PREA AUDIT REPORT ☐ INTERIM ■ FINAL

JUVENILE FACILITIES

NATIONAL PREA RESOURCE CENTER

BJA Bureau of Justice Assistance U.S. Department of Justice

Auditor Information			
Auditor name: Walter Sipple			
Address: Post Office Box 2502, Mount Pleasant, South Carolina 29465			
Email: waltersipple@comcast.net			
Telephone number: 843-323-8851			
Date of facility visit: March 20-21, 2016			
Facility Information			
Facility name: Robert L. Shell Juvenile Center			
Facility physical address: 2 O'Hanlon Place, Barboursville, West Virginia 25504			
Facility mailing address: *(if different from above)* Same as above			
Facility telephone number: 304-733-0871			
The facility is:	☐ Federal	■ State	☐ County
	☐ Military	☐ Municipal	☐ Private for profit
	☐ Private not for profit		
Facility type:	☐ Correctional	■ Detention	☐ Other
Name of facility's Chief Executive Officer: John A. Marchio			
Number of staff assigned to the facility in the last 12 months: 66			
Designed facility capacity: 25			
Current population of facility: 16			
Facility security levels/inmate custody levels: Maximum			
Age range of the population: 10 - 20			
Name of PREA Compliance Manager: William M. Reed		**Title:**	Lt.
Email address: william.m.reed@wv.gov		**Telephone number:**	304-733-0871
Agency Information			
Name of agency: Division of Juvenile Services			
Governing authority or parent agency: *(if applicable)* Division of Military Affairs and Public Safety			
Physical address: 1200 Quarrier Street, 2nd Floor, Charleston, West Virginia 25301			
Mailing address: *(if different from above)* Same as above			
Telephone number: 304-558-9800			
Agency Chief Executive Officer			
Name: Stephanie Bond		**Title:**	Division Director
Email address: stephanie.j.bond@wv.gov		**Telephone number:**	304-558-9800
Agency-Wide PREA Coordinator			
Name: Tim Harper		**Title:**	PREA Coordinator
Email address: timothy.v.harper@wv.gov		**Telephone number:**	304-558-9800

AUDIT FINDINGS

NARRATIVE:

The Prison Rape Elimination Act on-site audit of the Robert L. Shell Juvenile Center, located in Barboursville, West Virginia, was conducted on March 20-21, 2016. The audit was conducted by Walter Sipple, United States Department of Justice Prison Rape Elimination Act certified juvenile facilities auditor, and no others, operating as an independent contractor with no conflict of interest. The Robert L. Shell Juvenile Center is a male and female juvenile detention facility and part of the West Virginia Department of Military Affairs and Public Safety. The facility operates under the jurisdiction of the State of West Virginia and is classified as a hardware secure maximum security level, 25 maximum capacity facility, consisting of 2 separate two story housing units, smaller one story unit, and 2 intake cells.

The mission statement for the West Virginia Division of Juvenile Services is, as follows: "The Division of Juvenile Services is committed to providing effective, beneficial services to youth in the Juvenile Justice system that promote positive development and accountability, while preserving community safety and sustaining a work environment predicated upon principles of professionalism, with dignity and respect for all." The mission statement for the Robert L. Shell Juvenile Center is, as follows: "Provide an alternative to detention congruent to the need of youth who have been removed from their homes. Programming will provide short-term placement and stabilization pending a more permanent living arrangement. Through quality assessments juveniles will be assisted in the acknowledgement of poor decision making and negative behavior, while working toward positive outcomes set forth in each resident's individualized service program."

An entrance meeting was held with the facility director, facility security officer, agency level Prison Rape Elimination Act coordinator, and the auditor during the on-site portion of the audit. The auditor was allowed access to the agency and facility in order to conduct the audit. Following the entrance meeting, the auditor toured and observed operations at the facility. The auditor contact information was posted throughout the facility prior to the on-site phase of the audit.

A map of the facility was provided by the staff which consisted of the resident housing areas. A list of staff, volunteers, and contractors to include assignments and roles was provided to the auditor along with listings by cell for a random and objective selection of residents for interviews.

