



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

February 9, 2024

re: auditor noncompliance with audit requirements, Telford 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) Telford Unit conducted by auditor Darla P. O'Connor and PREA Auditors of America, now Corrections Consulting Services, LLC. TPI has been working with incarcerated persons since 2013, mainly trans and queer persons in the Texas prison system.¹ 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 December 6 and 7, 2023, so where specific data are given in the audit report, these reflect the auditor's report of "facts" at that time.

TPI notes that for a facility with more than 1,001 persons (at the time of the audit, Telford Unit had a population of 2,394), just the interviews with incarcerated persons and staff are estimated to take 3.0 days, or 30.3 hours. The auditor reports that the entire onsite audit effort was completed in only two days and that the auditor had no support staff during the onsite audit—and the auditor failed to conduct the minimum number of interviews required in several areas—so it appears that this audit was grossly inadequate just in terms of time spent and interviews conducted, even before considering other factors. The final audit report was submitted January 4, 2024.

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.



Summary of Audit Report Deficiencies

TPI has documented a total of 841 incidents of violence against persons housed at Telford Unit, including 133 that occurred in the past 12 months. Of the total documented incidents, 324 involved noncompliance with some element of the PREA standards, with 63 PREA noncompliance issues documented in the last 12 months.

TPI is filing this letter of complaint based on information we have received; this should in no way be taken as a complete inventory of abuses occurring at Telford Unit, nor should it be considered a complete inventory of PREA deficiencies. This should be considered to itemize only a few of the problems with PREA compliance at Telford Unit.

Significant problems with the general audit information include:

- Audit entry 10: The auditor failed to contact sufficient community-based organizations with significant information about the conditions at Telford Unit.
- Audit entry 47: The auditor falsified information readily available concerning persons in segregated housing at the time of the audit.
- Audit entry 53: The auditor failed to conduct the absolute minimum number of required interviews with incarcerated persons.
- Audit entry 56: The auditor falsified the audit report by claiming to have completed the minimum number of interviews with incarcerated persons.
- Audit entry 65: The auditor failed to interview the minimum number of lesbian, gay, or bisexual persons.
- Audit entry 67: The auditor failed to interview the minimum number of persons who reported sexual abuse at the facility.
- Audit entry 68: The auditor failed to interview the minimum number of persons who disclosed prior sexual victimization.
- Audit entry 69: The auditor stated that 0 persons at the facility had every been placed in segregated housing for risk of sexual victimization when in fact that statement is false.
- Audit entries 95: The auditor failed to question inconceivably low rates of substantiation concerning allegations of sexual abuse.
- Audit entries 97: The auditor failed to question inconceivably low rates of substantiation concerning allegations of sexual harassment.

Significant problems with the assessment of compliance with PREA standards include:

- PREA § 115.31: TPI's long experience dealing with staff abuses at Telford Unit, along with issues documented in this report, indicate Telford Unit certainly does not exceed this standard, as the auditor contends, and that it is unlikely Telford Unit actually even comes close to meeting this standard.



- PREA § 115.34: TPI's long experience dealing with failures to provide adequate investigations into violence perpetrated at Telford Unit, as well as specific issues documented in this report by TPI, indicate Telford Unit does not meet this standard.
- PREA § 115.42: Statements by the auditor, as documented in this TPI report, indicate multiple deficiencies in the auditor's assessment of this standard. Some statements by the auditor are plainly false, some misconstrue the meaning of provisions in this standard, and the auditor fails to adequately consider some of the housing conditions for transgender persons at Telford Unit.
- PREA § 115.43: As is exhaustively documented in this TPI report, the auditor completely fails to understand or correctly apply an evaluation of protective custody as it is used in the PREA standards. The evaluation of any TDCJ facility with such an inaccurate understanding of housing assignments should be considered a failure to appropriately perform the audit.
- PREA § 115.61: The auditor failed to identify and address failures to meet this standard, as discussed in this TPI report.
- PREA § 115.64: The auditor failed to address the auditor's own statement that in only about one-third of the reports did first responders separate the survivor from their assailant. That statement indicates noncompliance. Based on the information provided by the auditor, Telford Unit cannot be assessed as meeting this standard.
- PREA § 115.67: The auditor failed to identify and address clear cases of staff retaliation that indicate Telford Unit cannot be found to meet this standard.
- PREA § 115.68: As with §§ 115.42 and 115.43, the failure of the auditor to adequately address protective custody as it is used in TDCJ and at Telford Unit means based on the information in the auditor's report, Telford Unit cannot be assessed as meeting this standard.
- PREA § 115.72: The rates of substantiation presented by the auditor indicate Telford Unit is not using appropriate evidentiary standards, and thus cannot meet compliance with this standard.
- PREA § 115.82: As discussed in this TPI report, Telford Unit staff have interfered with access to emergency medical services, and there are indications staff have manipulated documentation to misrepresent the deficiency.

The auditor found that 6 standards were exceeded and 35 were met. One standard identified as being exceeded was PREA § 115.11, zero tolerance of sexual abuse and sexual harassment. However, the auditor noted that out of either 58 or 61 investigations² of sexual abuse and sexual harassment, only 6 allegations of sexual harassment were substantiated, and not one out of 35

2. The number is not clear because the auditor presented inconsistent numbers of sexual abuse as either 35 or 39.



or 39 allegations of sexual abuse was substantiated. This in itself should call into question the validity of the audit in its entirety.

One additional standard identified as being exceeded was PREA § 115.31, employee training. TPI has years of experience dealing with abusive staff actions at Telford Unit, and we believe it beyond reason that Telford Unit could actually exceed legitimate training practices as required under PREA § 115.31.

Request for Action

We are requesting that:

- Telford Unit be required to conduct a subsequent audit to address deficiencies in the audit discussed in this letter.
- The auditor be required to follow PREA § 115.401(o) and contact each entity that may have significant information about Telford Unit, including TPI's publicly available documentation and PREA compliance issues at Telford Unit.
- The subsequent audit be required to conduct the minimum required number of interviews, as per the auditor handbook.
- The Telford Unit audit reflect the actual population of the unit, not TDCJ's abusive definition of the population as "male only." This concerns compliance with PREA § 115.15 and other standards that include gender-based considerations.
- Telford Unit be reassessed for actual compliance with training. This concerns compliance with PREA § 115.31 and other standards involving training.
- Telford Unit be reassessed for its actual use of investigative practices and use of evidentiary standards instead of its claims of compliance that are directly contradicted by the failure to substantiate any allegations of sexual abuse and few allegations of sexual harassment. This concerns compliance with PREA §§ 115.34, 115.71, 115.72, and possibly other standards.
- Telford Unit be reassessed for the actual use of segregated housing and protective custody rather than assessed on the unit's and agency's misrepresentation of these designations. This concerns compliance with PREA §§ 115.43, 115.68, and possibly other standards.

Details of Audit Report Deficiencies

The audit report states that the auditor reports no conflict of interest, however, the auditor appears to have a long contractual relationship with the Bureau of Prisons and other paid interest related to prison systems. TPI believes any current or recent monetary connection with a prison system in the past three years to be a definite conflict of interest. PREA §§ 115.401(c) and (d) prohibit an auditor from receiving financial compensation from the agency being audited within three years prior to and after the audit, which is warranted but not sufficient.



Due to the “we protect our own” mentality common among persons affiliated with prison operations, TPI believes that auditors should be barred from receiving any financial compensation directly or indirectly from any prison operator or associated agency, past or present, due to conflict of interest. Additionally, audit funding must be separate from the system being audited to avoid conflict of interest.

