Policies to ensure referrals of allegations for investigations.**

**§115.22 (a)** The agency shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.

**§115.22 (b)** The agency shall have in place a policy 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. The agency publishes such policy on its website or, if it does not have one, makes the policy available through other means. The agency documents all such referrals.

**§115.22 (c)** If a separate entity is responsible for conducting criminal investigations, such publication shall describe the responsibilities of both the agency and the investigating entity.

**§115.22 (d)** Any State entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations.

**§115.22 (e)** Any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations.

TPI cannot track these data. We reiterate that policy does not equate practice. We provide below the total numbers of sexual violence reports to TPI for this facility.

Total incidents of sexual harassment reported to TPI for this facility:

- Past 12 months: none
- Past 36 months: 2
- All reports: 8

Total incidents of sexual abuse reported to TPI for this facility:

- Past 12 months: 3
  - Past 36 months: 4
  - All reports: 24
- 

### **§115.31 — Employee training.**

**§115.31 (a)** The agency shall train all employees who may have contact with incarcerated persons on: (1) Its zero-tolerance policy for sexual abuse and sexual harassment; (2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures; (3) Incarcerated person's rights to be free from sexual abuse and sexual harassment; (4) The right of incarcerated persons and employees to be free from retaliation for reporting sexual abuse and sexual harassment; (5) The dynamics of sexual abuse and sexual harassment in confinement; (6) The common reactions of sexual abuse and sexual harassment survivors; (7) How to detect and respond to signs of threatened and actual sexual

abuse; (8) How to avoid inappropriate relationships with incarcerated persons; (9) How to communicate effectively and professionally with incarcerated persons, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming incarcerated persons; and (10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

TPI documents general failure to implement training due to an apparent lack of understanding of PREA standards, and specific failure to communicate effectively and professionally with LGBTQ+ incarcerated persons.

Total incidents related to general failures to implement PREA training reported to TPI for this facility:

- Past 12 months: none
- Past 36 months: none
- All reports: none

Total incidents related to unprofessional, ineffective, or abusive communication reported to TPI for this facility:

- Past 12 months: 2
- Past 36 months: 3
- All reports: 8

The following are individual incidents reports related to these two standards as reported to TPI over the last three years:

### Incident Details From Prior Three Years

Incident	Quantity	Identity	Description
2020-00798: Misconduct -- Negligence; PREA: 115.31(a)(9)	1	White, Transgender woman, Unknown sexual orientation	Abuser: Corrections Officer; Description: The subject notes that she has had trouble with Johnson in the past. The subject was in a conversation with other prisoners when Johnson interrupted her and told her to "shut the fuck up." It is not clear if there was a reason for her and others to be quiet, or if others were told to be quiet as well. The subject reports Johnson then accused her of saying something to another guard, which she denies saying, and then called her a pedophile, faggot, chomo (slang for child molester), and freak. He also called her a Jew, which she said did not make sense, but she noted could indicate affiliation with a white supremacist organization. The subject notes there were several witnesses who came to her defense.
Advocacy letter sent Agency response: Denied report Agency action: No action TPI assessment: Outcome not appropriate			
2022-00877: Misconduct -- Harassment; PREA: 115.31(a)(9)	1	Black, Transgender woman, Unknown sexual orientation	Abuser: Corrections Officer; Description: The subject states that a guard opened the food slot and called her a bitch because she asked for a cup for some tea, then closed the slot on her hand. She does not seem to have been blocking the food slot with her hand, just asking for a cup.
2023-00015: Misconduct -- Negligence; PREA: 115.31(a)(9)	1	Black, Transgender woman, Unknown sexual orientation	Abuser: PREA Ombudsman staff; Description: In a response letter, Gardner misgendered the subject both in contrast to TPI's affirmation of her gender and in violation of TDCJ training regarding pronoun use.

**§115.31 (b)** Such training shall be tailored to the gender of the incarcerated persons at the employee's facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only female incarcerated persons, or vice versa.

TPI notes that if training does not include use of preferred names and pronouns of transgender persons, then training is not tailored to the gender of the persons incarcerated at the facility.



**§115.31 (c)** All current employees who have not received such training shall be trained within one year of the effective date of the PREA standards, and the agency shall 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. In years in which an employee does not receive refresher training, the agency shall provide refresher information on current sexual abuse and sexual harassment policies.

**115.31 (d)** The agency shall document, through employee signature or electronic verification, that employees understand the training they have received.

TPI does not currently track these issues.

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**§115.32 — Volunteer and contractor training.**

TPI does not currently track issues under this section.

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**§115.33 — Incarcerated person education.**

**§115.33 (a)** During the intake process, incarcerated persons shall receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

**§115.33 (b)** Within 30 days of intake, the agency shall provide comprehensive education to incarcerated persons either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.

**§115.33 (c)** Current incarcerated persons who have not received such education shall be educated within one year of the effective date of the PREA standards, and shall receive education upon transfer to a different facility to the extent that the policies and procedures of the incarcerated person's new facility differ from those of the previous facility.

TPI does not currently track these issues.

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**§115.33 (d)** The agency shall provide incarcerated person education in formats accessible to all incarcerated persons, including those who are limited English proficient, deaf, visually impaired, otherwise disabled, as well as to incarcerated persons who have limited reading skills.

TPI does not track this issue separate from other failures to provide appropriate assistance to incarcerated persons with disabilities or limited English proficiencies.

Total incidents reported concerning persons being denied appropriate considerations due to disabilities:

- Past 12 months: none
- Past 36 months: none
- All reports: none

Total incidents reported concerning persons being denied appropriate considerations due to limited English proficiency:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**§115.33 (e)** The agency shall maintain documentation of inmate participation in these education sessions.

**§115.33 (f)** In addition to providing such education, the agency shall ensure that key information is continuously and readily available or visible to incarcerated persons through posters, handbooks for incarcerated persons, or other written formats.

Total reports of failures to make information continuously and readily available at this facility:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**§115.34 — Specialized training: Investigations.**

§115.34 (a) In addition to the general training provided to all employees pursuant to §115.31, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.

Total incidents concerning improper investigations by staff reported to TPI for this facility:

- Past 12 months: none
- Past 36 months: none
- All reports: 1

TPI also tracks separately investigations of sexual violence that are misclassified by staff for an unjust purpose. This includes, for example, identifying an issue of sexual harassment as sexual abuse so that it can be determined unsubstantiated or unfounded. Misclassification can also be used to identify a non-PREA incident as PREA-related so that it can be found to not fit PREA definitions of sexual harassment or sexual abuse, resulting in an unsubstantiated or unfounded finding. This category of improper investigation also includes misclassification of sexual abuse as consensual sex and vice versa.

- Past 12 months: none
- Past 36 months: none
- All reports: 1

Another separate issue we document concerns improper requirements that sexual harassment must be repeated. This is a misapplication of the PREA standards. The Department of Justice noted in the PREA Final Rule that “Various standards require remedial action in response to sexual harassment; while correctional agencies may take appropriate action in response to a single comment, a concern for efficient resource allocation suggests that it is best to mandate such action only where comments of a sexual nature are repeated” (page 37116).

The National PREA Resource Center also comments that “‘Repeated,’ in the context of this provision, means more than one incident. Please note that the seriousness of the conduct should be taken into account in determining the appropriate commensurate response by the agency or facility. Serious misconduct along these lines, even if committed once, should still be addressed by the agency or facility” (emphasis added).

Thus blanket dismissals of allegations of serious misconduct because they are not repeated are not PREA compliant. Total dismissals due to lack of repetition reported to TPI for this facility:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

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

**§115.34 (c)** The agency shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations.

**§115.34 (d)** Any State entity or Department of Justice component that investigates sexual abuse in confinement settings shall provide such training to its agents and investigators who conduct such investigations.

TPI does not currently track these issues; however, we refer to the totals under §115.34(a) as possible indication that training is insufficient.

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**§115.35 — Specialized training: Medical and mental health care.**

**§115.35 (a)** The agency ensures that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: (1) How to detect and assess signs of sexual abuse and sexual harassment; (2) How to preserve physical evidence of sexual abuse; (3) How to respond effectively and professionally to survivors of sexual abuse and sexual harassment; and (4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

**§115.35 (b)** If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.

**§115.35 (c)** The agency shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere.

**§115.35 (d)** Medical and mental health care practitioners shall also receive the training mandated for employees under § 115.31 or for contractors and volunteers under § 115.32, depending upon the practitioner's status at the agency.

TPI does not currently track these issues.

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**§115.41 — Screening for risk of victimization and abusiveness.**

**115.41 (a)** All incarcerated persons shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other incarcerated persons or sexually abusive toward other incarcerated persons.

**115.41 (b)** Intake screening shall ordinarily take place within 72 hours of arrival at the facility.

Total reports made to TPI where screening was not completed within 72 hours of intake or transfer:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**115.41 (c)** Such assessments shall be conducted using an objective screening instrument.

TPI does not currently track this issue.

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**115.41 (d)** The intake screening shall consider, at a minimum, the following criteria to assess incarcerated persons for risk of sexual victimization: (1) Whether the incarcerated person has a mental, physical, or developmental disability; (2) The age of the incarcerated person; (3) The physical build of the incarcerated person; (4) Whether the incarcerated person has previously been incarcerated; (5) Whether the incarcerated person's criminal history is exclusively nonviolent; (6) Whether the incarcerated person has prior convictions for sex offenses against an adult or child; (7) Whether the incarcerated person is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; (8) Whether the incarcerated person has previously experienced sexual victimization; (9) The incarcerated person's own perception of vulnerability; and (10) Whether the incarcerated person is detained solely for

civil immigration purposes.

Total reports to TPI that indicate the facility or agency did not properly consider the required criteria:

- Past 12 months: 6
- Past 36 months: 6
- All reports: 6

The following are details about incidents involving improper 115.41 criteria consideration:

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**Incident Details From Prior Three Years**

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<b>Incident</b>	<b>Quantity</b>	<b>Identity</b>	<b>Description</b>
2022-00501: Misconduct -- Failure to investigate or respond; PREA: 115.41(d)	6	White, Gender diverse, Unknown sexual orientation	Abuser: Classification staff; Description: The subject reports that they have informed several staff about the threats from their cellmate, but staff have refused to respond to the issue. The subject identifies someone who is apparently classification staff; the chaplain, who is over the faith-based program in which this issue is occurring (the chaplain told them to work it out themselves and stop sending him I-60s); and three lieutenants. The subject also reports there are seven open beds that could be used to separate them. The subject reports also writing to the regional Chaplain, still with no response.