The auditor reviewed compliance with the Prison Rape Elimination Act standards based on a review of agency policy, procedure, practice, daily activities, documentation, observation, and interviews with staff and residents during the on-site portion of the Prison Rape Elimination Act audit. Interviews were conducted with outside agencies, to include but not limited to, the West Virginia Foundation for Rape Information and Services; Child Protect Advocacy Center of West Virginia; Cabell Huntington Hospital of Huntington, West Virginia; West Virginia Child Abuse Hotline; West Virginia State Police; County Sheriff's Department; Rape, Abuse, and Incest National Network; Prison Rape Elimination Act

Resource Center; Just Detention International; and the local rape crisis center "Contact" which maintains a 24 hour hotline, 1-866-399-7273, in Huntington, West Virginia. The Supreme Court of Appeals of West Virginia established the Adjudicated Juvenile Rehabilitation Review Commission as the mechanism whereby the Court can monitor and ensure that the juvenile justice system provides safe, nurturing living conditions as well as rehabilitative services. The West Virginia Supreme Court of Appeals – Administrative Office Juvenile Justice Commission is located at the Berkeley County Judicial Center, 380 West South Street, Suite 2102, in Martinsburg, West Virginia. A Commission representative visited the facility within the past 12 months as part of a regular visit and review. The facility is also accredited by the National Commission on Correctional Health Care, headquartered at 1145 W. Diversey Parkway, Chicago, Illinois.

An objective random sampling of staff, volunteer, resident, and contractor interviews was selected from a series of lists presented to the auditor by the facility. Last names were randomly selected by the auditor from an alphabetically ordered list. A total of thirteen agency and facility staff were interviewed per random sampling from the auditor. A total of four residents were interviewed per random sampling from the auditor, along with special category residents and a sampling identified during the in-take screening process. The auditor also conducted an after-normal-hours visit on March 20, 2016, to observe evening operations and interview night section staff. An exit interview was conducted at the end of the on-site visit by the auditor with the facility director, Prison Rape Elimination Act compliance manager, chief of security, head nurse, therapist, agency Prison Rape Elimination Act coordinator, and agency assistant Prison Rape Elimination Act Coordinator.

DESCRIPTION OF FACILITY CHARACTERISTICS:

The Robert L. Shell Juvenile Detention Center is located in a small rural community, at 2 O'Hanlon Place, in Barboursville, West Virginia. The facility site is on a hill near a highway intersection. The facility is also located next to a regional jail, but the facilities and operations are completely separated from each other. The facility was originally constructed in 2004 and opened in 2005 with a recent major renovation of the counseling and programs offices. The facility has a rated bed capacity of twenty-five (25) beds, with a current population listed at the time of the on-site portion of the audit of sixteen (16) residents. The facility consists of two separate two story housing units, smaller one story unit, and two intake cells.

The facility provides several programming elements, which includes, but is not limited to the following: Medical services, mental health services, gender specific training, rational emotive therapy, victim empathy, coping with a loss of loved ones, forward thinking, therapeutic community, educational services, voluntary religious services, library services, case management, active and passive recreation, crisis intervention services, individual and group counseling, and Prison Rape Elimination Act training.

The education program is operated by the West Virginia State Department of Education through the Office of Institutional Education. The education programs offered to the residents was individualized as well as comprehensive. The facility has fully certified educators.

SUMMARY OF AUDIT FINDINGS:

The pre-audit preparation included a thorough review of all primary (policy) and secondary (practice) documentation and materials submitted by the agency and facility along with the data included in the completed Pre-Audit Questionnaire to demonstrate compliance with the Prison Rape Elimination Act standards. The auditor was impressed with the thoroughness of the documentation submitted.

The auditor conducted a thorough facility-wide audit. A total of 17 sexual assault and sexual abuse harassment allegation cases were reported during the past 12 month period from the date of the audit. All 17 cases were referred for administrative investigation. The auditor received no inquiries or requests for an interview during the audit process or inquiries from the auditor posted contact information.

Overall, the interviews of residents reflected that they were aware of and understood the Prison Rape Elimination Act protections and the agency's zero tolerance policy. Residents receive written materials at intake that provide detailed information about Prison Rape Elimination Act protections, the multiple ways to report sexual abuse or sexual harassment and ways to protect themselves from abuse. Residents were able to articulate to the auditor what they would do and who they would tell if they were sexually abused. Residents consistently indicated to the auditor that they felt safe in the facility. All facility staff interviewed indicated they had received detailed Prison Rape Elimination Act training and could articulate the meaning of the agency's zero tolerance policy. Staff was knowledgeable about their roles and responsibilities in the prevention, reporting and response to sexual abuse and sexual harassment. They were trained on reporting mechanisms and first responder's protocol.