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

General Audit Information

Facility characteristics: The population held at the facility is defined as “males.” This is inaccurate and it erases the very existence of transgender persons at the facility, whether they are identified as female, nonbinary, or a different gender. Erasure of identity is inhumane, and such erasure is violence by the auditor and the unit for such definition, and violence by the National PREA Resource Center for accepting this report as final.

Audit entry 10 states that the auditor contacted three community-based organizations, which were:

- Just Detention International
- Women’s Center of East Texas
- Texas Council on Family Violence

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 is a broadly inclusive definition, and it places the onus on the auditor to identify and contact organizations and advocates with information about the facility. Since no mention is made in this audit report of any specific information provided by these organizations, it seems likely that these organizations provided limited information. TPI, on the other hand, is well known to



have information about sexual violence and other violence at TDCJ facilities. TPI was not contacted concerning the information we have about Telford Unit, and no reference to our data readily 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. Because TPI is well known to have relevant data for PREA audits, and because this data is readily available online, the failure to include data from TPI can only be viewed as deliberate omission by the auditor and as an audit deficiency.

Audit entry 47 states that 0 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 by the auditor to perform due diligence in confirming such a claim that no person housed at Telford Unit had ever been placed in segregated housing or isolation for risk of sexual victimization. This will be discussed further under PREA § 115.43. The failure to understand how TDCJ uses (and misuses) applications of segregated housing is made explicit in **audit entry 69**, where the auditor simplistically accepts the facility's claim that "there were 'none here' during the onsite portion of the audit." An audit is intended to confirm conditions and actions, not parrot inaccurate information. According to online descriptions, Telford Unit houses safekeeping status persons as custody levels P2 through P5, all of which are housed in "protective custody," and some of which may be housed in "involuntary protective custody." In addition, safekeeping is not the only way TDCJ places persons at risk of sexual victimization in segregated housing. Again, this issue is more fully discussed below.

Audit entry 53 states that the auditor conducted 13 random interviews with incarcerated persons, which does not meet the minimum number of interviews required for a facility the size of Telford Unit. The auditor also **falsified entry 56 by stating that the auditor did conduct the minimum number of random interviews**. The false information was intentionally provided because audit entry 55 states correctly that there were 2,394 persons housed at Telford Unit on the first day of the onsite audit, and that "the Auditor Handbook . . . requires a minimum of 20 [incarcerated persons] to be interviewed." Yet the auditor still marked audit entry 56 in a way that deliberately provided false information claiming that the minimum number of persons were interviewed.

Because of the deficient number of random interviews and the conduct of only 20 targeted interviews, the auditor also failed to meet the required overall minimum number of interviews. The auditor handbook is clear on this requirement:

Overall Minimum Number of Interviewees. This number refers to the **absolute minimum number of persons confined in the facility that the auditor is required to interview during an audit**. The number of random and targeted interviews should meet or exceed the overall minimum interviewee threshold. Even when an auditor is unable to conduct the minimum number of targeted interviews (e.g., the facility does not house a certain targeted population), the



auditor must select additional persons confined in the facility in order to meet the minimum threshold [emphasis added].

Audit entry 65 notes that 1 person identified as lesbian, gay, or bisexual was interviewed. According to Table 2 in the Auditor Handbook, the minimum number of interviews for a unit with the overall population of Telford Unit is 2, and the audit states that there were nearly 200 persons identified as lesbian, gay, or bisexual at the unit on the first day of the audit, so there were certainly enough available to interview the minimum required.

Audit entry 67 notes that 3 persons who reported sexual abuse in this facility were interviewed. According to Table 2 in the Auditor Handbook, the minimum number of interviews for a unit with the overall population of Telford Unit is 4. The audit states that there were 35 persons meeting this requirement at the unit, so again there were sufficient persons available to interview the minimum required.

Audit entry 68 notes that 2 persons who disclosed prior sexual victimization were interviewed. According to Table 2 in the Auditor Handbook, the minimum number of interviews for a unit with the overall population of Telford Unit is 3. The audit states that there were 315 persons meeting this requirement at the unit, so again there were sufficient persons available to interview the minimum required.

Audit entry 69 states that the total number of interviews with persons “who are or were ever placed in segregated housing/isolation for risk of sexual victimization per the risk protocol” was 0.³ However, the facility characteristics notes that safekeeping persons (classification P2 through P5) are housed at the facility, and a primary purpose of safekeeping housing is segregation due to risk of experiencing sexual violence. In addition, there were almost certainly persons in segregated housing at the time of the audit due to investigation into reports of sexual violence. All of these can constitute segregated housing due to risk of sexual victimization. Simply accepting administrative staff’s claims that there were “none here” during the audit is not sufficient for a legitimate audit. It is unclear what definition of “segregated housing” staff are using to report, as stated in the audit, that the facility “does not place [incarcerated persons] in segregated housing for risk of sexual victimization. The staff working the segregated unit reported they had not observed any inmates being placed in segregated housing for risk of sexual victimization.” However, whatever definition staff are using, it cannot be a PREA appropriate definition of “segregated housing.” As with **audit entry 47**, this indicates a failure to investigate and understand how segregated housing is manipulated by TDCJ to cause confusion; this will be discussed further under PREA § 115.43.

Audit entry 95 provides the outcomes of administrative investigations of sexual abuse allegations during the previous 12 months. **Audit entry 92** shows incarcerated persons reported 39 allegations of sexual abuse by staff and other incarcerated persons, and 16 were investigated criminally. The administrative investigations found 0 substantiated, 28 unsubstantiated, and 7

3. Note that the protocol mentioned in the instructions is the additional questions to be asked, not how to select these persons.



unfounded. Note that only accounts for 35 of the 39 reported allegations, leaving 4 unknown. It is not clear why there is this discrepancy, but it is repeated throughout the audit report. Since at audit entry 98 the auditor states 35 sexual abuse files were reviewed, and audit entry 91 states that the auditor was provided “the PREA files for every allegation” and that the auditor reviewed 39 files, it is not clear what was reviewed, nor is it clear if there are actually 4 missing files concerning sexual abuse at the facility. Either way, this should be considered a significant red flag and audit deficiency.

Going by what is reported, 100 percent of the allegations were found to have only a 50 percent or less chance of having occurred. According to PREA § 115.72, 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,” yet 0 percent of the allegations were found substantiated. This indicates a failure of the administrative investigations to adequately assess evidence in allegations of sexual abuse, and a failure of the auditor to identify this problem and pursue an explanation of what appears to be a failure to properly investigate allegations.

Audit entry 97 provides the outcomes of administrative investigations of sexual harassment allegations during the previous 12 months. **Audit entry 93** shows incarcerated persons reported 23 allegations of sexual harassment by staff and other incarcerated persons, and 0 were investigated criminally. The administrative investigations found 6 substantiated, 16 unsubstantiated, and 1 unfounded. That is, only 26 percent of the allegations were found to have a better than 50/50 chance of having occurred. According to PREA § 115.72, 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,” yet only 26 percent of the allegations were found substantiated. This indicates a failure of the administrative investigations to adequately assess evidence in allegations of sexual harassment, and a failure of the auditor to identify this problem and pursue an explanation of what appears to be a failure to properly investigate allegations.