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**115.41 (e)** The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing incarcerated persons for risk of being sexually abusive.

TPI does not specifically track this issue, but we believe that many facilities and agencies abuse this requirement by giving such acts greater weight in order to deny safer housing or to place trans and queer persons in danger by applying stereotypes and bias claiming trans and queer persons are more likely to be sexually abusive.

**115.41 (f)** Within a set time period, not to exceed 30 days from the incarcerated person's arrival at the facility, the facility will reassess the incarcerated person's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.

TPI does not currently track this issue specifically, but violations of 115.41(g) and 115.42(a) may also include noncompliance with 115.41(f).

**115.41 (g)** An incarcerated person's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the incarcerated person's risk of sexual victimization or abusiveness.

Total incidents reported to TPI concerning failure to reassess an incarcerated person when warranted:

- Past 12 months: 1
- Past 36 months: 1
- All reports: 6

The following are details about failures to reassess properly:

## Incident Details From Prior Three Years

Incident	Quantity	Identity	Description
2022-00541: Misconduct -- Failure to investigate or respond; PREA: 115.41(g)	1	White, Transgender woman, Unknown sexual orientation	Abuser: Ombudsman Supervisor; Description: In their response to a complaint about improper removal of the TRGEN marker from the subject's file, the ombudsman office refused to investigate the issues reported that 1) someone other than the subject requested the designation be removed, and 2) that the designation was removed without the required interview to confirm that the designation should be removed.

**115.41 (h)** incarcerated persons may not be 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.

**115.41 (i)** The agency shall implement 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 incarcerated person's detriment by staff or other incarcerated persons.

TPI does not currently track these issues.

### **§115.42 — Use of screening information.**

**115.42 (a)** The agency shall use information from the risk screening required by § 115.41 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those incarcerated person at high risk of being sexually victimized from those at high risk of being sexually abusive.

**115.42 (b)** The agency shall make individualized determinations about how to ensure the safety of each incarcerated person.

Total incidents reported to TPI concerning the facility not appropriately using screening information for housing, bed, work, education, and program assignments in a manner to ensure the safety of incarcerated persons.

- Past 12 months: none
- Past 36 months: 2
- All reports: 2

The following are details about problems using screening information properly:

## Incident Details From Prior Three Years

Incident	Quantity	Identity	Description
2021-00153: Misconduct -- Place or leave in danger; PREA: 115.42(a),115.42(b)	1	White, Transgender unspecified, Bisexual	<p>Abuser: not known; Description: The subject notes that the unit recently started placing persons designated as trans but whom they suspected were not trans in cells together. On April 14, they placed the subject and another person in a cell together, and the subject's cellmate stated that he was only identifying as trans to get a single-person cell. The subject stated that she was transgender, and her cellmate became hostile, saying he did not want to share a cell with a "punk." The subject tried to calm the person down and encourage him to let UCC so that he was not housed with someone who was trans.</p> <p>About 10pm the same day, the cellmate became agitated and demanded that the subject leave the cell, so she started packing her property and reported the issue to staff as they did rounds about 20 minutes later, noting that she needed to leave the cell because the cellmate was threatening her. The cellmate then assaulted her in front of the guard for stating that he had threatened her (see incident 2021-00154).</p>
2022-00079: Misconduct -- Failure to investigate or respond; PREA: 115.42(a),115.42(b)	1	Black, Transgender woman, Unknown sexual orientation	<p>Abuser: Lieutenant; Description: The subject states that after initially being refused an investigation about threats of sexual abuse, a second complaint during the next shift resulted in an OPI being conducted. However, later the same day or the next day, the subject was placed back on the same wing where she was threatened and called a liar. A lieutenant refused to consider that the subject has tattoos that put her in danger, and simply said that no other trans persons on the wing reported endangerment.</p>

**115.42 (c)** In deciding whether to assign a transgender or intersex incarcerated person to a facility for male or female incarcerated person, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the incarcerated person's health and safety, and whether the placement would present management or security problems.

As this facility is a TDCJ facility, TPI notes that based on reporting to us, we only have heard of a single transgender or intersex incarcerated person *NOT* housed according to their gender assigned at birth, and our information indicates that person has had genital surgery. Thus TDCJ appears to have, in practice, a blanket rule of making housing assignments for transgender and intersex persons based on genital configuration, not on a case-by-case basis.

Total incidents reported to TPI where decisions about housing and programming assignments were not made to ensure the health and safety of the incarcerated transgender or intersex person:

- Past 12 months: none
- Past 36 months: none
- All reports: none

**115.42 (d)** Placement and programming assignments for each transgender or intersex incarcerated person shall be reassessed at least twice each year to review any threats to safety experienced by the incarcerated person.

Total incidents reported to TPI indicating biannual reassessments are not being done or not being done properly:

- Past 12 months: none
- Past 36 months: none
- All reports: none

**115.42 (e)** A transgender or intersex incarcerated person's own views with respect to his or her own safety shall be given serious consideration.

Total incidents reported to TPI that reflect a failure to give serious consideration to incarcerated transgender or intersex person's own views about their safety:

- Past 12 months: none
- Past 36 months: 1
- All reports: 1

The following are details about incidents involving a failure to appropriately consider the safety of transgender and intersex persons:

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**Incident Details From Prior Three Years**

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Incident	Quantity	Identity	Description
2022-00335: Misconduct -- Negligence; PREA: 115.42(e) Advocacy letter sent Agency response: Unfounded Agency action: No action TPI assessment: Outcome not appropriate	1	White, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject states that someone sent in an I-60 requesting that her TRGEN marker be removed, and the unit safe prisons office removed it without talking to the subject and without following SPPOM-03-02 procedure, which is to interview the subject and let know that the code can be removed by request at the biannual review.  In their response, the ombudsman office refused to investigate the issues reported that 1) someone else requested the designation be removed, and 2) that the designation was removed without the required interview to confirm that the designation should be removed. The refusal to provide an appropriate investigation is documented as incident 2022-00541.

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**115.42 (f)** Transgender and intersex incarcerated persons shall be given the opportunity to shower separately from other incarcerated persons.

TPI notes that for two-person cells where the shower is in the cell, if one of the persons is transgender or intersex and one is not, that housing is not in compliance with 115.42(f). If both persons are transgender or intersex, such housing may comply with this standard if both persons housed in the cell agree that the housing arrangement is acceptable, but only for as long as both persons housed in the cell agree that the arrangement is acceptable.

Total reports to TPI where incarcerated transgender or intersex persons were not allowed separate showers:

- Past 12 months: 5
- Past 36 months: 8
- All reports: 9

The following are details about failures to provide opportunities for transgender and intersex persons to shower separate:

### Incident Details From Prior Three Years

Incident	Quantity	Identity	Description
2021-00308: Operations Misconduct -- Improper shower/toilet practices; PREA: 115.42(f)	1	Latinx, Unknown gender, Unknown sexual orientation	Abuser: not known; Description: A third party notes that on August 31, 2021, the guards tried to force the subject into a cell where she would have to shower with another person in the cell. The subject refused housing, but it is not known if she received a case for refusing.
2021-00581: Operations Misconduct -- Improper shower/toilet practices; PREA: 115.42(f)	1	Latinx, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject states that the administration is saying that it is ok to house two transgender persons in a cell with the shower in it where there is no opportunity for a separate shower. Although this could be thought of a a shower separate for transgender persons, TDCJ does not do a good job of identifying persons who are identifying as trans for some ulterior motive (it is likely impossible to completely screen out such persons), thus the "separate" showers should only be considered separate if both occupants agree that they are separate and only for as long as they agree they are separate.
2022-00182: Operations Misconduct -- Improper shower/toilet practices; PREA: 115.42(f)	1	Black, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject notes they are still housing trans persons in cells with the shower in the cell, which is not complaint with PREA 115.42(f) requirements.
2022-00803: Misconduct -- Place or leave in danger; PREA: 115.42(f)	5	Black, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject reports that she is housed in a cell with the shower in the cell. They were locked down from October 24 through November 3, 2022, and staff refused to let them out of the cell and give them an opportunity to shower separate.

**115.42 (g)** The agency shall not place lesbian, gay, bisexual, transgender, or intersex incarcerated persons in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such incarcerated persons.

Total incidents reported to TPI where trans and queer persons have been housed in dedicated areas:

- Past 12 months: none
- Past 36 months: none



- All reports: none
- 

### **§115.43 — Protective custody.**

**115.43 (a)** Incarcerated persons at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the incarcerated person in involuntary segregated housing for less than 24 hours while completing the assessment.

TPI documents the number of reports of incarcerated persons being held in protective custody (generally some sort of lockup or other restrictive housing) over their objections and statements that they are not in danger. In these cases, protective custody often appears to be used as punishment for reporting sexual violence:

- Past 12 months: none
  - Past 36 months: none
  - All reports: 1
- 

**115.43 (b)** Incarcerated persons placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document: (1) The opportunities that have been limited; (2) The duration of the limitation; and (3) The reasons for such limitations.

TPI also documents reports of persons being held in involuntary protective custody over the long term, often meaning they are denied benefits, programs, and privileges allowed persons of the same custody level not in protective custody.

As this is a TDCJ facility, it must be noted that TDCJ does not seem to consider safekeeping designation as involuntary protective custody for the purposes of 115.43. Although safekeeping is in some cases “voluntary” in the sense that one must request (and sometimes even beg for) safekeeping designation, that is not always the case. Some persons in TDCJ custody are placed in safekeeping designation over their objections, and some are coerced into accepting safekeeping. There are also instances where TDCJ has refused to accept requests to remove an incarcerated person from safekeeping, even when the reason is because the person denies endangerment and is being denied some benefit, privilege, or opportunity because of the safekeeping designation. For these reasons, persons in safekeeping cannot be assumed to be there voluntarily, and safekeeping placements must be considered by auditors for compliance with documentation requirements under section 115.43.

These totals reflect reports of incarcerated persons held in involuntary protective custody, many of whom are being denied programs, privileges, education, or work opportunities:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**115.43 (c)** The facility shall assign such incarcerated persons to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.

As noted under 115.43(b), TPI has found that in many cases, TDCJ's safekeeping designation is not voluntary, lasts well over 30 days, and should be considered involuntary protective custody for the purposes of requiring alternate means of separation from likely abusers under 115.43(c). TDCJ appears to only consider placements in restrictive housing as involuntary protective custody. That is not the case. Failure to consider safekeeping designations as voluntary or involuntary for the purpose of the requirements under 115.43(c) constitutes an improper audit.