The auditor was impressed with the lodge like appearance and architecture of the Robert L. Shell Juvenile Center. The auditor noted that the facility had several experienced staff that worked at the facility since it opened providing operational consistency and stability. The commitment to Prison Rape Elimination Act compliance was evident throughout the audit by residents and staff. The auditor noted the high staff-to-resident ratio. The Robert L. Shell staff and residents were completely cooperative and helpful throughout the audit process. The education and counseling program was noteworthy. The auditor was impressed with the newly updated agency website, www.djs.wv.gov, and Prison Rape Elimination Act publicly accessible information. The auditor was impressed with the facility.

The auditor noted that this audit is the first of its kind for the facility, staff, and residents. The auditor stressed the importance of maintaining compliance during the exit briefing. Compliance is a continuous process for the facility and follow-up reviews by the agency and facility leadership is recommended.

Number of standards exceeded: 0.

Number of standards met: 41.

Number of standards not met: 0.

Number of standards not applicable: 0.

PREA Standard 115.311: Zero tolerance of sexual abuse and sexual harassment.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The auditor thoroughly reviewed the agency written policy toward sexual abuse and sexual harassment and it specifically outlines the agency's approach to preventing, detecting, and responding to such conduct. The agency employs an agency-wide Prison Rape Elimination Act coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the Prison Rape Elimination Act standards. The Prison Rape Elimination Act coordinator reports to the division director of the West Virginia Division of Juvenile Services. The Prison Rape Elimination Act compliance manager for the Robert L. Shell Juvenile Center is an experienced staff member and reports directly to the facility director as reflected in the facility organizational chart. The facility Prison Rape Elimination Compliance Manager represented the facility and agency very well.

The agency Prison Rape Elimination Act policy (151.00) states: "The Division of Juvenile Services has zero tolerance for the sexual misconduct of any staff against any resident in its custody or participating in any Division of Juvenile Services program. This policy is established to help prevent sexually abusive behavior, educate staff to intervene properly and timely, detect incidents, perpetrators and victims of sexually abusive behavior, investigate reported incidents and discipline and/or prosecute perpetrators. This policy applies to both staff-on-resident and resident-on-resident abuse".

The agency policy mandates a zero tolerance policy and an implementation plan is in place outlining how the agency will implement the zero-tolerance approach to preventing, detecting, and responding to sexual abuse and sexual harassment. The agency and facility has an easy to understand organizational chart and the auditor was provided a copy during the pre-audit phase of the audit. Robert L. Shell staff acknowledged an understanding of the zero tolerance policy. Robert L. Shell meets the standard and complies in all material ways with the standard for the relevant review period.

The auditor reviewed the agency policies and procedures (policy 151.00); observed facility practices; reviewed data provided by the facility staff; and interviewed residents and staff during an on-site visit and tour of the facility. The auditor was impressed with the level of commitment that the agency director, agency level coordinator, facility director, and facility level compliance manager had toward compliance with the standards. The auditor was impressed with the Robert L. Shell Juvenile Center's compliance with all of the standards. It was evident throughout the on-site phase of the audit process that all staff and residents have a thorough understanding of the agency policy and specifically the agency's zero tolerance policy. The policy forms the foundation contains necessary definitions, sanctions and descriptions of the agency strategies and responses to sexual abuse and sexual harassment.

Based on the above listed information, the facility meets the standard and complies with the standard for the relevant review period.

PREA Standard 115.312: Contracting with other entities for the confinement of residents.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The auditor interviewed the agency Prison Rape Elimination Act coordinator as well as contracting officials. The auditor received confirmation of non-agency confinement or detention facilities that confine or detain agency residents in accordance with agency policy (104.00). Specific contract documentation was received in reference to Youth Services System, Inc. confining residents at 87 15th Street, in Wheeling, West Virginia. The auditor completed an audit of the contracted facility in 2015 and confirmed compliance with the Prison Rape Elimination Act standards. The agency is in compliance with the standard for the relevant review period.