PREA § 115.11 discussion, zero tolerance of sexual abuse and sexual harassment

PREA § 115.11 provides requirements that reflect the PREA goal of “zero tolerance of sexual abuse and sexual harassment” at the Telford Unit and the agency overall through policy implementation and management. Policy is certainly essential to reaching such goals, but policy alone is inadequate, and how policy is implemented may even increase harm.

In TPI’s experience, policy concerning protections for marginalized persons, as implemented by governmental agencies concerning law enforcement and the justice system, are commonly implemented in a manner that reinforces existing structural discrimination and harm. One very common example of how this works is when harmful practices are pointed out and the agency or responsible party states something to the effect “that does not happen because we have policy against it” or “because we have training against it.” This excuse covers up and may even



encourage violence such as sexual abuse and sexual harassment by providing a means of covering up such violence.

Similarly, claims that issues are “investigated,” when it is clear the investigations have little or no merit due to the number of instances where allegations are dismissed, also function to cover up and may even encourage violence such as sexual abuse and sexual harassment by providing a means of simply ignoring such violence through improper investigations. That 100 percent of the reports of sexual abuse were found to be 50 percent or less believable is an example of such improper investigation and improper consideration of evidentiary standards.

Reports to TPI indicate that staff often directly or indirectly encourage sexual violence, as documented in TPI’s report for auditors related to Telford Unit:

- “The subject did not report this out of fear of this cellmate.”
- “[T]he cellmate said in front of the guard that the subject had to leave the cell or he would stab the subject (see incident 2022-00198). The guard ignored the threat and walked away (see incident 2022-00199). After the guard left the subject in the cell, the cellmate sexually assaulted the subject a second time (incident 2022-00200). . . . He did not report this sexual assault or the sexual assault of January 12 because the prison staff did nothing to address the assaults of January 2 except put him in greater danger.”
- “The subject reported that on December 5[, 2022], the person sexually harassing her assaulted her . . . because she refused his sexual advances. The subject reported that she sent three I-60s and two emergency grievances to safe prisons, but they did not ‘come talk to me they clearly show that they don't care about the safety of transgender [persons] like me.’”
- “The subject reports that someone they knew raped them in the shower (sexual assault incident 2023-00167). After he left, the subject left and immediately reported it to a guard in the area, and she refused to believe the subject, claiming she would have seen something, even though later review of the security camera showed the assailant follow the subject into the shower (refusal to investigate incident 2023-00168).”
- “[T]he subject went to a captain and again tried to report the sexual assault, but the captain said ‘go tell someone else, I’m doing chow’ (refusal to investigate incident 2023-00169).”
- “A captain who took the [sexual assault] report and collected some evidence ‘said I’m supposed to offer you a rape kit, but since you were in the shower, it’s going to be a waste of time. He went on to say that the kit [SANE investigation] is more painful and embarrassing than what you have already gone through’ (misconduct incidents 2023-00170 for failure to understand proper investigation and 2023-00171 for failure to provide a knowledgeable advocate). The subject did not know better and declined the SANE. In a subsequent letter, the subject states that it was the unit OIG investigator and the captain that together talked her out of the SANE.”



Due to our long history of involvement with support work for abused and mistreated persons at Telford Unit, TPI has doubts that this unit fully complies with PREA § 115.11.

PREA § 115.13 supervision and monitoring

PREA § 115.13 requires the unit to maintain adequate staff to operate effectively and to “protect inmates against sexual abuse.” TDCJ has long shown that they cannot hire or maintain adequate staffing levels at many of their units. Many units in the system are operating at less than 50 percent security staff, some as low as 30 percent. TPI has received reports from a number of units that incarcerated persons may not even see a security staff person for hours at a time, and that one staff person may be the only assigned staff person for an entire building or wing. Although positions may be filled during an audit and on paper, that may not be the case on days when the unit is not being audited.

Again, due to our long history of involvement with support work for abused and mistreated persons at Telford Unit, TPI has doubts that this unit fully complies with PREA § 115.13.

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

The PREA standards state that Telford Unit staff “shall not conduct cross-gender strip searches or cross-gender 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, and are noncompliant with PREA standards unless a waiver documenting search preference allowing a cross-gender search has been signed.

Failure to recognize this fact in an audit is a failure to properly assess whether or not cross-gender searches are conducted at a facility. As discussed above, misclassifying transgender females as “males” is inappropriate, is noncompliant with PREA § 115.15(a), and furthermore may constitute 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 that too should not be considered compliant with PREA standards.

Concerning PREA § 115.15(b), if the facility allows cisgender males and transgender males and nonbinary staff 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, as well as nonbinary persons, 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 by male staff. The auditor, by refusing to identify transgender



females among the transgender persons housed at the unit (under provision (b), the auditor states abusively “[f]acility is an all-male facility,” erasing the existence of all transgender females and nonbinary persons at the facility), is participating in violence against transgender women, and failing to adequately assess compliance with PREA § 115.15(b).

The failure by the auditor to document that the unit houses transgender females and nonbinary transgender persons also results in deficient assessment of PREA § 115.15(c), requiring that the facility 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.

Concerning PREA § 115.15(d), which provides that incarcerated persons be allowed “to shower, perform bodily functions, and change clothing without staff of the opposite [*sic*] gender viewing their breasts, buttocks, or genitalia,”⁴ the refusal to acknowledge the gender of transgender persons also results in a failure to meet this standard.

PREA § 115.21 discussion, evidence protocol and forensic medical examinations

TDCJ OIG-7.13 states that staff will “determine if a forensic medical examination will be offered.” PREA § 115.21(c) states that **all** survivors of sexual abuse shall be offered access to forensic medical examinations; and PREA § 115.21(e) allows the survivor to request a forensic medical examination. Although TDCJ or TBCJ may claim that this is only for OIG related criminal investigations, the conflicting instructions will lead to failures to comply with PREA § 115.21. OIG-7.13 indicates compliance is unlikely at either at the agency level or at Telford Unit, but instead staff are deciding whether to offer the survivor access to a forensic medical examination. As we can clearly see in the discussion of PREA § 115.11, staff have at least exerted influence to dissuade sexual abuse survivors from forensic evidence collection. Based on this conflicting information and the failure of the auditor to address the deficient OIG-7.13 policy, it is not possible to determine if Telford Unit is compliant with PREA § 115.21 or not.

PREA § 115.31 discussion, employee training

PREA § 115.31 concerns training related to zero tolerance for sexual abuse and sexual harassment, the rights of incarcerated persons to be free from sexual abuse and sexual harassment, appropriate responses to indications and reports of sexual abuse and sexual harassment, and professional communication.

4. TPI notes that 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, and cisgender and transgender females as “opposite” to cisgender and transgender males. 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.



Concerning § 115.31(a), our documentation during the audit period of a guard walking up to a trans woman while fastening his pants after urinating in front of her and stating “you got this coming” then “shut up faggot” (see incident 2023-00374) is not indicative of adequate training in “[h]ow to communicate effectively with LGBTI and gender non-conforming” persons. Over the years, TPI has heard about many such unprofessional comments and actions by Telford Unit staff.

Concerning § 115.31(b), 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. That the auditor states Telford Unit “training has been tailored specifically to the mail inmate population” indicates the auditor lacks sufficient training in assessing this provision.

Due to our knowledge and long experience with the treatment of persons housed at Telford Unit, both cisgender and transgender, we find it hard to accept that Telford Unit could be fully compliant with PREA § 115.31, much less that they could be found by any legitimate audit to exceed this standard, which this auditor contends.