TPI documents the number of reports that persons are being held in involuntary protective custody for more than 30 days when there are alternative means of separation.

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

115.43 (d) If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, the facility shall clearly document: (1) The basis for the facility's concern for the incarcerated person's safety; and (2) The reason why no alternative means of separation can be arranged.

TPI does not currently track this issue, although we would if we had the means.

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**115.43 (e)** Every 30 days, the facility shall afford each such incarcerated person a review to determine whether there is a continuing need for separation from the general population.

As noted under 115.43(b), TPI has found that in many cases, TDCJ's safekeeping designation is not voluntary, lasts well over 30 days, and should be considered involuntary protective custody for the purposes of reviews required under 115.43(e). TDCJ appears to only consider placements in restrictive housing as involuntary protective custody. That is not the case. Failure to consider safekeeping designations as voluntary or involuntary for the purpose of 30-day review requirements under 115.43(e) constitutes an improper audit. TPI documents the number of reports of persons received concerning persons being denied reviews every 30 if designated for involuntary protective custody:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

### **§115.51 — Incarcerated person reporting.**

**115.51 (a)** The agency shall provide multiple internal ways for incarcerated persons to privately report sexual abuse and sexual harassment, retaliation by other incarcerated persons or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.

Total reports to TPI of staff revealing private information pertaining to reports of sexual harassment and sexual abuse:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**115.51 (b)** The agency shall also provide at least one way for incarcerated persons to report abuse or harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward reports by incarcerated persons of sexual abuse and sexual harassment to agency officials, allowing the incarcerated person to remain anonymous upon request.

TPI does not currently track this issue.

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**115.51 (c)** Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.

Total reports to TPI of staff interfering with the making of a report and staff failing to accept reports of sexual assault and sexual harassment:

- Past 12 months: none
- Past 36 months: none

- All reports: none

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**115.51 (d)** The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of incarcerated persons.

TPI does not currently track this issue.

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**§115.52 — Exhaustion of administrative remedies.**

**115.52 (a)** An agency shall be exempt from this standard if it does not have administrative procedures to address incarcerated person grievances regarding sexual abuse.

**115.52 (b)** (1) The agency shall not impose a time limit on when an incarcerated person may submit a grievance regarding an allegation of sexual abuse. (2) The agency may apply otherwise applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse. (3) The agency shall not require an incarcerated person to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse. (4) Nothing in this section shall restrict the agency's ability to defend against a lawsuit by an incarcerated person on the ground that the applicable statute of limitations has expired.

Total reports to TPI concerning incarcerated persons denied the ability to file a grievance concerning sexual abuse due to a time limit:

- Past 12 months: none
- Past 36 months: none
- All reports: none

---

**115.52 (c)** The agency shall ensure that — (1) An incarcerated person who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and (2) Such grievance is not referred to a staff member who is the subject of the complaint.

TPI does not currently track this issue.

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**115.52 (d)** (1) The agency issues 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. (2) Computation of the 90-day time period does not include time consumed by incarcerated persons in preparing any administrative appeal. (3) The agency may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The agency shall notify the incarcerated person in writing of any such extension and provide a date by which a decision will be made. (4) At any level of the administrative process, including the final level, if the incarcerated person does not receive a response within the time allotted for reply, including any properly noticed extension, the incarcerated person may consider the absence of a response to be a denial at that level.

TPI does not currently track this issue.

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**115.52 (e)** (1) Third parties, including fellow incarcerated persons, staff members, family members, attorneys, and outside advocates, shall be permitted to assist incarcerated persons in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of incarcerated persons. (2) If a third party files such a request on behalf of an incarcerated person, the facility may require as a condition of processing the request that the alleged survivor agree to have the request filed on his or her behalf, and may also require the alleged survivor to personally pursue any subsequent steps in the administrative remedy process. (3) If the incarcerated person declines to have the request processed on his or her behalf, the agency shall document the incarcerated person's decision.

Total reports to TPI of interference reporting such issues to third parties:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**115.52 (f)** (1) The agency shall establish procedures for the filing of an emergency grievance alleging that an incarcerated person is subject to a substantial risk of imminent sexual abuse. (2) After receiving an emergency grievance alleging an incarcerated person is subject to a substantial risk of imminent sexual abuse, the agency shall 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, shall provide an initial response within 48 hours, and shall issue a final agency decision within 5 calendar days. The initial response and final agency decision documents the agency's determination whether the incarcerated person is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

TPI does not currently track this specific issue.

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**115.52 (g)** The agency may discipline an incarcerated person for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the incarcerated person filed the grievance in bad faith.

Total incidents reported to TPI where incarcerated persons are disciplined for filing good faith reports of sexual violence:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

### **§115.53 — Incarcerated person access to outside confidential support services.**

**115.53 (a)** The facility shall provide incarcerated persons with access to outside survivor advocates for emotional support services related to sexual abuse by giving incarcerated persons mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national survivor advocacy or rape crisis organizations, and, for persons detained solely for civil immigration purposes, immigrant services agencies. The facility shall enable reasonable communication between incarcerated persons and these organizations and agencies in as confidential a manner as possible.

TPI does not currently track this issue.

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**115.53 (b)** The facility shall inform incarcerated persons, 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.

TPI does not currently track this issue.

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**115.53 (c)** The agency shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide incarcerated persons with confidential emotional support services related to sexual abuse. The agency shall maintain copies of agreements or documentation showing attempts to enter into such agreements.

TPI does not currently track this issue.

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### **§115.54 — Third-party reporting.**

**115.54 (a)** The agency shall establish a method to receive third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of an incarcerated person.

TPI does not currently track this issue.

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**§115.61 — Staff and agency reporting duties.**

**115.61 (a)** The agency shall 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; retaliation against incarcerated persons or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

Total reports to TPI of staff failure to report knowledge, suspicion, or information received about sexual abuse or sexual harassment or retaliation:

- Past 12 months: none
- Past 36 months: 1
- All reports: 12

The following are details about staff failure to report sexual violence:

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**Incident Details From Prior Three Years**

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<b>Incident</b>	<b>Quantity</b>	<b>Identity</b>	<b>Description</b>
2022-00078: Misconduct -- Failure to investigate or respond; PREA: 115.61(a)	1	Black, Transgender woman, Unknown sexual orientation	Abuser: Corrections Officer; Description: The subject states that when requesting to talk to safe prisons about the threats of sexual assault received by the subject and her cellmate (see incident 2022-00077), a guard refused to notify safe prisons.

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**115.61 (b)** Apart from reporting to designated supervisors or officials, staff shall not reveal 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.

TPI documents incidents where staff disclose information about sexual violence to persons other than those with a need to know about the incident:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**115.61 (c)** Unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to paragraph (a) of this section and to inform incarcerated persons of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services.

**115.61 (d)** If the alleged survivor is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, the agency shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.

**115.61 (e)** The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators.

TPI does not currently track these issues.

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### **§115.62 — Agency protection duties.**

**115.62 (a)** When an agency learns that an incarcerated person is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the incarcerated person.

Total incidents reported to TPI where staff ignored reports of substantial risk of imminent sexual violence:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

### **§115.63 — Reporting to other confinement facilities.**

**115.63 (a)** Upon receiving an allegation that an incarcerated person was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.

Total reports to TPI of failures to notify other facilities in such instances:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**115.63 (b)** Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.

TPI does not currently track this issue.

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**115.63 (c)** The agency shall document that it has provided such notification.

TPI does not currently track this issue.

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**115.63 (d)** The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.

TPI does not currently track this issue.

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### **§115.64 — Staff first responder duties.**

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

Total reports to TPI that first responders failed to separate the parties, secure the scene appropriately, or insure evidence preservation and collection:

- Past 12 months: none
- Past 36 months: none

- All reports: none

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**115.64 (b)** If the first staff responder is not a security staff member, the responder shall be required to request that the alleged survivor not take any actions that could destroy physical evidence, and then notify security staff.

TPI does not currently track this issue.

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**§115.65 — Coordinated response.**

**115.65 (a)** The facility shall develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

TPI does not currently track this issue.

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**§115.66 — Preservation of ability to protect incarcerated persons from contact with abusers.**

**115.66 (a)** Neither the agency nor any other governmental entity responsible for collective bargaining on the agency's behalf shall enter into or renew any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with any incarcerated persons pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

**115.66 (b)** Nothing in this standard shall restrict the entering into or renewal of agreements that govern: (1) The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of §§ 115.72 and 115.76; or (2) Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.

TPI does not currently track these issues.

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**§115.67 — Agency protection against retaliation.**

**115.67 (a)** The agency shall establish a policy to protect all incarcerated persons and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other incarcerated persons or staff, and shall designate which staff members or departments are charged with monitoring retaliation.

TPI documents reports of failures to protect persons reporting or participating in the reporting or investigation of sexual violence from retaliation:

- Past 12 months: none
  - Past 36 months: none
  - All reports: 2
- 

**115.67 (b)** The agency shall employ multiple protection measures, such as housing changes or transfers for incarcerated survivors or abusers, removal of alleged staff or incarcerated abusers from contact with survivors, and emotional support services for incarcerated persons or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

TPI does not currently track this issue.

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**115.67 (c)** For at least 90 days following a report of sexual abuse, the agency shall monitor the conduct and treatment of incarcerated persons or staff who reported the sexual abuse and of incarcerated persons who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by incarcerated persons or staff, and shall act promptly to

remedy any such retaliation. Items the agency should monitor include any incarcerated person disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.

Total reports of failures to monitor for retaliation, although TPI feels it is highly likely that violations of this standard are very underreported:

- Past 12 months: none
- Past 36 months: none
- All reports: none

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**115.67 (d)** In the case of incarcerated persons, such monitoring shall also include periodic status checks.

TPI does not specifically track this issue at this time.

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**115.67 (e)** If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation.

TPI does not specifically track this issue at this time.

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**§115.68 — Post-allegation protective custody.**

**115.68 (a)** Any use of segregated housing to protect an incarcerated person who is alleged to have suffered sexual abuse is subject to the requirements of § 115.43.

In our experience, TDCJ automatically places all or most persons who report sexual abuse in involuntary segregated housing (restricted housing for inmate protection investigation, or IPI) regardless of whether there are alternatives to such placement or not.