PREA Standard 115.313: Supervision and monitoring.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The auditor confirmed with the facility director that the staff develops, implements, and documents a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against sexual abuse. The facility takes the following 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 institution's/facility's/center's physical plant (including "blind-spots" or

areas where staff or residents may be isolated);

6) The composition of the resident 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;

11) Any other relevant factors.

In circumstances where the staffing plan is not complied with, the agency shall document and justify all deviations from the plan. Whenever necessary, but no less frequently than once each year, the agency shall assess, determine, and document whether adjustments are needed to:

1) The staffing plan established pursuant to the standard;

2) Prevailing staffing patterns;

3) The facility's deployment of video monitoring systems and other monitoring technologies; and

4) The resources the facility has available to commit to ensure adequate staffing levels.

The agency and facility maintains staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances, which are documented. Only security staff is included in these ratios. The auditor noted during the on-site visit that Robert L. Shell has an excellent staff-to-resident ratio and is well staffed.

The agency and facility is in the first year cycle of becoming a Prison Rape Elimination Act compliant facility. The auditor reviewed agency policy (policy 128.00 and 303.00). The agency and facility meets the standard and complies with the standard for the relevant review period. The auditor specifically interviewed the facility director and confirmed the required elements of the staffing plan along with documentation to support compliance. The auditor stressed and emphasized the importance of having and maintaining a thoroughly documented facility staffing plan and the facility director acknowledged the importance. The auditor recommended a webinar for future reference and training opportunities titled, "Developing and Implementing a Prison Rape Elimination Act Compliant Staffing Plan", from the National Prison Rape Elimination Act Resource Center at www.prearesourcecenter.org. The agency Prison Rape Elimination Act coordinator also received reference material from the auditor.

PREA Standard 115.315: Limits to cross-gender viewing and searches.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The agency and facility has a written policy (308.00, 303.00, 406.00, 304.00, and 500.00) that prohibits any cross-gender strip searches or cross-gender visual body cavity searches except in exigent circumstances or when performed by medical practitioners.

The agency and facility provided the auditor with complete verifiable documentation addressing compliance with the standard. Specifically, the auditor received PowerPoint and video guidance training developed by the Moss Group in coordination with the Prison Rape Elimination Act Resource Center titled, "Guidance on cross-gender and transgender searches". The facility provided the auditor with documentation in memo format confirming no cross-gender searches conducted within the past 12 month period along with confirmation of updated staff training prior to the on-site phase of the audit.

PREA Standard 115.316: Residents with disabilities and residents who are limited English proficient.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The agency and facility takes appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. The agency takes reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to residents who are limited English proficient. An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burden, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164.

The auditor was able to confirm compliance with agency policy (151.00, 500.04, and 500.01), observation, and interviews. The Division of Juvenile Services and Robert L. Shell Juvenile Center is in compliance with the standard for the relevant rating period.

PREA Standard 115.317: Hiring and promotion decisions.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The agency and facility does not hire or promote anyone who may have contact with residents, and does not enlist the services of any contractor who may have contact with residents, who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution, has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or has been civilly or administratively adjudicated to have engaged in the activity described.

The agency and facility considers any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents. The agency and facility performs a criminal background records check before enlisting the services of any contractor who may have contact with residents. A process is in place for criminal background checks at least every five years for current employees and contractors who may have contact with residents.

An interview with agency and facility staff confirmed compliance with the Prison Rape Elimination Act standard. Each new hire along with volunteers and contractors receive a thorough background screening. This screening specifically includes criminal background checks through the National Crime Information Center. A sampling of new hires or promotions in the last 12 months not only revealed thorough background checks, but a quality recruiting program for new staff. The auditor noted several seasoned staff with many years of experience working with juveniles and knowledgeable concerning agency policies and procedures.

The auditor specifically interviewed Robert L. Shell uniformed security section staff per random sampling and alternative shifts. The auditor reviewed the agency policies and procedures (agency policy 125.00, 129.00, 131.00 311.00, and 132.00); observed agency and facility practices; reviewed data and documentation provided by the facility staff; and interviewed staff during an on-site visit and tour of the facility. The Robert L. Shell Juvenile Center reported 66 criminal background checks conducted during the past 12 month period on the pre-audit questionnaire. The auditor was impressed with the quality of staff hires for the facility. The agency and Robert L. Shell Juvenile Center meets the standard and complies with the standard for the relevant review period.