PREA § 115.34 discussion, specialized training in investigations

TPI has little means of monitoring compliance with PREA § 115.34, which covers training in the conduct of sexual abuse investigations. However, the fact that so few incidents involving allegations of sexual abuse were substantiated indicates a problem with this training.

TPI can document questionable findings in investigations related to sexual violence. In March 2023, within the audit period, an investigation of alleged sexual abuse by staff was “explained” by claiming that the staff person wanted to know if the subject alleging sexual abuse was “a living breathing body” (these are words directly from the TDCJ investigative report as related to TPI). The subject was at the time standing at the sink and washing off, so it is hard to imagine how a guard could watch them for several minutes, then enter the cell alone against policy because the guard still could not determine if they were “a living breathing body.” This is not an investigation, it is acceptance of any excuse. That this person was given a unit transfer soon after indicates there was indeed more to the story than was admitted or officially found in this “investigation.”

Improper investigation training is also indicated in the May 2023 incident (number 2023-00178) where a captain claimed that just because the subject was sexually assaulted in the shower there was no need to do SANE evidence collection. Nor was it an indication of proper training in investigative techniques for the captain and an OIG staff person to tell the survivor that the SANE exam would be worse than the sexual assault itself. The dismissive attitudes and lack of proper investigation, as well as harassment and retaliation after the report, influenced the survivor to attempt to end their life. This is not evidence of adequate training in how to conduct appropriate investigations, unless the goal of the training is to dismiss the majority of the allegations of sexual violence and to encourage self-harm among persons in TDCJ custody.



Based on our long experience with issues at Telford Unit and examples of improper investigations such as those provided above, TPI feels it unlikely that Telford Unit should be deemed to meet this PREA standard.

PREA § 115.41 discussion, screening for risk of victimization

PREA § 115.41 concerns screening of incarcerated persons for their risk of experiencing or perpetrating sexual abuse.

According to the TDCJ Safe Prisons Plan and the PREA Standards, the term transgender refers to “a person whose gender identity . . . is different from the person’s assigned sex at birth.” However, the full quote of the definition is “a person whose gender identity, (i.e., internal sense of feeling male or female,) is different from the person’s assigned sex at birth.” Therefore, it implies an old definition of “transgender” that does not include nonbinary persons. PREA and the Safe Prisons Plan address this by including “gender nonconforming.” The PREA Final Rule notes that:

The standards account in various ways for the particular vulnerabilities of [incarcerated persons] who are LGBTI or whose appearance or manner does not conform to traditional gender expectations. The standards require training in effective and professional communication with LGBTI and gender nonconforming [incarcerated persons] and require the screening process to consider whether the [incarcerated person] is, or is perceived to be, LGBTI or gender nonconforming. The standards also require that post-incident reviews consider whether the incident was motivated by LGBTI identification, status, or perceived status.

The PREA Standards also require under § 115.41(d) that screening for risk of sexual victimization shall consider several factors, including “(7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming.” If TDCJ risk screening markers include only LGBTI, TRGEN, and INTSX, to be compliant with this requirement, gender nonconforming persons must be included in one of these categories, with TRGEN being the category generally most appropriate for risk assessment. However, TPI has learned that at least in some cases, nonbinary persons are refused the TRGEN marker.

We also note that TDCJ policy SPPOM-03.01 screening in Section II for “Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI), and Gender Non-conforming” persons does not provide a coding entry for gender nonconforming persons. Questions 9 and 10 on Attachment E only include lesbian, gay, bisexual, heterosexual, transgender, and intersex. Section IV follow-up questions only address the “perceived to be” portion of this requirement, not the “is” portion.

Although there is little that TPI can do to document problems with the screening process, policy appears to be lacking in terms of how gender nonconforming and nonbinary transgender persons are included in PREA screening and identification as a vulnerable population.

TPI feels that it is not appropriate for an audit to find a facility compliant with this standard if the means of screening for gender nonconforming and nonbinary transgender persons is not explicit.



PREA § 115.42 discussion, use of screening information

PREA § 115.42 concerns how sexual abuse risk screening information is used to help ensure safety. There are quite a number of serious issues with the auditor's discussion of this standard.

The auditor's repeated statements that all LGBTI persons "reported they were housed in general population" is a false statement conjured from linguistic gymnastics TDCJ engages in to claim that safekeeping housing (custody classifications P2 through P5) is the same as general population (custody classifications G1 through G5). That is absolutely false. Likewise, the statement that all LGBTI persons are housed in general population, then immediately juxtaposing the statement that they are "not currently, nor had they ever been, housed in a housing unit designed for only LGBTI" persons creates a false dichotomy that housing is either general population or LGBTI dedicated housing. That too is absolutely false.

TPI has extensive experience with the treatment of transgender persons at Telford Unit, and the auditor's claim that "the transgender or intersex [person]'s views of their own safety is given great weight" to be insincere at best, especially when just a few years ago a transgender person was housed intentionally in a cell where they were clearly and demonstrably in danger, and even calls from then Senator John Whitmire about the issue failed to garner a cell change. This claim would be laughable if it were not an indication of routine intentional and directed abuse.

There is something disturbing about the focus of the general discussion of this standard on transgender persons, as if the excessive claims from staff to the auditor were covering up an issue of gross negligence, perhaps related to the recent death of a trans woman at Telford Unit that seems to be in part due to negligence of staff at the unit. TPI does not have enough information to document the issue, but her death seems to be at least somewhat related to a screening failure since the transgender woman was transferred away from another unit due to endangerment (at least partly related to sexual harassment), then the person endangering her showed up at Telford Unit a few weeks later.

The auditor seems to not understand PREA § 115.42(c) because the statement in the audit report is at least inaccurate, if not entirely false. The auditor claims that "when deciding to assign a transgender or intersex [person] to a unit for male or female [persons] . . . determinations shall not be made solely based on LGBTI status." The auditor seems to confuse this provision with provision (g) concerning dedicated housing for LGBTI persons, or possibly with PREA prohibitions against determining housing for transgender persons solely based on genital status. It is impossible to tell what the auditor is assessing here.

Also concerning provision c, 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 in TDCJ, 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. That is a clear failure of PREA compliance.



We have a general concern that should be mentioned about PREA § 115.42(d). TPI has often heard from incarcerated transgender persons throughout TDCJ that the twice yearly assessments by UCC are cursory and ineffective. Reports generally convey that staff make it clear that they are simply there to check off the items they are required to ask, and many persons note that if they report issues, those are either dismissed or ignored, or addressed by locking the person in restrictive housing (which usually constitutes involuntary protective custody under PREA), likely with little or no property, for a week or more while an “investigation” is conducted then found unsubstantiated at best. The process appears seldom conducive to meeting the spirit of the PREA standard, and instead may offer staff opportunities to discourage reports of sexual victimization risks. TPI feels it is inadequate to simply parrot policy in support of meeting this standard, and it must be supported by genuine investigation into the efficacy of the process for incarcerated persons.

The discussion of PREA § 115.42(f) fails to take a very important consideration into account. Most trans persons at Telford Unit are housed in safekeeping housing, and that is on 12 Building, which has administrative segregation cells, or “extended cell block” (ECB) cells. These cells, many of which have been converted to house two people, have a shower in the cell, and this issue is not addressed at all by the auditor. The claim often made by staff about such cells is that transgender persons are provided a “separate” shower by allowing them to leave the cells for showers or to shower when their cellmate is out. However, with frequent—sometimes multiple times a week—lockdowns in part due to staff shortages and over crowding, the “separate” shower provision is not upheld and is an empty promise. The description by the auditor seems to simply parrot generalized and inaccurate claims by staff, indicating that the auditor did not audit actual conditions in such areas as safekeeping housing and ECB cells.