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**§115.71 — Criminal and administrative agency investigations.**

**115.71 (a)** When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.

**115.71 (b)** Where sexual abuse is alleged, the agency shall use investigators who have received special training in sexual abuse investigations pursuant to §115.34.

**115.71 (c)** Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged survivors, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.

**115.71 (d)** When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.

**115.71 (e)** The credibility of an alleged survivor, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as an incarcerated person or staff. No agency shall require an incarcerated person who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.

**115.71 (f)** Administrative investigations: (1) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and (2) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.



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

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

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

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

**115.71 (k)** Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.

**115.71 (l)** When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

TPI does not currently track these issues.

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### **§115.72 — Evidentiary standards for administrative investigations.**

**115.72 (a)** The agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

TPI does not currently track this issue.

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### **§115.73 — Reporting to incarcerated persons.**

**115.73 (a)** Following an investigation into an incarcerated person's allegation that he or she suffered sexual abuse in an agency facility, the agency shall inform the incarcerated person as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

TPI documents reports that staff failed to inform an incarcerated person about the outcome of an investigation of sexual abuse:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**115.73 (b)** If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the incarcerated person. (N/A if the agency/facility is responsible for conducting administrative and criminal investigations.)

TPI does not currently track this issue.

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**115.73 (c)** Following an incarcerated person's allegation that a staff member has committed sexual abuse against the incarcerated person, the agency shall subsequently inform the incarcerated person (unless the agency has determined that the allegation is unfounded) whenever: (1) The staff member is no longer posted within the incarcerated person's unit; (2) The staff member is no longer employed at the facility; (3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or (4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

Total reports to TPI that the agency or facility has failed to inform an incarcerated person about the outcomes described under 115.73(c):

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**115.73 (d)** Following an incarcerated person's allegation that he or she has been sexually abused by another incarcerated person, the agency shall subsequently inform the alleged survivor whenever: 1) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or 2) The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

**115.73 (e)** All such notifications or attempted notifications are documented.

**115.73 (f)** An agency's obligation to report under this standard shall terminate if the incarcerated person is released from the agency's custody.

TPI does not currently track these issues.

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### **§115.76 — Disciplinary sanctions for staff.**

**115.76 (a)** Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.

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

Although TPI does not directly collect data on this issue, we do collect data on staff reported to have violated sexual harassment and sexual abuse policy. These are the total incidents involving staff sexual harassment and staff sexual abuse. For additional details, see the incidents list at the end of this report:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**115.76 (c)** Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) 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.

TPI does not have a way to track this issue at this time.

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**115.76 (d)** 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, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

TPI does not currently track this issue.

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### **§115.77 — Corrective action for contractors and volunteers.**

**115.77 (a)** Any contractor or volunteer who engages in sexual abuse is prohibited from contact with incarcerated persons and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

**115.77 (b)** The facility takes appropriate remedial measures, and considers whether to prohibit further contact with incarcerated

persons, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

TPI does not currently track this issue.

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**§115.78 – Disciplinary sanctions for incarcerated persons.**

**115.78 (a)** incarcerated persons shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the incarcerated person engaged in incarcerated person-on-incarcerated person sexual abuse or following a criminal finding of guilt for incarcerated person-on-incarcerated person sexual abuse.

**115.78 (b)** Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the incarcerated person's disciplinary history, and the sanctions imposed for comparable offenses by other incarcerated persons with similar histories.

**115.78 (c)** The disciplinary process shall consider whether an incarcerated person's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

**115.78 (d)** 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 incarcerated person to participate in such interventions as a condition of access to programming or other benefits.

TPI does not currently track these issues.

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**115.78 (e)** The agency may discipline an incarcerated person for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

TPI asserts that due to the vast power imbalance between staff and incarcerated persons, an incarcerated person is not truly able to give consent to relations with staff. Accordingly, the Department of Justice **Final Rule** (<https://www.ojp.gov/sites/g/files/xyckuh186/files/media/document/PREA-Final-Rule.pdf>) states that disciplining an incarcerated person for relations with staff “require[s] the facility to make a finding that the staff member did not consent, rather than merely taking the word of the staff member” (page 37174).

The following totals represent reported incidents of discipline for relations with staff when the staff person consented:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**115.78 (f)** For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

TPI documents reports of discipline for good faith reports of sexual abuse, which reflect the following totals:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**115.78 (g)** An agency may, in its discretion, prohibit all sexual activity between incarcerated persons and may discipline incarcerated persons for such activity. An agency may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

TPI does not currently track this issue separately. However, we have received reports that sexual activities have been deemed

sexual abuse when they clearly were not, and that sexual abuse incidents have been deemed consensual when the evidence provided strongly suggests otherwise (included under 115.34 deliberate misclassification of an incident).

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### **§115.81 — Medical and mental health screenings; history of sexual abuse.**

**115.81(a) and (c)** If the screening pursuant to § 115.41 indicates that a prison/jail incarcerated person has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the incarcerated person is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.

**115.81 (b)** If the screening pursuant to § 115.41 indicates that a prison incarcerated person has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the incarcerated person is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.

TPI does not currently track this issue.

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**115.81(d)** Any information related to sexual victimization or abusiveness that occurred in an institutional setting is strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.

TPI documents reports of information related to sexual violence being disclosed to persons beyond those with a need to know:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**115.81(e)** Medical and mental health practitioners shall obtain informed consent from incarcerated persons before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the incarcerated person is under the age of 18.

TPI does not currently track this issue.

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### **§115.82 — Access to emergency medical and mental health services.**

**115.82 (a)** incarcerated survivors 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 mental health practitioners according to their professional judgment.

TPI documents incidents where incarcerated survivors were not provided timely and unimpeded access to emergency medical treatment and crisis intervention services, the totals of which for the facility are:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**115.82 (b)** If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the survivor pursuant to §115.62 and shall immediately notify the appropriate medical and mental health practitioners.

**115.82 (c)** incarcerated survivors of sexual abuse while incarcerated shall be 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.

**115.82 (d)** Treatment services shall be provided to the survivor without financial cost and regardless of whether the survivor names the abuser or cooperates with any investigation arising out of the incident.

TPI does not currently track these issues.

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**§115.83 — Ongoing medical and mental health care for sexual abuse survivors and abusers.**

**115.83 (a)** The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all incarcerated persons who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.

TPI documents reports of failures to provide appropriate ongoing medical and mental health care for survivors and abusers:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**115.83 (b)** The evaluation and treatment of such survivors 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.

TPI does not currently track this specific issue.

---

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

TPI documents reports of failures to provide survivors of sexual abuse with mental health services consistent with community levels of care:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**115.83 (d)** incarcerated survivors of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.

**115.83 (e)** If pregnancy results from the conduct described in paragraph (d) of this section, such survivors shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.

TPI does not currently track these specific issues.

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**115.83 (f)** incarcerated survivors of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.

Total reports to TPI of failures to provide appropriate STI tests:

- Past 12 months: none
  - Past 36 months: none
  - All reports: none
- 

**115.83 (g)** Treatment services shall be provided to the survivor without financial cost and regardless of whether the survivor names the abuser or cooperates with any investigation arising out of the incident.

TPI does not currently track this issue.

**115.83 (h)** All prisons attempt to conduct a mental health evaluation of all known incarcerated person-on-incarcerated person abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

TPI does not currently track this issue.

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### **§115.86 — Sexual abuse incident reviews.**

**115.86 (a)** The facility shall 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.

**115.86 (b)** Such review shall ordinarily occur within 30 days of the conclusion of the investigation.

**115.86 (c)** The review team shall include upper level management officials, with input from line supervisors, investigators, and medical or mental health practitioners.

**115.86 (d)** The review team shall: (1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; (2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility; (3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; (4) Assess the adequacy of staffing levels in that area during different shifts; (5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and (6) Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section, and any recommendations for improvement and submit such report to the facility head and PREA compliance manager.

**115.86 (e)** The facility shall implement the recommendations for improvement, or shall document its reasons for not doing so.

TPI does not currently track this issue.

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### **§115.87 — Data collection.**

**115.87 (a) and (c)** The agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.

As noted above, TDCJ uses various means of misclassifying data to manipulate what is collected about sexual violence in the agency. These are documented under our discussion of 115.34, and additional details can be seen in the detailed list of incidents at the end of this report.

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**115.87 (b)** The agency shall aggregate the incident-based sexual abuse data at least annually.

**115.87 (d)** The agency shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

**115.87 (e)** The agency also shall obtain incident based and aggregated data from every private facility with which it contracts for the confinement of its incarcerated persons.

**115.87 (f)** Upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

TPI does not currently track these issues.

**§115.88 — Data review for corrective action.**

**115.88 (a)** The agency shall review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: (1) Identifying problem areas; (2) Taking corrective action on an ongoing basis; and (3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.

**115.88 (b)** Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.

**115.88 (c)** The agency's report shall be 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.

**115.88 (d)** The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.

TPI does not currently track these issues.

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**§115.89 — Data storage, publication, and destruction.**

**115.89 (a)** The agency shall ensure that data collected pursuant to §115.87 are securely retained.

**115.89 (b)** The agency shall 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.

**115.89 (c)** Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers.

**115.89 (d)** The agency shall maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection unless federal, state, or local law requires otherwise.

TPI does not currently track these issues.