PREA Standard 115.318: Upgrades to facilities and technologies.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The facility completed a perimeter fence upgrade in height from 6' to 12' and is scheduled for a major video camera system upgrade in the summer of 2016. During the on-site visit, the facility was in the process of completing a counselor and programs office upgrade. The facility's director of security and facility director have done a good job of facility upgrades and maintenance.

The auditor was impressed with the proposed camera system upgrade. The facility staff maximizes the full use of the facility to the greatest extent possible. The residents are kept fully engaged with multiple and varied programs throughout the facility. The auditor reviewed the agency policies and procedures (policy 125.00); observed facility practices; reviewed data and documentation provided by the facility staff; and interviewed staff during an on-site visit and tour of the facility. The agency and facility meets the standard and complies with the standard for the relevant review period.

PREA Standard 115.321: Evidence protocol and forensic medical examination.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: 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 prosecution. The auditor reviewed agency policy 111, 151, 324, and 413 to confirm compliance with the standard. The facility utilizes a multidisciplinary team investigation protocol for responding to child victims of abuse. The auditor also received a memorandum of understanding between the facility and the West Virginia State Police, specifically the ChildFirst forensic interview protocol. The auditor contacted the Child Protect Advocacy Center and Cabell Hospital in Huntington, West Virginia. The auditor received confirmation that the Cabell Hospital forensic examiners have credentials for pediatric sexual assault examiners training. It is a regional full service hospital located at 1340 Hal Greer Boulevard, in Huntington, West Virginia, (304) 526-2000. The facility and agency reported no forensic medical exams conducted during the past 12 months and meets the standard.

PREA Standard 115.322: Policies to ensure referrals of allegations for investigations.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The agency and facility refers all criminal investigations to the West Virginia State Police and conducts administrative investigations at the facility level. The agency has a team of dedicated staff investigators. The auditor interviewed the staff investigators and reviewed the sexual abuse and sexual harassment case files during the on-site visit and phase of the audit process.

Per West Virginia Code of Laws 61-8B-10: Any person employed by the Division of Juvenile Services who engages in sexual intercourse or sexual intrusion with a person who is incarcerated in this State is guilty of a felony. The agency and facility has staff sign training acknowledgement forms.

The Robert L. Shell Juvenile Center reported 17 allegations in the past 12 months that were investigated. All were referred to administrative level investigations. The auditor reviewed the agency and facility policies and procedures (policy 324.00, 151.00, and 111.00); observed agency practices; reviewed data provided by the facility staff; and interviewed residents and staff during an on-site visit and tour of the facility. The auditor confirmed the agency and facility investigators completion of specialized investigative training. The auditor was impressed with the investigative reports completed by the agency. Based on the above listed information, the facility meets the standard.

PREA Standard 115.331: Employee training.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The agency and facility performs Prison Rape Elimination Act pre-service and in-service training. Specifically, the agency trains all employees who have contact with residents on the following:

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) Resident's right to be free from sexual abuse and sexual harassment;

4) The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment;

5) The dynamics of sexual abuse and sexual harassment in juvenile facilities;

6) The common reactions of juvenile victims of sexual abuse and sexual harassment;

7) How to detect and respond to signs of threatened and actual sexual abuse;

8) How to avoid inappropriate relationships with residents;

9) How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents;

10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities; and

11) Relevant laws regarding the applicable age of consent.

The auditor reviewed the agency and facility policies and procedures (policy 162.00) along with secondary documentation (practice) submitted with the pre-audit questionnaire; observed agency and facility practices; reviewed data and documentation provided by the agency and facility staff; and interviewed residents and staff during an on-site visit and tour of the facility. The auditor received copies of specific lesson plans. The agency and Robert L. Shell meet the standard at this time.

PREA Standard 115.332: Volunteer and contractor training.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The auditor interviewed both volunteer and contractor staff assigned to the Robert L. Shell Juvenile Center and confirmed receipt and understanding of specific Prison Rape Elimination Act training requirements. The auditor was impressed with the facility contract staff, from the teachers to the nursing staff.