TPI believes strongly that in general, concerning PREA § 115.42(f), 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).⁵ 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.

PREA § 115.43 discussion, protective custody

PREA § 115.43 concerns segregation practices for persons at high risk of sexual victimization. There are several serious deficiencies in the auditor’s discussion of this standard.

The discussion begins with the statement that “the USPPM confirmed there have not been any [incarcerated persons] placed in protective custody in the past twelve months.” It is almost certain that all 35 (or 39) of the persons alleging sexual abuse were placed in protective custody, and for some that may have been involuntary protective custody. Telford Unit also houses

5. This generally would be the case even if the unit claims that opportunities for separate showers are provided because during lock downs and staff shortages, those opportunities are some of the first to be overlooked.



persons in safekeeping designation, which also meets the protective custody definition under PREA.

The auditor then states that “[t]he PAQ [pre-audit questionnaire] reflects during the past twelve months there have been no inmates placed into involuntary administrative or punitive segregation in accordance with this standard.” The standard concerns protective custody, not “involuntary administrative or punitive segregation,” but this may address the actual practice of punishing persons who report sexual abuse by locking them up in disciplinary housing under the claim that it is necessary for the investigation. It is also a practice in TDCJ to sometimes place persons reporting sexual violence in a CDO (constant direct observation, or suicide watch) cell under the claim that they might self-harm, or in a new twist or “enhancement” of that practice, in the same type of cell designated SOS or “security observation status,” which requires no coordination with mental health staff. All of these are actual practices that fall under PREA § 115.43 definitions when related to reports of sexual violence. And all are inappropriately excused from compliance issues by staff that manipulate the practices, and auditors that fail to actually audit for compliance.

The auditor also contributes to the confusion and manipulation by claiming they confirmed the “no [persons] placed into involuntary administrative or punitive segregation” claim when the unit PREA manager stated “there had not been any [incarcerated persons] placed in protective custody in the past twelve months.” To equate these two statements is untenable, and “protective safekeeping” is only one extremely small part of how TDCJ uses and abuses protective custody.

The auditor then continues to parrot TDCJ staff manipulation by equating only “protective safekeeping” (custody levels P6 and P7) as meeting the definition of PREA protective custody. This issue and its misrepresentation by TDCJ is discussed more fully below.

Telford Unit has a significant safekeeping population, and although safekeeping designation can result from nonsexual violence, it appears to be most often the result of sexual harassment or sexual abuse, thus meeting the PREA § 115.43 definition of protective custody. Sometimes the safekeeping designation is involuntary and thus requires compliance with the provisions for involuntary protective custody.

Concerning PREA § 115.43(b), TPI correspondence relates that some units have a blanket prohibition against safekeeping designated persons being assigned job duties, even when there is no endangerment from the job assignment and work assignments are desired by the incarcerated person. Safekeeping designation also results in exclusion from many programs, privileges, education, and work opportunities, with TDCJ claiming that it is not protective custody that prohibits the exclusion but the lack of safekeeping housing on units with those programs. That is a specious claim at best. Regardless, safekeeping designation is the cause of the exclusion, and the exclusion must be documented according to provision b requirements. TPI believes these requirements are not being met by claiming it is not safekeeping that causes the exclusion.



The discussion of PREA § 115.43 in this report provides a manipulated and inaccurate discussion of compliance, and in no way should be considered to meet audit requirements. Please see the following section for a discussion of the various types of housing within TDCJ that can and often do constitute PREA protective custody.

TDCJ Manipulation of “protective custody” designations

PREA § 115.43 covers the separation or segregation of persons at high risk for sexual victimization, and the section uses several terms that provide opportunities for manipulation of the standard. These include “protective custody,” “segregated housing,” and “involuntary segregated housing.” None of these are specifically defined in PREA § 115.5 general definitions, nor are definitions provided in the FAQ available online via the National PREA Resource Center. The PREA Final Rule⁶ also does not provide definitions for these terms. In discussing this section, the Final Rule appears to use “segregated housing” and “involuntary segregated housing” to refer somewhat more generally to any type of separate housing for safety reasons, and “protective custody” and “involuntary protective custody” as separate housing for the purpose of providing immediate safety.⁷ However, the discussion makes it clear that all these terms refer to separating the person from endangerment by placement in separate housing, and that all of these are considered “protective custody.” For the sake of consistency, TPI will refer here to all separation for investigations of alleged sexual abuse or due to assessment as being at risk for sexual abuse to be “protective custody.” If the person being segregated agrees with the segregation, that segregation will be “voluntary protective custody”; if the person being segregated does not agree with the segregation, that segregation will be “involuntary protective custody.” TPI also asserts that due to the requirement at PREA § 115.41(d)(9) that the incarcerated person’s own views of vulnerability taken into account, considerations of whether separate housing is “voluntary” or “involuntary” may change over time as the person’s views about the need for protective custody changes.

The following discussion provides definitions and descriptions of a number of types of protective custody in use in TDCJ. All of these should be considered “protective custody” for PREA § 115.43 purposes because all can be used to separate persons at risk of sexual victimization.

Protective safekeeping: “Protective safekeeping” is defined in the TDCJ *Classification Plan* as being “for [incarcerated persons] who require the highest level of protection in a more controlled environment than other general population [persons], 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 to which TPI does not have access. Protective safekeeping is also identified as custody levels P6 and P7, with P7 having more restrictions. We should point out that one way TDCJ makes this confusing can be seen in this definition, where they compare persons in protective safekeeping to “other general

6. Federal Register (2012): vol. 77 no. 119, Fed. Reg. page 37106-37232 (June 20, 2012).

7. Federal Register (2012): vol. 77 no. 119, Fed. Reg. page 37154-37155 (June 20, 2012).



population” persons. This allows TDCJ to claim even protective safekeeping is not actually “segregation” because it is “general population.” However, TDCJ protective safekeeping is very separate, and there are only about three units in the TDCJ system with housing designated for protective safekeeping.

This designation, based on reports from one person with a P6 designation that we have been in contact with, 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 person did not mention anyone being in there due to a risk of sexual victimization, although there certainly could be. TDCJ protective safekeeping is absolutely separate from all other TDCJ populations, with no mixing outside P6 and P7. As far as TPI is aware, 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. This contrasts with TDCJ responses to PREA auditors that tend to indicate this is the only “protective custody” meeting PREA § 115.43 requirements. All TDCJ classification discussions we are aware of related to separation due to the potential for sexual victimization focus on “safekeeping status” (P2 through P5), not “protective safekeeping” (P6 and P7).

TPI has seen many audit reports that appear to simply accept TDCJ’s implied or stated claims that the only legitimate PREA § 115.43 “protective custody” in the system is TDCJ protective safekeeping. That is far from true. TPI believes such statements should be considered deliberate and intentional efforts to manipulate PREA data collection and PREA audits.