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# Incident List for Smith Unit

## All Incident Details From Prior Three Years

Incident	Quantity	Identity	Description
2020-00590: Operations Misconduct -- Problems with food or environment; PREA: None	13	White, Unknown gender, Unknown sexual orientation	Abuser: not known; Description: COVID-19: Subject notes that masks are not being washed by TDCJ, and the only way they are cleaned is if prisoners clean with whatever they have. No cleaning supplies are provided to prisoners to clean and disinfect their cells. When prisoners go to the dayroom, most do not wear a mask, and officers seldom wear masks. Mail is not distributed correctly by guards, who are just throwing it under the doors into the cells or sticking it between the door and frame. Medical staff are also not asking for identities when passing out meds, they are just kicking the meds under the doors, and guards are not getting prisoners who have medical lay-ins.
2020-00633: Operations Misconduct -- Problems with food or environment; PREA: None	1	White, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject notes that she has a housing restriction to require a cell that is climate controlled, but is housed in a location with an ac vent that does not work. She also notes that many other cells do not actually have working vents and thus have no or very limited cool air. The subject notes as well her cell and others have no running water and the showers, toilets, and lights do not work properly.
2020-00634: Operations Misconduct -- Extended solitary confinement; PREA: None	1	White, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject notes that the persons housed in ECB are in effect in forced solitary confinement. They are supposed to have four hours of recreation per day, but that is often not provided due to staffing issues and disciplinary lockdowns affecting the section for the actions of one person. Most of the time they are spending at least 21 hours a day in their cells alone.
2020-00640: Sexual Assault -- Coerced; PREA: 115.11	1	White, Transgender unspecified, Unknown sexual orientation	Description: The subject notes that she was placed in overflow to await transfer after an assault (see incident 2020-00639). One morning she awoke to the cellmate standing over her bunk and masturbating. He ejaculated on her lower body. We note that it is curious that this technically would not be included in PREA as sexual abuse because there was no body contact, and TDCJ would likely [and incorrectly] exclude from sexual harassment because the "actions of a derogatory or offensive nature" were not "repeated."
2020-00662: Misconduct -- Negligence; PREA: None	1	White, Transgender woman, Unknown sexual orientation	Abuser: Corrections Officer; Description: The subject notes that Dominguez refused to let the subject come out of her cell for scheduled recreation time. No reason for the refusal was given. The subject notes several other trans persons were also refused this day for the final recreation time by Dominguez.
2020-00712: Threat -- Physical harm; PREA: None	1	White, Transgender unspecified, Unknown sexual orientation	Abuser: Sergeant; Description: The subject notes that when returning from Montford, Bates started making threats as soon as the subject got off the bus. The subject reports Bates said he would "beat my ass and drop me on my head." While making the threats, Bates was holding his chemical agent sprayer as if he was about to spray the subject. The guards



2020-00713: Assault -- With no serious injuries; PREA: None	1	White, Transgender unspecified, Unknown sexual orientation	who brought the subject back from Montford witnessed the exchange.  Description: The subject notes that after being moved to general population over protests that their life would be in danger, and after threats in the morning, the subject tried to go speak to someone about the situation. The subject reports that someone came up behind and assaulted them, knocking them unconscious and causing facial lacerations. The subject was then moved to high security.
2020-00798: Misconduct -- Negligence; PREA: 115.31(a)(9)  Advocacy letter sent Agency response: Denied report Agency action: No action TPI assessment: Outcome not appropriate	1	White, Transgender woman, Unknown sexual orientation	Abuser: Corrections Officer; Description: The subject notes that she has had trouble with Johnson in the past. The subject was in a conversation with other prisoners when Johnson interrupted her and told her to "shut the fuck up." It is not clear if there was a reason for her and others to be quiet, or if others were told to be quiet as well. The subject reports Johnson then accused her of saying something to another guard, which she denies saying, and then called her a pedophile, faggot, chomo (slang for child molester), and freak. He also called her a Jew, which she said did not make sense, but she noted could indicate affiliation with a white supremacist organization. The subject notes there were several witnesses who came to her defense.
2020-00799: Threat -- Harm; PREA: None  Advocacy letter sent Agency response: Denied report Agency action: No action TPI assessment: Outcome not appropriate	1	White, Transgender woman, Unknown sexual orientation	Abuser: Corrections Officer; Description: The subject notes that after making insulting and abusive statements (see incident 2020-00798), he then threatened to write cases against her and have her custody class lowered to G4, and said that he knew prisoners who wanted to beat her up and rape her, and said that a "chomo freak" like her deserved no less. The subject did not say there was any reason for targeting her for the abuse. The subject notes there were several witnesses who came to her defense.  The subject notes that Johnson wrote her up for six different cases, three of which were investigated, resulting in one guilty finding for causing a disturbance, for which she was given restrictions until November 2020.
2020-00800: Misconduct -- Harassment; PREA: None  Advocacy letter sent Agency response: Denied report Agency action: No action TPI assessment: Outcome not appropriate	5	White, Transgender woman, Unknown sexual orientation	Abuser: Corrections Officer; Description: The subject notes that after informal complaints to Sergeant Hostrop and a grievance against Johnson, Johnson was removed from duties on her wing for a time. He was assigned again to her housing area on the nights of October 8 and 9, and both nights he banged on her door about once an hour, saying things like "wake up pedophile" and "I hope I scared you" and "you've got it coming Jew boy." She also reports he threatened to "fuck you off" the first chance he gets.
2020-00819: Misconduct -- Correspondence Interference; PREA: None  Advocacy letter sent Agency response: No response Agency action: No action TPI assessment: Outcome not appropriate	1	White, Unknown gender, Unknown sexual orientation	Abuser: not known; Description: The unit failed to forward a letter to the subject, who had been moved to a different unit.

2020-00820: Misconduct -- Correspondence Interference; PREA: None	1	White, Unknown gender, Unknown sexual orientation	Abuser: not known; Description: The unit failed to forward a letter to the subject, who had been moved to a different unit.
2020-00837: Misconduct -- Correspondence Interference; PREA: None	1	White, Unknown gender, Unknown sexual orientation	Abuser: not known; Description: COVID-19: The subject notes that the unit is not allowing them to receive the EIP 1040 forms for the stimulus application.
2020-00838: Misconduct -- Interference with access to courts, due process; PREA: None	2	White, Unknown gender, Unknown sexual orientation	Abuser: not known; Description: The subject notes that they are not getting grievances returned on time (does not say if extensions are provided or not), and that they are not making available blank Step 1 and 2 forms or I-60 forms or sick call request forms.
2020-00842: Misconduct -- Correspondence Interference; PREA: None	1	Latinx, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: COVID-19: The subject notes that the unit is not allowing them to receive the EIP 1040 forms for the stimulus application.
2020-00843: Misconduct -- Correspondence Interference; PREA: None	1	Latinx, Cisgender man, Bisexual	Abuser: not known; Description: COVID-19: The subject notes that the unit is not allowing them to receive the EIP 1040 forms for the stimulus application.
2020-00844: Misconduct -- Correspondence Interference; PREA: None	1	Latinx, Unknown gender, Unknown sexual orientation	Abuser: not known; Description: COVID-19: The subject notes that the unit is not allowing them to receive the EIP 1040 forms for the stimulus application.
2020-00845: Misconduct -- Correspondence Interference; PREA: None	1	Latinx, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: COVID-19: The subject notes that the unit is not allowing them to receive the EIP 1040 forms for the stimulus application.
2020-00846: Misconduct -- Correspondence Interference; PREA: None	1	Black, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: COVID-19: The subject notes that the unit is not allowing them to receive the EIP 1040 forms for the stimulus application.
2020-00847: Misconduct -- Correspondence Interference; PREA: None	1	White, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: COVID-19: The subject notes that the unit is not allowing them to receive the EIP 1040 forms for the stimulus application.
2020-00848: Misconduct -- Correspondence Interference; PREA: None	1	White, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: COVID-19: The subject notes that the unit is not allowing them to receive the EIP 1040 forms for the stimulus application.
2020-00858: Misconduct --	1	Black, Transgender woman, Unknown	Abuser: not known; Description: COVID-19: The subject notes that the unit is not allowing them to receive the EIP

Correspondence Interference; PREA: None		sexual orientation	1040 forms for the stimulus application.
2020-00869: Misconduct -- Correspondence Interference; PREA: None	1	White, Transgender woman, Unknown sexual orientation	Abuser: mail room staff; Description: Letter containing our CARES Act 1040 info was returned to TPI instead of being forwarded to the subject, as required under policy BP-03.91.
Advocacy letter sent Agency response: No response Agency action: No action TPI assessment: Outcome not appropriate			
2020-00914: Assault -- Attempted; PREA: None	1	Black, Transgender woman, Bisexual	Description: The subject notes that the other prisoner attempted to assault her, but an SSI stepped in and stopped it. It seems that the subject believes the prisoner who tried to assault the subject is possibly jealous of the subject talking to a guard named Hernandez.
2020-00915: Threat -- Physical harm; PREA: None	1	Black, Transgender woman, Bisexual	Description: The subject states that after the attempted assault (see incident 2020-00914), the prisoner who attempted to assault her threatened to have someone harm her, stating he would have her "torched" and "fucked over."
2020-00916: Misconduct -- Negligence; PREA: None	2	Black, Transgender woman, Bisexual	Abuser: Corrections Officer III; Description: The subject states that Hernandez was allowing a prisoner to assist with distributing breakfast trays when the prisoner is not housed on the section and is not an SSI. The subject indicates Hernandez was allowing the other prisoner to hand the trays through the food slot, and that resulted in the assault logged as incident TPI 2020-00917. The subject also reports that she was not taken to medical, which is required after an assault.
2020-00917: Assault -- With no serious injuries; PREA: None	1	Black, Transgender woman, Bisexual	Description: The subject notes that guard Nora Hernandez was letting a prisoner who was not an SSI pass out breakfast trays (see incident 2020-00916), and the prisoner initially refused to give a tray to the subject, then when Hernandez passed a tray to the subject, the other prisoner grabbed the subject's arm and pulled, then shoved the tray into the subject's head, loosening or damaging a tooth. The subject reports that Hernandez did not consider the assault an incident, and the subject reports that she could not report the incident because her call button did not work.
2020-00918: Misconduct -- False case; PREA: None	1	Black, Transgender woman, Bisexual	Abuser: not known; Description: The story is confusing, but it appears that after the assault logged as incident 2020-00917, someone wrote a case against the subject for assaulting an officer. The case was not run because witnesses in the housing area confirmed that a prisoner assaulted the subject. However, it appears a case was written for starting a fire, which the subject denies, and says that the photographic evidence indicated the fire occurred on 1 row, when the subject is housed on 3 row. The subject says that property was confiscated, and there was apparently a false claim that she was placed on CDO in the paperwork, which the subject states is not true.
2020-00926: Healthcare Abuse -- Misconduct; PREA: None	5	White, Unknown gender, Unknown sexual orientation	Abuser: not known; Description: COVID-19: The subject notes that social distancing at the pill window is not being enforced, and that there is three feet or less between prisoners in line. The subject avoids the pill window for this