The auditor reviewed the agency and facility policies and procedures (policy 167.00); observed agency and facility practices; reviewed data and documentation provided by the facility staff; and interviewed volunteers and contractors during an on-site visit and tour of the facility. The agency and facility meets the standard for this relevant review period.

PREA Standard 115.333: Resident Education.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The facility reports that 315 residents have been admitted in the past 12 months and all have been provided comprehensive age-appropriate information within 10 days of intake. Prison Rape Elimination Act resident education options were duplicative to include but limited to postings on walls throughout the facility, brochures, handbook, and videos. During the intake process, residents 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. Each resident receives additional written information in the form of a resident rules and regulations handbook. The agency and facility provides a comprehensive education to residents 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.

The Prison Rape Elimination Act compliance staff utilizes a resident video as part of the training curriculum. The auditor confirmed Prison Rape Elimination Act related education and training within a very short period of arrival time. The auditor also interviewed intake staff.

The interviews of residents reflected that they were aware of and understood the Prison Rape Elimination Act protections and the agency's zero tolerance policy. Residents receive written material at intake that provides detailed information about Prison Rape Elimination Act protections and the multiple ways to report sexual abuse or harassment. The auditor reviewed the agency and facility policies and procedures (policy 151.00 and 502); observed facility practices; reviewed data and documentation provided by the facility staff; and interviewed residents and staff during an on-site visit and tour of the facility. The agency and facility meets the standard for the relevant review period.

PREA Standard 115.334: Specialized training: Investigations.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The agency maintains headquarters level investigators that are coordinated through the Prison Rape Elimination Act coordinator. The auditor confirmed that they received

specialized training in accordance with the standard. Specifically, the investigative staff completed National Institute of Corrections investigator training which fully complies with the standard. Any cases that involve criminal investigations are referred to the West Virginia State Police. Specialized training included such things as techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. The agency and facility training is in accordance with the Prison Rape Elimination Act standard.

The auditor interviewed the investigator and reviewed investigative files specifically related to Prison Rape Elimination Act incidents. The auditor reviewed the agency and facility policies and procedures (policy 151.00); observed agency and facility practices; reviewed data and documentation provided by the agency and facility staff; and interviewed residents and staff during an on-site visit and tour of the facility. The Division of Juvenile Services and Robert L. Shell Juvenile Center meets the standard and complies with the standard for the relevant review period.

PREA Standard 115.335: Specialized training: Medical and mental health care.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The agency and facility contracts with a company, PRIMECARE Medical, Inc., for on-site resident medical care (nurses), and PSIMED for mental health care (therapist). The auditor verified specialized training completion for the facility medical and mental health care staff. Specifically, the nursing staff completed the National Institute of Corrections specialized training for medical and mental health care. The auditor interviewed the facility medical nurse and was thoroughly impressed with her knowledge and expertise. The medical and mental health staff interviewed was knowledgeable in reference to the Prison Rape Elimination Act training. The agency and facility ensures that all full, part-time, and contract medical and mental health care practitioners who work regularly with residents 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 juvenile victims of sexual abuse/harassment; and

4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

The auditor reviewed the agency and facility policies and procedures (policy 162.00 and PRIMECARE Medical policy C, Y-B-05 and 06); observed agency and facility practices; reviewed data and documentation provided by the agency and facility staff; and interviewed residents and staff during an on-site visit and tour of the facility. The agency and Robert L. Shell Juvenile Center meet the standard and complies with the standard for the relevant review period.

PREA Standard 115.341: Screening for risk of victimization and abusiveness.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The auditor completed a required webinar in April 2016 from the PREA Resource Center in reference to resident intake. Based on interviews with random residents and intake staff, all residents are assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other residents or sexually abusive toward other residents. Intake screening shall ordinarily take place within 72 hours of arrival and more often is completed within 24 to 48 hours of arrival. Such assessments shall be conducted using an objective screening instrument. The intake screening shall consider, at a minimum, the following criteria to assess resident for risk of sexual victimization:

1) Prior sexual victimization or abusiveness;

2) Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse;

3) Current charges and offense history;

4) Age;

5) Level of emotional and cognitive development;

6) Physical size and stature;

7) Mental illness or mental disabilities;

8) Intellectual or developmental disabilities;

9) Physical disabilities;

10) The resident's own perception of vulnerability; and

11) Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents.