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

a status assigned to [incarcerated persons] who require separate housing within general population due to threats to their safety, vulnerability, a potential for victimization, or other similar reasons. [Incarcerated persons] 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, including vulnerabilities related to sexual violence. 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.”⁸ Once in safekeeping, incarcerated persons see reduced access to job opportunities, educational and training programs, and other benefits that may be offered to persons not in safekeeping status.⁹ In one example, TPI advocated for a transgender woman who was denied education opportunities due to her safekeeping status, even though she tried

8. Some reports from our correspondents note that they are told they do not qualify for safekeeping because they are “too smart” or similar reasons. *Zollicoffer v. Livingston* (4:14-cv-03037) also documents the extensive measures TDCJ goes to in avoiding safekeeping designation: <https://www.courtlistener.com/docket/4394368/zollicoffer-v-livingston/>.



for several years to be released from safekeeping status. When TPI filed a complaint, we were told that her safekeeping status did not prevent her from entering the education program, and that she had been accepted for the program, but could not access it because there was no housing for her on any unit where that program was offered. The more complete explanation was that there was no *safekeeping* housing on the units where the program was offered. Perhaps in a warped sense of logic it may be said that safekeeping was not the reason she was denied, but it is entirely disingenuous to claim that safekeeping status did not prevent her from entering the program. Her safekeeping status was finally relinquished after our complaint, and she entered the program. That was the only impediment to her participation in that program. TDCJ's insistence that "housing" instead of the safekeeping designation kept her from the program should be considered deliberate manipulation to avoid PREA compliance.

On paper, safekeeping persons may be able to access all the benefits of general population, but in practice the safekeeping population is often segregated in abusive ways at meals, recreation, and other unit movement and programs; and in some cases they are kept from some or all work assignments, this apparently being unit-level practice at some units, depending on the administration of the moment. These prohibitions are sometimes used to harass persons on safekeeping, who are often identified as "snitches" and "punks" and other derogatory terms. Safekeeping persons are denied access to educational opportunities, training programs, and other benefits, sometimes by claiming the denial is not because of the safekeeping designation but for other reasons such as housing, as noted above. On many units, safekeeping housing is on what is called 12 Building, the old administrative segregation building that has limited recreation and still houses persons on disciplinary restriction, meaning safekeeping persons are often subjected to disciplinary conditions.

TDCJ also seems to claim that safekeeping designation is not "protective custody" under PREA § 115.43, and that only "protective safekeeping" is "protective custody." This claim is absolutely not consistent with practice or even the definition of the housing designation. TPI also knows of persons who were placed in safekeeping over their objections. And some who initially agreed to the designation may later see no need for continued safekeeping designation. Certainly a person's understanding of their own vulnerability and need for safekeeping can change over time. If the person on safekeeping does not agree they have a continuing need for safekeeping status, then they are in involuntary protective custody, and the documentation requirements under PREA must be met.

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—at least initially. However, it is certainly not something a person can request or volunteer for and be assigned, and in many cases requests for removal of the safekeeping

9. Note that just as TDCJ confusingly describes "protective safekeeping" as "general population," safekeeping designation is also considered "general population" even though safekeeping housing is separate from general population because housing sections are designated for safekeeping persons only.



designation are denied, sometimes even after outside advocacy for removal of the safekeeping designation.

Thus safekeeping designation is definitely a type of “protective custody” under the PREA standards, and may be “involuntary protective custody” requiring documentation and on-going assessments of continuing need for PREA compliance.

Lockup for reporting sexual violence: TDCJ goes to some effort to indicate only “protective safekeeping” (custody classification P6 and P7) constitutes “protective custody” or “involuntary protective custody” for PREA purposes. Protective safekeeping could be used for that purpose, but it appears to be seldom used for that in actual practice. As explained above, “safekeeping designation” is definitely “protective custody” under PREA, and may also constitute “involuntary protective custody.” Likewise, lockup for reporting sexual violence is “protective custody” under PREA, and often constitutes “involuntary protective custody” under PREA. 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).¹⁰ 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 reporting states definite reasons that they are in no further danger. TPI has even documented this happening when someone reported sexual abuse at a different unit and there was no conceivable danger at the current unit. In these cases, there is certainly no legitimate evaluation of “all available alternatives,” regardless of staff claims or policy. IPI lockups also routinely last for more than 24 hours, and are often handled as disciplinary actions, with the person being strip searched and their property taken (this is often the consequence of being locked up immediately, without being allowed to pack their property, so ostensibly they are not “denied” their property, although that and property loss are effects of the action). Since IPI lockups are usually in the same areas as restrictive housing, they also routinely entail the same security restrictions that apply to those being held for disciplinary reasons. Such lockups may be called “restrictive housing,” “transient housing,” and other terms. Clearly such treatment discourages reports of sexual victimization.

This discussion shows that without a doubt, TDCJ “protective safekeeping” is absolutely not the only classification that meets the “protective custody” definition under the PREA standards, nor is it the only classification that can be considered “involuntary protective custody.” This discussion should also show the extent of the manipulation that TDCJ administration has engaged in to deliberately misrepresent PREA compliance and mislead PREA auditors. Without a doubt, protective custody and involuntary protective custody are sometimes necessary and of great benefit to survivors of sexual abuse and those threatened with sexual victimization. But TDCJ manipulates this practice for the benefit of the agency—and without necessary transparency, often causes great harm and compounds the sexual violence a survivor has experienced by adding personal and systemic violence from the staff and agency.

¹⁰ This term has varied over time. What is current called an IPI was until recently an OPI for “offender protection investigation,” and in the past has been known as an LID, or “life in danger” investigation.



PREA § 115.51 discussion, inmate reporting

PREA § 115.51 covers the means of reporting sexual abuse and sexual harassment.

TPI strongly recommends that advocacy groups documenting and responding to reports of sexual abuse and sexual harassment be allowed to receive sealed mail concerning such issues. The fact that mail room staff are allowed to open and read reports of sexual violence deters accurate and complete reporting to outside agencies.

PREA § 115.52 discussion, exhaustion of administrative remedies

PREA § 115.52 concerns filing complaints related to sexual violence.

PREA § 115.52(e) states, in part, that the facility is required to allow third parties to assist in filing requests for administrative remedies. TPI believes this covers interference with communications with persons who need assistance reporting sexual violence. TPI sent important information about filing a complaint to a survivor of sexual violence at Telford Unit on February 9, 2023, but that information was refused by the unit and returned as “undeliverable” even though the recipient was housed at the facility when the letter was mailed, and returned against TDCJ policy. The letter was also held for about two weeks before being returned, further delaying the conveyance of this important information. This is certainly interference with our efforts to assist the survivor.

Concerning PREA § 115.52(g), TPI has documented a number of instances where TDCJ has manipulated a report of sexual abuse to be consensual sex or manipulated a report in other ways to not only dismiss a good faith report of sexual violence, but then discipline the person reporting sexual abuse for making a good faith report of that abuse. We don’t have specific examples during the reporting period for Telford Unit, but this has occurred often enough that it should be specifically investigated during PREA audits.

Based on the auditor’s failure to learn about and address issues such as those brought up related to this standard, TPI does not believe a finding that the facility meets this standard can be reached at this time.

PREA § 115.61 discussion, staff and agency reporting duties

PREA § 115.61(a) requires staff to immediately report information related to sexual violence at the facility, retaliation for reporting sexual violence, and staff negligence in carrying out these responsibilities. TPI has documented seven counts of failure to report information related to sexual violence at the Telford Unit in the last 12 months. In one case, our correspondent reported ongoing sexual harassment (it is unclear if this was reported or not), an assault related to the correspondent’s refusal to provide sexual favors, and subsequent to the assault, the correspondent sent three I-60s as well as two emergency grievances to the unit safe prisons staff, all of which were ignored.