			reason; he is 61 and does not want to take the risk of catching COVID-19.
2020-00927: Operations Misconduct -- Problems with food or environment; PREA: None	8	White, Unknown gender, Unknown sexual orientation	Abuser: not known; Description: COVID-19: The subject notes that they are not provided cleaning and disinfecting supplies for their cells, even if they ask. The subject also seems to feel that because the restriction and quarantine procedures are akin to punishment, people are not reporting symptoms. The subject also says that he has not been able to make any free calls (provided due to visitation being suspended).  The subject notes that there have been a lot of roaches on the unit since March 2020, and that there have been no pest treatment. He has submitted I-60s about the problem, but does not say if he got a response.  They have not had any outside recreation since March 2020.
2020-00960: Operations Misconduct -- Problems with food or environment; PREA: None	5	White, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject notes that the meat plant has closed (possibly due to COVID-19), so they are on half meat rations. Upper administration in Huntsville tells them to make substitutions to maintain proper nutrition, but the unit does not make the substitutions.
2020-01019: Operations Misconduct -- Problems with food or environment; PREA: None	10	White, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject notes very generally that the unit does not feed appropriately, they lose grievances, they let prison association members run the wings, vents are not working properly in cells, lights in cells are not working, and the showers, toilets, and sinks do not work.
2020-01050: Operations Misconduct -- Problems with food or environment; PREA: None	5	White, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: COVID-19: The subject says that someone was transferred to their unit and apparently did not go through proper screening and quarantine, and infected several people at the unit. The subject specifically states that there is no isolation prior to being allowed to come into population.  The subject states that they get no chemicals to clean with (does not specify if cleaning their cells or cleaning common areas), and when they ask staff they just say they will see what they can do and there is no further response. The subject notes that they have to buy bleach as contraband, and that half the guards do not even wear masks.
2020-01183: Misconduct -- Harassment; PREA: None	1	Black, Transgender woman, Unknown sexual orientation	Abuser: Corrections Officer; Description: The subject states that the guard, whose name is probably not spelled correctly, claimed the subject jacked the food slot, then tried to hit the subject and missed.
2020-01185: Misconduct -- Harassment; PREA: None	3	Black, Transgender woman, Unknown sexual orientation	Abuser: Corrections Officer; Description: The subject states that Chavez harassed her and denied food for her for about 12 days.
2020-01186: Misconduct -- Negligence; PREA: None	1	Black, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject seems to indicate a use of force was called, but it is not clear why. The subject somehow received an injury above her right eye. At Montford, a nurse or provider seems to have noted either the injury or how the injury was received was not noted in medical records.
2021-00022: Operations Misconduct	15	Black, Cisgender man, Unknown sexual	Abuser: not known; Description: COVID-19: The subject reports that common areas are not appropriately cleaned,

<p>-- Problems with food or environment; PREA: None</p>		<p>orientation</p>	<p>and that prisoners who have tested positive are being mixed with persons who are negative for COVID-19.</p>
<p>2021-00074: Misconduct -- Abusive misconduct; PREA: None</p>	<p>1</p>	<p>Latinx, Cisgender man, Bisexual</p>	<p>Abuser: not known; Description: The subject notes that his housing area has been locked down since October 2, 2020, on a claim that someone was sick with COVID-19, and that they have now been locked down 24 hours a day for four months. Even with medical restrictions that may be back to back, four months is excessive and may show that either people who are sick are being moved into the housing area and keeping it locked down or something else inappropriate is happening to keep the area locked down.</p>
<p>2021-00153: Misconduct -- Place or leave in danger; PREA: 115.42(a),115.42(b)</p>	<p>1</p>	<p>White, Transgender unspecified, Bisexual</p>	<p>Abuser: not known; Description: The subject notes that the unit recently started placing persons designated as trans but whom they suspected were not trans in cells together. On April 14, they placed the subject and another person in a cell together, and the subject's cellmate stated that he was only identifying as trans to get a single-person cell. The subject stated that she was transgender, and her cellmate became hostile, saying he did not want to share a cell with a "punk." The subject tried to calm the person down and encourage him to let UCC so that he was not housed with someone who was trans.</p> <p>About 10pm the same day, the cellmate became agitated and demanded that the subject leave the cell, so she started packing her property and reported the issue to staff as they did rounds about 20 minutes later, noting that she needed to leave the cell because the cellmate was threatening her. The cellmate then assaulted her in front of the guard for stating that he had threatened her (see incident 2021-00154).</p>
<p>2021-00154: Assault -- With serious injuries; PREA: None</p>	<p>1</p>	<p>White, Transgender unspecified, Bisexual</p>	<p>Description: The subject notes that the unit recently started placing persons designated as trans but whom they suspected were not trans in cells together (see incident 2021-00153 for placing persons in danger). On April 14, they placed the subject and another person in a cell together, and the subject's cellmate stated that he was only identifying as trans to get a single-person cell. The subject stated that she was transgender, and her cellmate became hostile, saying he did not want to share a cell with a "punk." The subject tried to calm the person down and encourage him to let UCC so that he was not housed with someone who was trans.</p> <p>About 10pm the same day, the cellmate became agitated and demanded that the subject leave the cell, so she started packing her property and reported the issue to staff as they did rounds about 20 minutes later, noting that she needed to leave the cell because the cellmate was threatening her. The cellmate then assaulted her in front of the guard for stating that he had threatened her. She reports that her forehead and eyebrow were cut open, and that her nose was broken. The injuries were documented by medical.</p>
<p>2021-00207: Healthcare Abuse -- Misconduct; PREA: None</p>	<p>1</p>	<p>Latinx, Transgender woman, Unknown sexual orientation</p>	<p>Abuser: not known; Description: The subject notes that a person on the medical staff identified as a male nurse at the unit gave her an estradiol injection that was less solution than it should have been, and the syringe had air in shot,</p>

			which caused what the subject described as "very very bad side affects."
2021-00295: Misconduct -- Place or leave in danger; PREA: None	1	Black, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject reports she was being moved into a cell with another trans person who threatened her in front of the guards, but the guards refused to move the subject somewhere else. Eventually the issue was resolved, but the guards still forced the subject into an endangering situation.
2021-00308: Operations Misconduct -- Improper shower/toilet practices; PREA: 115.42(f)	1	Latinx, Unknown gender, Unknown sexual orientation	Abuser: not known; Description: A third party notes that on August 31, 2021, the guards tried to force the subject into a cell where she would have to shower with another person in the cell. The subject refused housing, but it is not known if she received a case for refusing.
2021-00410: Misconduct -- Interference with access to courts, due process; PREA: None	1	Native American, Cisgender man, Gay	Abuser: Mail room staff; Description: The subject states that an envelope clearly marked legal mail and with bar number was opened when the subject was not present and was photocopied.
2021-00581: Operations Misconduct -- Improper shower/toilet practices; PREA: 115.42(f)	1	Latinx, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject states that the administration is saying that it is ok to house two transgender persons in a cell with the shower in it where there is no opportunity for a separate shower. Although this could be thought of a a shower separate for transgender persons, TDCJ does not do a good job of identifying persons who are identifying as trans for some ulterior motive (it is likely impossible to completely screen out such persons), thus the "separate" showers should only be considered separate if both occupants agree that they are separate and only for as long as they agree they are separate.
2022-00077: Threat -- Sexual misconduct; PREA: 115.11	1	Black, Transgender woman, Unknown sexual orientation	Description: The subject states that she was approached while in her cell by a member of a prison organization that she was previously associated with, and she was told she had to leave the housing area. The person then told the subject and her cellmate, apparently a gay man, they if they they did not move they have to provide oral sex to every member of the prison organization.
2022-00078: Misconduct -- Failure to investigate or respond; PREA: 115.61(a)	1	Black, Transgender woman, Unknown sexual orientation	Abuser: Corrections Officer; Description: The subject states that when requesting to talk to safe prisons about the threats of sexual assault received by the subject and her cellmate (see incident 2022-00077), a guard refused to notify safe prisons.
2022-00079: Misconduct -- Failure to investigate or respond; PREA: 115.42(a),115.42(b)	1	Black, Transgender woman, Unknown sexual orientation	Abuser: Lieutenant; Description: The subject states that after initially being refused an investigation about threats of sexual abuse, a second complaint during the next shift resulted in an OPI being conducted. However, later the same day or the next day, the subject was placed back on the same wing where she was threatened and called a liar. A lieutenant refused to consider that the subject has tattoos that put her in danger, and simply said that no other trans persons on the wing reported endangerment.
2022-00113: Misconduct -- Negligence; PREA: None	1	White, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: Staffing issues: The subject notes that they are locked down due to staff shortages. No details provided, but this generally means cell restrictions for most of 24 hours a day.
2022-00114: Misconduct --	2	Black, Cisgender man, Unknown sexual orientation	Abuser: Sergeant; Description: The subject reports that Valles refused to give him his breakfast and refused to give him his state issued hygiene items.

Harassment; PREA:

None

2022-00182: Operations Misconduct -- Improper shower/toilet practices; PREA: 115.42(f)	1	Black, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject notes they are still housing trans persons in cells with the shower in the cell, which is not complaint with PREA 115.42(f) requirements.
2022-00208: Misconduct -- Manipulate report of issue; PREA: None	1	Latinx, Unknown gender, Unknown sexual orientation	Abuser: OIG Staff; Description: In the response to the TPI letter specifically stating that the reason we were writing to OIG was due to staff misconduct and mixing persons of different custody levels together (a violation of state prison regulations), the OIG staff manipulated our complaint by claiming that we wrote about "the inmate's custody level," which is clearly manipulation of the report made by TPI. The OIG refused to investigate.
2022-00227: Misconduct -- Failure to investigate or respond; PREA: None	1	Latinx, Unknown gender, Unknown sexual orientation	Abuser: Ombudsman Staff; Description: The unnamed staff at the ombudsman office responded to our letter about being a G4 class person housed illegally with a G5 person, and misconduct by staff forcing the mishousing and refusing to provide safety while mishoused. The subject was also given disciplinary cases for protecting himself while mishoused. Instead of investigating, they simply said the subject did not file a grievance about being mishoused, and a grievance about the disciplinary case (possibly referring to an appeal) was screened as illegible.
2022-00240: Misconduct -- Place or leave in danger; PREA: None	1	White, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: Staffing issues: The subject says that only one guard is working two wings at a time, but does not state any specifics or how often.
2022-00290: Healthcare Abuse -- Denial of trans-specific healthcare; PREA: None	1	White, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject states that nurses are causing difficulties getting her hormone meds, but does not provide specifics.
2022-00291: Misconduct -- Forced gender conformity; PREA: None	1	White, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject states that the guards take her panties that alleviate her gender dysphoria.
2022-00323: Threat -- Harm; PREA: 115.11	1	White, Two spirit, Unknown sexual orientation	Description: The subject is housed in an ECB cell (has shower in the cell) with someone that the subject states is threatening to harm them. The subject implies they are threatening sexual abuse, but does not state that clearly. At this time we are considering this possible sexual harassment.
2022-00335: Misconduct -- Negligence; PREA: 115.42(e) Advocacy letter sent Agency response: Unfounded Agency action: No action TPI assessment: Outcome not appropriate	1	White, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject states that someone sent in an I-60 requesting that her TRGEN marker be removed, and the unit safe prisons office removed it without talking to the subject and without following SPPOM-03-02 procedure, which is to interview the subject and let know that the code can be removed by request at the biannual review.  In their response, the ombudsman office refused to investigate the issues reported that 1) someone else requested the designation be removed, and 2) that the designation was removed without the required interview to confirm that the designation should be removed. The refusal