The initial screening considers prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing residents for risk of being sexually abusive. A resident's risk level is reassessed from the resident's arrival when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness.

The agency and facility implements appropriate controls on the dissemination within the agency of responses to questions asked pursuant to this standard or order to ensure that sensitive information is not exploited to the resident's detriment by staff or other residents. Only limited staff has access to the risk screening form such as medical, mental health, executive director, facility director, as well as the Prison Rape Elimination Act coordinator.

The auditor interviewed the facility staff responsible for resident intake screening. The intake staff acknowledged the importance of the resident intake screening process. PRIMECARE and PSIMED staff understood the process as well as the Prison Rape Elimination Act standard.

The auditor reviewed the agency and facility policies and procedures (policy 151.00, 500.00, and PRIMECARE Medical policy C,Y-B-05); observed agency and facility practices; reviewed data and documentation provided by the agency and facility staff; and interviewed residents and staff during an on-site visit and tour of the facility. The agency and Robert L. Shell Juvenile Center meet the standard and complies with the standard for the relevant review period.

PREA Standard 115.342: Use of screening information.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The auditor completed a required webinar in April 2016 from the PREA Resource Center in reference to PREA Standard 115.342. The auditor confirmed that agency policy 500.00, Intake and Admission, complies with the standard. The resident's own perception of vulnerability is seriously considered during the intake process. The auditor observed and reviewed the agency's and facilities risk-based housing decisions and screening form. The agency and facility uses information from the risk screening to inform housing, cell, bed, work, and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive. Specifically, the auditor interviewed PRIMECARE and PSIMED staff.

The auditor reviewed the agency and facility policies and procedures (policy 332, 500.01 and 500.00); observed agency and facility practices; reviewed data and documentation provided by the agency and facility staff; and interviewed residents and staff during an on-site visit and tour of the facility. The agency and Robert L. Shell Juvenile Center meet the standard and complies with the standard for the relevant review period. The auditor was impressed with the nursing staff.

PREA Standard 115.351: Resident reporting.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The agency and facility has multiple ways for resident reporting of sexual abuse and sexual harassment, retaliation by other residents or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. The auditor tested the resident phone system to confirm agency and facility access for resident reports of sexual abuse and sexual harassment to agency and facility officials. The auditor contacted the local rape crisis center, CONTACT, at (304) 523-0558, and they confirmed no calls were received from residents within the last year. The auditor also contacted Just Detention International, which is a national advocacy organization, and they stated that they have not fielded any calls or contacts related to the facility. The auditor interviewed residents and they were well informed concerning the resident reporting process for anything related to the Prison Rape Elimination Act.

The agency has an agreement with the West Virginia Supreme Court of Appeals – Administrative Office Juvenile Justice Commission as an outside agency reporting option for residents. The auditor reviewed the agency and facility policies and procedures (policy 335.00, 334, 151, and Resident Handbook); observed agency and facility practices; reviewed data and documentation provided by the facility staff; interviewed outside organizations; and interviewed residents and staff during an on-site visit and tour of the facility. The auditor tested the resident phones. The agency and facility meets the standard.

PREA Standard 115.352: Exhaustion of administrative remedies.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The facility or agency does not require a resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse. The agency ensures that a resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint. 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. The agency and facility reported no third-party assistance for residents during the past 12 months. The agency and facility has established procedures for the filing of an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse. After receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse, the agency immediately forwards the grievance to a level of review at which immediate corrective action is taken and provides 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 resident is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance. The facility reported 17 allegations within the past 12 months related to sexual abuse or sexual harassment which were processed at the administrative level.

The Robert L. Shell grievance procedure per the resident handbook is as follows: "Any issue that is unresolved by staff to a resident's satisfaction can result in a formalized grievance procedure. Residents shall not be required to discuss any grievance with any staff involved or unit staff prior to filing a grievance. A resident may submit a written and signed grievance form to be placed in a locked Grievance Box located in the dayroom. This box can only be opened by the Facility Director or the Grievance Coordinator. Any resident who has difficulty writing shall receive assistance in preparing their grievance. A resident may appeal any decision of the Facility Director to the Division Director via privileged mail."