Based on what TPI knows about the history of abuses at Telford Unit and the failure of the auditor to consider information such as the above in the audit, which clearly indicates a specific



failure to comply with PREA § 115.61, TPI strongly believes that Telford Unit cannot be determined to meet the PREA § 115.61 standard.

PREA § 115.64 discussion, staff first responder duties

PREA § 115.64(a) states, in part, that first responders are to separate the alleged survivor and abuser. This is an extremely basic need to protect a survivor from their abuser. The auditor documents in this report that Telford Unit staff noted there were 35 allegations of sexual abuse in the last 12 months (see above for inconsistencies in the reported number being 35 or 39), but that the “first security staff member to respond to the report separated the alleged victim and abuse [only!] fourteen times.” An approximately one-third compliance rate should not indicate compliance with standard 115.64(a). In fact, based on this statement, this indicates a deliberate continuation of endangerment by first responders approximately two-thirds of the time.

If the auditor is claiming that separation had already occurred, then it should be stated that in the other 21 to 25 instances, the survivor was no longer accessible to the abuser. As the auditor reports that in at least 19 cases the alleged abuse had occurred within approximately 96 hours of the report, that seems to indicate that in at least five of the cases such a claim such of separation would not have been valid.

Review of the considerations in this audit report indicate serious failures to comply with PREA § 115.64, as well as serious deficiencies in the auditor’s assessment that Telford Unit meets this standard.

PREA § 115.67 discussion, agency protection against retaliation

Although the auditor parrots the Telford Unit warden’s words that “retaliation is not tolerated,” our long experience at Telford Unit indicates this statement has no basis in fact, and the auditor was grossly negligent in taking staff at their word without further confirmation based in fact. The auditor does state that “the Major, Security[,] and the USPPM have been identified as the individuals who is [*sic*] primarily responsible for monitoring retaliation,” and this statement is probably unintentionally more truthful than it was meant to be as all these individuals are likely responsible for most acts of retaliation carried out at the unit, and likely are very involved in condoning and directing such acts for retribution for speaking out about PREA issues.

TPI documented at least 14 counts of noncompliance with PREA § 115.67 in the 12 months preceding this audit. TPI Incident Number 2023-00180 documents harassment after reporting sexual abuse, and 2023-00182 documents retaliation carried out by staff, who placed her in cold cell torture for about two weeks after reporting sexual abuse. Due to the egregious nature of cold cell torture, TPI documents each day we confirm the torture as a separate count. This is a common tactic used by TDCJ staff to retaliate for reports of sexual abuse or sexual harassment: claim the person is either at risk of self-harm or needs to be placed in “security observation status” for other reasons, keep them locked up as retribution for their report. The latter SOS “status” was created only recently as a means of avoiding the requirement for mental health to confirm a need for cold cell “behavior modification” due to risk of self-harm.



Based on both our long history of dealing with abuses at Telford Unit and the reports of issues in the last 12 months, which are only a partial representation of the problems at Telford Unit, TPI asserts that the unit cannot be considered to meet this standard.

PREA § 115.68 discussion, post-allegation protective custody

As with the discussion under PREA §§ 115.42 and 115.43, TDCJ engages in egregious manipulation of what constitutes “protective custody” by making misleading statements about what “protective safekeeping” and “safekeeping designation” are. Also, in TPI’s experience, TDCJ automatically places all or almost all persons who report sexual abuse in involuntary protective custody (restricted housing for inmate protection investigation, or IPI) regardless of whether there are alternatives to such placement or not.

The statement that “the facility has not used segregated housing in the past 12-months [sic] for PREA related allegations” is absolutely false. It is a 100 percent certainty that some of the 35 or 39 persons reporting sexual abuse in the last 12 months were locked up in segregated housing, some for more than 24 hours, because of their report. That is segregated housing related to PREA allegations. It is a 100 percent certainty that some of the persons reporting sexual abuse in the last 12 months were locked up in CDO and SOS cells, some for far more than 24 hours, and that regardless of the paper excuses made by facility staff to cover up the segregation, this was segregated housing and it was related to PREA allegations. It is a 100 percent certainty that some of the persons in safekeeping housing, which is a form of segregated housing and protective custody under PREA, regardless of TDCJ’s denials, were housed in safekeeping housing due to PREA allegations. There is a zero percent chance that this statement by the auditor is factually correct.

It is also absolutely certain that because of the linguistic gymnastics TDCJ and Telford Unit staff participate in to deny all segregation, that Telford Unit failed to comply with documentation requirements under this standard.

The auditor blindly accepts the false information provided by TDCJ and Telford Unit staff that only protective safekeeping constitutes segregated housing.

The auditor completely fails to hold Telford Unit staff accountable for the required documentation of limited access to programs, privileges, education, and work opportunities that safekeeping (custody classification P2 through P5) always entails.

The auditor completely fails to hold Telford Unit staff accountable for the required 30-day review to determine if protective custody is a continuing need for persons housed in safekeeping custody.

There is no doubt that Telford Unit cannot be considered to meet PREA § 115.68, and there is no doubt that this report is seriously deficient in it’s consideration of compliance with this standard.



PREA § 115.72 discussion, evidentiary standards

One element of PREA § 115.72 is that it requires that no standard of evidence higher than a preponderance of the evidence (greater than a 50 percent chance of occurrence—essentially equal to a coin toss) be used in substantiating an allegation of sexual abuse.

It is difficult to understand why anyone would consider a claim that the preponderance of evidence standard is truthfully followed when out of either 35 or 39 reports of sexual abuse, not one of those reports had a greater chance of occurring than a 50/50 chance. Not one of those had even a coin toss's chance of having occurred. For that to be accepted, there must be serious manipulation of the evidence on the part of the investigators, done with the complicity of any auditor that accepts such claims as fact without substantial investigation.

Due to the extremely low rates of substantiated allegations, as reported in the most recent PREA Ombudsman report for calendar year 2022, it is highly unlikely that a preponderance of evidence standard is used anywhere in TDCJ. In that report, for allegations against staff, only 5 percent of 563 sexual abuse allegations were substantiated, 4 percent of 81 sexual harassment allegations were substantiated, and 0 percent of 168 voyeurism allegations were substantiated. These dismal accountability ratings are actually an improvement over the prior year. Amazingly, TDCJ seriously claims that almost half (261 of 563, or 46%) of the allegations of staff on incarcerated persons sexual abuse were objectively false reports, a statement truly beyond belief.

For allegations against other incarcerated persons, only 1.4 percent of 432 allegations of “nonconsensual sexual acts” were substantiated, and only 4.3 percent of 368 reports of “abusive sexual contacts” were substantiated. Regardless of one’s concerns about possible false reporting, these extremely low rates of substantiation indicate a preponderance of evidence is not the standard being used anywhere in the TDCJ system.

For Telford Unit, the data are even more remarkable. The auditor noted that for allegations against staff, 0 percent of 13 sexual abuse allegations were substantiated, only 4 sexual harassment allegations were even reported (an unbelievable claim in itself), with again 0 percent substantiated, and voyeurism allegations were not reported. For allegations against other incarcerated persons, 0 percent of 26 allegations of sexual abuse were substantiated, while surprisingly 32 percent (n=6) of 19 allegations of sexual harassment were substantiated. We would suggest that many more reports of sexual harassment were made, but “lost” or “disappeared,” and only the more egregious instances were allowed for investigation, thus resulting in an unusually high rate of substantiation.

Regardless of one’s concerns about possible false reporting, these truly and unbelievably low rates of substantiation indicate a preponderance of evidence is not the standard being used, that it is likely not all allegations are being appropriately reported or investigated, and that those that are being investigated are being manipulated or badly investigated.