			to provide an appropriate investigation is documented as incident 2022-00541.
2022-00411: Healthcare Abuse -- Misconduct; PREA: None	1	White, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: Staffing issues: The subject states that she is in ECB housing that they are routinely denied health care because guards have to let them out for appointments, and no one comes to let them out, so this appears to be a security issue as well. The subject states that "the law was not on the block (cell) all day."
2022-00427: Healthcare Abuse -- Denial of trans-specific healthcare; PREA: None	2	White, Two spirit, Unknown sexual orientation	Abuser: not known; Description: The subject states that they are being given layins for their hormones, but guards are not letting them go to the appointments. The subject reports this has been going on for the last two months. The subject provides one example that on July 11, 2022, she had a layin to see a Dr. Rose but says that again "medical was shut down."
2022-00428: Healthcare Abuse -- Misconduct; PREA: None	1	White, Two spirit, Unknown sexual orientation	Abuser: not known; Description: The subject states she is being forced to work against her medical restrictions.
			Description: The subject states that someone she knew in the county jail claimed she owed him money, and an SSI tried to get family contact info to pay him the debt. The "debt" seems to be payment for "protection" (incident 2022-00440).
2022-00440: Extortion - - Attempted; PREA: None	1	Black, Transgender woman, Unknown sexual orientation	On June 25 or 26, 2022, the subject wrote an I-60 asking for help, but no one responded (incident 2020-00441).
Advocacy letter sent Agency response: Unfounded Agency action: No action TPI assessment: Partly appropriate			On June 28, 2022, the person claiming she owed money noted that someone on staff had disclosed that the subject had written the I-60 asking for help (incident 2022-00442), which is considered snitching, and disclosure of which puts the person asking for help in danger.  The response from the ombudsman office relied only on a unit investigation, which should be considered a conflict of interest. The unit reported that the subject denied extortion and endangerment. The unit denied that the subject had submitted an I-60 reporting the endangerment.
2022-00441: Misconduct -- Failure to investigate or respond; PREA: None	1	Black, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject states that someone she knew in the county jail claimed she owed him money, and an SSI tried to get family contact info to pay him the debt. The "debt" seems to be payment for "protection" (incident 2022-00440).
Advocacy letter sent Agency response: Unfounded Agency action: No action TPI assessment: Outcome not appropriate			On June 25 or 26, 2022, the subject wrote an I-60 asking for help, but no one responded (incident 2020-00441).
			On June 28, 2022, the person claiming she owed money noted that someone on staff had disclosed that the subject had written the I-60 asking for help (incident 2022-00442), which is considered snitching, and disclosure of which puts the person asking for help in danger.
			The response from the ombudsman office relied only on a unit investigation, which should be considered a conflict of interest. The unit reported that the subject denied extortion



			and endangerment. The unit denied that the subject had submitted an I-60 reporting the endangerment.
2022-00442: Misconduct -- Place or leave in danger; PREA: None	1	Black, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject states that someone she knew in the county jail claimed she owed him money, and an SSI tried to get family contact info to pay him the debt. The "debt" seems to be payment for "protection" (incident 2022-00440).  On June 25 or 26, 2022, the subject wrote an I-60 asking for help, but no one responded (incident 2020-00441).  On June 28, 2022, the person claiming she owed money noted that someone on staff had disclosed that the subject had written the I-60 asking for help (incident 2022-00442), which is considered snitching, and disclosure of which puts the person asking for help in danger.
Advocacy letter sent Agency response: Unfounded Agency action: No action TPI assessment: Outcome not appropriate			The response from the ombudsman office relied only on a unit investigation, which should be considered a conflict of interest. The unit reported that the subject denied extortion and endangerment. The unit denied that the subject had submitted an I-60 reporting the endangerment, which means they did not investigate whether an I-60 was received and not reported but diverted to the person extorting the subject.
2022-00443: Misconduct -- Abusive misconduct; PREA: None	2	Black, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject reports that they have been on 23-hour lockdowns and that they have been denied respite cool showers and cool water (does not state when this began). During the excessive heat, the refusal to provide access to respite areas and cool water is considered particularly abusive.
2022-00467: Healthcare Abuse -- Misconduct; PREA: None	1	Latinx, Cisgender man, Gay	Abuser: not known; Description: The subject reports that in June 2022, while he was housed in ECB A Wing, an older man with health conditions and who was ground floor and bottom bunk restricted was forced against his restrictions into housing upstairs. "He had a heart attack and died. None of the officers would help him and they would not allow any one else to help him either." This appears to be Robert Bates, who died June 20, 2022, reportedly of heart failure (custodial death report 22-834-P).
2022-00500: Threat -- Physical harm; PREA: None	3	White, Gender diverse, Unknown sexual orientation	Description: The subject states that their cellmate has threatened and tried to fight them several times, and that he has called the subject a "faggot" three times. On August 6, 2022, the subject reports "he said get this faggot out of here or I will break his neck!"
2022-00501: Misconduct -- Failure to investigate or respond; PREA: 115.41(d)	6	White, Gender diverse, Unknown sexual orientation	Abuser: Classification staff; Description: The subject reports that they have informed several staff about the threats from their cellmate, but staff have refused to respond to the issue. The subject identifies someone who is apparently classification staff; the chaplain, who is over the faith-based program in which this issue is occurring (the chaplain told them to work it out themselves and stop sending him I-60s); and three lieutenants. The subject also reports there are seven open beds that could be used to separate them. The subject reports also writing to the regional Chaplain, still with no response.
2022-00515: Misconduct --	5	White, Gender diverse, Unknown sexual	Description: The subject states that another incarcerated person is repeatedly calling them a "faggot" to harass them

Harassment; PREA: None		orientation	in front of the participants in a program (incident 2022-00515), and staff have refused to address the issue (incident 2022-00516). On August 6, the incident escalated to include a death threat (incident 2022-00517).
2022-00516: Misconduct -- Negligence; PREA: None	5	White, Gender diverse, Unknown sexual orientation	Abuser: Chaplain; Description: The subject states that another incarcerated person is repeatedly calling them a "faggot" to harass them in front of the participants in a program (incident 2022-00515), and staff have refused to address the issue (incident 2022-00516). On August 6, the incident escalated to include a death threat (incident 2022-00517).  Staff notified and failing to respond include Chaplain Earnest, who is over the program, a person named Harris in Classification, three unnamed lieutenants, and the regional chaplain.
2022-00517: Threat -- Death threat; PREA: None	1	White, Gender diverse, Unknown sexual orientation	Description: The subject states that another incarcerated person is repeatedly calling them a "faggot" to harass them in front of the participants in a program (incident 2022-00515), and staff have refused to address the issue (incident 2022-00516). On August 6, the incident escalated to include a death threat (incident 2022-00517).
2022-00523: Healthcare Abuse -- Misconduct; PREA: None	3	White, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: Staffing issues: Continuing to report on an ongoing issue (see incident 2022-00411), the subject reports that in ECB housing that they are routinely denied health care because guards have to let them out for appointments, and no one comes to let them out. The subject reports she submitted sick calls on August 3, August 6, and August 10 requesting to be seen by mental health staff, but has received no response to any of the requests.
2022-00541: Misconduct -- Failure to investigate or respond; PREA: 115.41(g)	1	White, Transgender woman, Unknown sexual orientation	Abuser: Ombudsman Supervisor; Description: In their response to a complaint about improper removal of the TRGEN marker from the subject's file, the ombudsman office refused to investigate the issues reported that 1) someone other than the subject requested the designation be removed, and 2) that the designation was removed without the required interview to confirm that the designation should be removed.
2022-00566: Operations Misconduct -- Problems with food or environment; PREA: None	1	White, Gender diverse, Unknown sexual orientation	Abuser: not known; Description: The subject states that their housing on 3 Building is "infested with K-2 and ice-meth, gangs, cockroaches and our showers are backing up from the sewer." The subject also states that "people smoke K-2 from morning to evening w/ the guards in the dorm walking around."
2022-00668: Threat -- Physical harm; PREA: None	1	Black, Transgender unspecified, Queer	Description: The subject notes she found a kite in her cell offering payment to her cellmate to "air flight" her off the unit
Advocacy letter sent Agency response: No response Agency action: No action TPI assessment: Outcome not appropriate			
2022-00727: Threat -- Harm; PREA: None	2	White, Transgender woman, Unknown sexual orientation	Description: The subject reports that she has been receiving threats from her cellmate "for months." The threats are described as homophobic and against the subject's "life and safety," but no specifics are provided (incident 2022-00727). The subject notes that on October 9, she reported the threats to a captain and sergeant, and reports that both "laughed and

			told me to return to my housing" (incident 2022-00728).
			On October 11, the cellmate assaulted the subject, causing injury (incident 2022-00729); the cellmate was given a disciplinary case for the incident.
2022-00728: Misconduct -- Place or leave in danger; PREA: None	1	White, Transgender woman, Unknown sexual orientation	Abuser: Captain; Description: The subject reports that she has been receiving threats from her cellmate "for months." The threats are described as homophobic and against the subject's "life and safety," but no specifics are provided (incident 2022-00727). The subject notes that on October 9, she reported the threats to a captain and sergeant, and reports that both "laughed and told me to return to my housing" (incident 2022-00728).
			On October 11, the cellmate assaulted the subject, causing injury (incident 2022-00729); the cellmate was given a disciplinary case for the incident.
2022-00729: Assault -- With no serious injuries; PREA: None	1	White, Transgender woman, Unknown sexual orientation	Description: The subject reports that she has been receiving threats from her cellmate "for months." The threats are described as homophobic and against the subject's "life and safety," but no specifics are provided (incident 2022-00727). The subject notes that on October 9, she reported the threats to a captain and sergeant, and reports that both "laughed and told me to return to my housing" (incident 2022-00728).
			On October 11, the cellmate assaulted the subject, causing injury (incident 2022-00729); the cellmate was given a disciplinary case for the incident.
2022-00738: Threat -- Physical harm; PREA: None	1	White, Two spirit, Unknown sexual orientation	Description: The subject reports that another incarcerated person took a television remote from her and threatened "to beat the hell out of my fagit [sic] ass."
			Description: The subject states that several members on a prison association have threatened their life. No dates or statements provided (death threat incident 2022-00773).
2022-00773: Threat -- Death threat; PREA: None	1	Black, Transgender unspecified, Unknown sexual orientation	The subject reports filing a grievance, but staff have not responded and the subject is still in danger. No dates or other details provided (failure to respond incident 2022-00774; see also failure to investigate incident 2022-00823).
Advocacy letter sent Agency response: Substantiated Agency action: Mostly addressed TPI assessment: Mostly successful			The subject reports having to pay "the majority of my commissary" on November 10, 2022, to delay being hurt (extortion incident 2022-00775). However, the subject reports an additional death threat on November 20, 2022.
2022-00774: Misconduct -- Failure to investigate or respond; PREA: None	1	Black, Transgender unspecified, Unknown sexual orientation	Abuser: not known; Description: The subject states that several members on a prison association have threatened their life. No dates or statements provided (death threat incident 2022-00773).
Advocacy letter sent Agency response: Denied report Agency action: No action TPI assessment: Outcome not appropriate			The subject reports filing a grievance, but staff have not responded and the subject is still in danger. No dates or other details provided (failure to respond incident 2022-00774). In the response from the ombudsman office, they simply accepted the unit's claim that no grievance had been filed without investigating the possibility that the unit disregarded the subjects effort to report endangerment (see failure to investigate incident 2022-00823).

2022-00775: Extortion - - For property; PREA: None	1	Black, Transgender unspecified, Unknown sexual orientation	The subject reports having to pay "the majority of my commissary" on November 10, 2022, to delay being hurt (extortion incident 2022-00775). However, the subject reports an additional death threat on November 20, 2022.  Description: The subject states that several members on a prison association have threatened their life. No dates or statements provided (death threat incident 2022-00773).
Advocacy letter sent Agency response: No response Agency action: No action TPI assessment: Outcome not appropriate			The subject reports filing a grievance, but staff have not responded and the subject is still in danger. No dates or other details provided (failure to respond incident 2022-00774; see also failure to investigate incident 2022-00823).
Advocacy letter sent Agency response: No response Agency action: No action TPI assessment: Outcome not appropriate			The subject reports having to pay "the majority of my commissary" on November 10, 2022, to delay being hurt (extortion incident 2022-00775). However, the subject reports an additional death threat on November 20, 2022.
2022-00776: Threat -- Death threat; PREA: None	1	Black, Transgender unspecified, Unknown sexual orientation	Description: The subject states that several members on a prison association have threatened their life. No dates or statements provided (death threat incident 2022-00773).  The subject reports filing a grievance, but staff have not responded and the subject is still in danger. No dates or other details provided (failure to respond incident 2022-00774; see also failure to investigate incident 2022-00823).
Advocacy letter sent Agency response: No response Agency action: No action TPI assessment: Outcome not appropriate			The subject reports having to pay "the majority of my commissary" on November 10, 2022, to delay being hurt (extortion incident 2022-00775). However, the subject reports an additional death threat on November 20, 2022.
2022-00781: Threat -- Death threat; PREA: None	1	Black, Transgender woman, Unknown sexual orientation	Description: The subject reports that when she tried to move into the cell she was assigned, the person in it threatened to harm or kill her. In a subsequent letter, the subject claimed that because she is trans she should be single-celled [there is no TDCJ or other policy stating this; subject apparently thinks it is required by PREA standards], and the guard said the other person was also trans and Smith Unit is housing trans persons together. Apparently the person making the threat knew the subject informed on someone he knew.
Advocacy letter sent Agency response: No response Agency action: No action TPI assessment: Outcome not appropriate			Description: The subject reports that on October 18, 2022, another incarcerated person approached her in the day room and threatened to harm her for reporting on a friend or associate on a prior unit. The subject vaguely describes other threats between that date and November 21, 2022. A subsequent letter indicates these are all related to the subject informing on various units.
2022-00782: Threat -- Harm; PREA: None	1	Black, Transgender woman, Unknown sexual orientation	Description: The subject reports that on October 18, 2022, another incarcerated person approached her in the day room and threatened to harm her for reporting on a friend or associate on a prior unit. The subject vaguely describes other threats between that date and November 21, 2022. A subsequent letter indicates these are all related to the subject informing on various units.
Advocacy letter sent Agency response: No response Agency action: No action TPI assessment: Outcome not appropriate			Description: The subject states that another incarcerated person threatened the subject, then hit her in the face. No further information provided. In a subsequent letter, the subject states that the person was angry at the subject for informing at another unit.
2022-00783: Assault -- With no serious injuries; PREA: None	1	Black, Transgender woman, Unknown sexual orientation	Description: The subject states that another incarcerated person threatened the subject, then hit her in the face. No further information provided. In a subsequent letter, the subject states that the person was angry at the subject for informing at another unit.
Advocacy letter sent Agency response: No response Agency action: No action TPI assessment: Outcome not appropriate			

2022-00784: Sexual Assault -- Not further specified; PREA: 115.11	2	Black, Transgender woman, Unknown sexual orientation	Description: The subject states that she was sexually assaulted by a person that appears to have been her cellmate at the time. The allegation is that she experienced sexual assault, physical assault, threats with a weapon, and extortion. In a subsequent letter, the subject states the person "life threaten me, held weapon on me, force me to suck his penis/jack him off/fuck my pussy/extorted me by taking whatever \$ I came up on by gifts or hustling." [TPI has received communication from the accused during this time, who also states being threatened by gang members and in trouble for informing, and that claim was substantiated.] The subject also says there is a shower in the cell, but it seems they are generally given opportunities to shower separate except for one period on lockdown (see incident 2022-00803).
Advocacy letter sent Agency response: Denied report Agency action: No action TPI assessment: Outcome not appropriate			In a PREA Ombudsman response, the office misgenders the subject and claims that the subject denied sexual abuse and reported only wanting a unit transfer.
2022-00803: Misconduct -- Place or leave in danger; PREA: 115.42(f)	5	Black, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject reports that she is housed in a cell with the shower in the cell. They were locked down from October 24 through November 3, 2022, and staff refused to let them out of the cell and give them an opportunity to shower separate.
2022-00823: Misconduct -- Failure to investigate or respond; PREA: None	1	Black, Transgender unspecified, Unknown sexual orientation	Abuser: Ombudsman staff; Description: The subject reported filing a grievance about endangerment, and that staff did not respond (failure to respond incident 2022-00774). In the response from the ombudsman office, they simply accepted the unit's claim that no grievance had been filed without investigating the possibility that the unit disregarded the subjects effort to report endangerment (see failure to investigate incident 2022-00823).
2022-00852: Misconduct -- Negligence; PREA: None	1	Black, Transgender woman, Unknown sexual orientation	Abuser: not known; Description: The subject states that two guards refused to allow the subject to be cuffed in front as per the subject's medical restriction.
2022-00877: Misconduct -- Harassment; PREA: 115.31(a)(9)	1	Black, Transgender woman, Unknown sexual orientation	Abuser: Corrections Officer; Description: The subject states that a guard opened the food slot and called her a bitch because she asked for a cup for some tea, then closed the slot on her hand. She does not seem to have been blocking the food slot with her hand, just asking for a cup.
2022-00918: Assault -- With no serious injuries; PREA: None	1	White, Two spirit, Unknown sexual orientation	Description: The subject reports that one or more affiliated persons assaulted at least one person at Smith Unit in a day room, causing the pod to be locked down (assault incident 2022-00918). The subject reports that TDCJ staff did not separate the assailants from the persons they assaulted (leave in danger incident 2022-00919). No further details were provided.
2022-00919: Misconduct -- Place or leave in danger; PREA: None	1	White, Two spirit, Unknown sexual orientation	Abuser: not known; Description: The subject reports that one or more affiliated persons assaulted at least one person at Smith Unit in a day room, causing the pod to be locked down (assault incident 2022-00918). The subject reports that TDCJ staff did not separate the assailants from the persons they assaulted (leave in danger incident 2022-00919). No further details were provided.

2023-00002: Threat -- Death threat; PREA: None	2	Black, Transgender woman, Unknown sexual orientation	Description: The subject states that she was in a holding cell, apparently at Smith Unit, and a person in a nearby cell threatened her due to allegations that the subject was informing to staff at Gib Lewis Unit in the past.
Advocacy letter sent Agency response: No response Agency action: No action TPI assessment: Outcome not appropriate			
2023-00014: Misconduct -- Negligence; PREA: 115.15(d)	1	White, Transgender woman, Unknown sexual orientation	Abuser: Corrections Officer; Description: The subject states that she tried to place a "shild" (probably means hang a sheet for a curtain) for privacy while she took a shower, but the guard told her to take it down and that he wanted to see her while she showered. The subject reported that the guard told her "bitch, I fuck you up with a case."
2023-00015: Misconduct -- Negligence; PREA: 115.31(a)(9)	1	Black, Transgender woman, Unknown sexual orientation	Abuser: PREA Ombudsman staff; Description: In a response letter, Gardner misgendered the subject both in contrast to TPI's affirmation of her gender and in violation of TDCJ training regarding pronoun use.
2023-00087: Threat -- Physical harm; PREA: None	1	White, Two spirit, Unknown sexual orientation	Description: The subject states that another prisoner took the tv remote from her and threatened physical harm, saying he would beat "my gay ass up."
2023-00093: Sexual Assault -- Not further specified; PREA: 115.11	1	Latinx, Transgender woman, Heterosexual	Description: The subject states that she was sexually assaulted at some time in January 2023, but does not provide the date or any other information (sexual abuse incident 2023-00093). The subject also reports that she tried to take her own life as a result of the sexual assault (self-harm incident 2023-00094).
2023-00094: Self- Inflicted -- Suicide attempt; PREA: None	1	Latinx, Transgender woman, Heterosexual	Description: The subject states that she was sexually assaulted at some time in January 2023, but does not provide the date or any other information (sexual abuse incident 2023-00093). The subject also reports that she tried to take her own life as a result of the sexual assault (self-harm incident 2023-00094).