It is truly astounding that data like this is not a red flag for an auditor, and that these numbers were just accepted blindly indicates a definite issue with the audit. Due to what can be seen from this report, it appears irresponsible, unprofessional, absolutely unacceptable that Telford Unit was assessed as being “fully compliant” with the PREA § 115.72 standard.

PREA § 115.82 discussion, access to emergency medical and mental health services

PREA § 115.82(a) states that incarcerated survivors of sexual abuse shall have unimpeded access to medical treatment and crisis intervention services. The auditor simply parrots policy and the unquestioned claims of staff concerning compliance with this standard. However, TPI has documented that in January 2023, within the audit period, at least one person reported sexual abuse and guards refused to take the survivor to medical. Only later in the month, when someone from mental health visited him in his segregated housing, was the survivor finally allowed to go to medical. This could only be considered as “well within the appropriate time frame” (the statement in the audit report) if the record were manipulated to leave out the earlier effort to report the incident and refusal to take the survivor to medical.

TPI has also documented that in May 2023, a captain discouraged the survivor from accessing medical services and from seeking a SANE exam, discussed earlier in this letter.

Incidents such as these indicate that contrary to the auditor’s problematic statement that the facility “meets every provision of the standard,” in fact there are serious deficiencies in compliance with this standard at Telford Unit.

Conclusion

TPI has documented a total of 841 incidents of violence against persons housed at Telford Unit, including 133 that occurred in the past 12 months. Of the total documented incidents, 324 involved noncompliance with some element of the PREA standards, with 63 PREA noncompliance issues documented in the last 12 months.

TPI is filing this letter of complaint based on information we have received; this should in no way be taken as a complete inventory of abuses occurring at Telford Unit, nor should it be considered a complete inventory of PREA deficiencies. This should be considered to itemize only a few of the problems with PREA compliance at Telford Unit.

Significant problems with the general audit information include:

- Audit entry 10: The auditor failed to contact sufficient community-based organizations with significant information about the conditions at Telford Unit.
- Audit entry 47: The auditor falsified information readily available concerning persons in segregated housing at the time of the audit.
- Audit entry 53: The auditor failed to conduct the absolute minimum number of required interviews with incarcerated persons.



- Audit entry 56: The auditor falsified the audit report by claiming to have completed the minimum number of interviews with incarcerated persons.
- Audit entry 65: The auditor failed to interview the minimum number of lesbian, gay, or bisexual persons.
- Audit entry 67: The auditor failed to interview the minimum number of persons who reported sexual abuse at the facility.
- Audit entry 68: The auditor failed to interview the minimum number of persons who disclosed prior sexual victimization.
- Audit entry 69: The auditor stated that 0 persons at the facility had every been placed in segregated housing for risk of sexual victimization when in fact that statement is false.
- Audit entries 95: The auditor failed to question inconceivably low rates of substantiation concerning allegations of sexual abuse.
- Audit entries 97: The auditor failed to question inconceivably low rates of substantiation concerning allegations of sexual harassment.

Significant problems with the assessment of compliance with PREA standards include:

- PREA § 115.31: TPI's long experience dealing with staff abuses at Telford Unit, along with issues documented in this report, indicate Telford Unit certainly does not exceed this standard, as the auditor contends, and that it is unlikely Telford Unit actually even comes close to meeting this standard.
- PREA § 115.34: TPI's long experience dealing with failures to provide adequate investigations into violence perpetrated at Telford Unit, as well as specific issues documented in this report by TPI, indicate Telford Unit does not meet this standard.
- PREA § 115.42: Statements by the auditor, as documented in this TPI report, indicate multiple deficiencies in the auditor's assessment of this standard. Some statements by the auditor are plainly false, some misconstrue the meaning of provisions in this standard, and the auditor fails to adequately consider some of the housing conditions for transgender persons at Telford Unit.
- PREA § 115.43: As is exhaustively documented in this TPI report, the auditor completely fails to understand or correctly apply an evaluation of protective custody as it is used in the PREA standards. The evaluation of any TDCJ facility with such an inaccurate understanding of housing assignments should be considered a failure to appropriately perform the audit.
- PREA § 115.61: The auditor failed to identify and address failures to meet this standard, as discussed in this TPI report.
- PREA § 115.64: The auditor failed to address the auditor's own statement that in only about one-third of the reports did first responders separate the survivor from their



assailant. That statement indicates noncompliance. Based on the information provided by the auditor, Telford Unit cannot be assessed as meeting this standard.

- PREA § 115.67: The auditor failed to identify and address clear cases of staff retaliation that indicate Telford Unit cannot be found to meet this standard.
- PREA § 115.68: As with §§ 115.42 and 115.43, the failure of the auditor to adequately address protective custody as it is used in TDCJ and at Telford Unit means based on the information in the auditor's report, Telford Unit cannot be assessed as meeting this standard.
- PREA § 115.72: The rates of substantiation presented by the auditor indicate Telford Unit is not using appropriate evidentiary standards, and thus cannot meet compliance with this standard.
- PREA § 115.82: As discussed in this TPI report, Telford Unit staff have interfered with access to emergency medical services, and there are indications staff have manipulated documentation to misrepresent the deficiency.

The auditor found that 6 standards were exceeded and 35 were met. One standard identified as being exceeded was PREA § 115.11, zero tolerance of sexual abuse and sexual harassment. However, the auditor noted that out of either 58 or 61 investigations of sexual abuse and sexual harassment, only 6 allegations of sexual harassment were substantiated, and not one out of 35 or 39 allegations of sexual abuse was substantiated. This in itself should call into question the validity of the audit in its entirety.

One additional standard identified as being exceeded was PREA § 115.31, employee training. TPI has years of experience dealing with abusive staff actions at Telford Unit, and we believe it beyond reason that Telford Unit could actually exceed legitimate training practices as required under PREA § 115.31.

We are requesting that:

- Telford Unit be required to conduct a subsequent audit to address deficiencies in the audit discussed in this letter.
- The auditor be required to follow PREA § 115.401(o) and contact each entity that may have significant information about Telford Unit, including TPI's publicly available documentation and PREA compliance issues at Telford Unit.
- The subsequent audit be required to conduct the minimum required number of interviews, as per the auditor handbook.
- The Telford Unit audit reflect the actual population of the unit, not TDCJ's abusive definition of the population as "male only." This concerns compliance with PREA § 115.15 and other standards that include gender-based considerations.



- Telford Unit be reassessed for actual compliance with training. This concerns compliance with PREA § 115.31 and other standards involving training.
- Telford Unit be reassessed for its actual use of investigative practices and use of evidentiary standards instead of its claims of compliance that are directly contradicted by the failure to substantiate any allegations of sexual abuse and few allegations of sexual harassment. This concerns compliance with PREA §§ 115.34, 115.71, 115.72, and possibly other standards.
- Telford Unit be reassessed for the actual use of segregated housing and protective custody rather than assessed on the unit's and agency's misrepresentation of these designations. This concerns compliance with PREA §§ 115.43, 115.68, and possibly other standards.

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: [name] Unit, by Trans Pride Initiative

cc: Department of Justice, Special Litigation Section
TDCJ CEO Bryan Collier
TDCJ PREA Coordinator Cassandra McGilbra
TDCJ PREA Ombudsman
Telford Unit Senior Warden Michael Feazel
Telford Unit PREA Manager Jenny Baird