The auditor reviewed the agency and facility policies and procedures (policy 332.00, 151.00 and West Virginia Code of Laws 49-5-16a); observed agency and facility practices; reviewed data provided by the agency and facility staff; reviewed the resident handbook concerning the grievance process; and interviewed residents and staff during an on-site visit and tour of the facility. The auditor received a copy of the resident handbook to confirm compliance with the standard. The agency and Robert L. Shell Juvenile Center meets the standard for the relevant rating period.

PREA Standard 115.353: Resident access to outside confidential support services.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The agency and facility has a documented memorandum of agreement with the West Virginia Supreme Court of Appeals – Administrative Office Juvenile Justice Commission for resident access to outside confidential support services. The Division of Juvenile Services hotline is 1-855-366-0015. The auditor personally tested the resident phone system and access numbers during the on-site visit portion of the audit. The auditor also received confirmation point of contact information that addresses potential immigration concerns. The auditor received a copy of the resident handbook and self-addressed envelopes for reporting through the mail that residents can access. CONTACT Rape Crisis Center, 1040 6th Avenue, in Huntington, West Virginia is the local community-based crisis center. The West Virginia State Police are responsible for any criminal investigations.

The auditor reviewed the agency and facility policies and procedures (policy 333.00 and 509.00), observed agency and facility practices, reviewed data provided by the agency and facility staff, interviewed outside agencies, and interviewed residents and staff during an on-site visit and tour of the facility. Based on the above listed information, the agency and Robert L. Shell Juvenile Center meets the standard for the relevant review period.

PREA Standard 115.354: Third-party reporting.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The auditor confirmed that the agency and facility has policies and procedures, specifically policy 151.00, along with a parent or guardian flier that third-party reports will be accepted. The agency offers opportunities for third-party reporting on the agency website. The auditor verified through staff interviews that they are aware of and concur with reporting requirements in accordance with the agency policy and Prison Rape Elimination Act standard. The West Virginia Supreme Court of Appeals – Administrative Office Juvenile Justice Commission is located at the Berkeley County Judicial Center, 380 W. South Street, Suite 2102, Martinsburg, West Virginia. The West Virginia State Police are responsible for criminal investigations. Child Protect of Mercer County, West Virginia, is an outside agency organization. The West Virginia Child Abuse Hotline is 1-800-352-6513. The West Virginia State Police contact number is 304-425-2101. The local rape crisis center hotline is 304-340-3676.

The auditor reviewed the agency and facility policies and procedures (policy 151.00); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed residents and staff during an on-site visit and tour of the facility. Based on the above listed information, the agency and Robert L. Shell Juvenile Center meet the standard and complies with the standard for the relevant review period.

PREA Standard 115.361: Staff and agency reporting duties.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: Based on a review of agency policy, procedure, and practice along with staff interviews, the agency requires 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 any facility, whether or not it is part of the agency; retaliation against residents or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

Other than 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. Unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse, and inform residents of the practitioner's duty to report, and the limits of confidentiality, at the initiation of services.

The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators. West Virginia Code of Laws 49-1-3 specifically consists of reporting requirements in reference to any form of child abuse and neglect.

If the alleged victim is a vulnerable adult under a State or local vulnerable person's statute, the agency shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.

The auditor reviewed the agency and facility policies and procedures (policy 111.00 and 335.00) along with West Virginia Code of Laws 49-1-3; observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed residents and staff during an on-site visit and tour of the facility. Based on the above listed information, the agency and facility meets the standard and complies with the standard for the relevant review period.

PREA Standard 115.362: Agency protection duties.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The auditor confirmed through agency policies and procedures along with staff and resident interviews that they will act immediately to any and all residents in imminent danger or substantial risk of sexual abuse. When the agency learns that a resident is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the resident. Specifically, the auditor interviewed both agency and facility uniformed line officer staff. Additionally, the agency and facility has a specialized housing policy. The facility reported to the auditor of no residents determined to be at risk of imminent sexual abuse within the past 12 months.

The auditor reviewed the agency and facility policies and procedures (policy 332.00); observed agency and facility practices; reviewed data provided by the agency and facility staff; and interviewed residents and staff during an on-site visit and tour of the facility. Based on the above listed information, the agency meets the standard and complies with the standard for the relevant review period.

PREA Standard 115.363: Reporting to other confinement facilities.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: Upon receiving an allegation that a resident 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. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. The agency and facility document that it has provided such notification. The head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with the Prison Rape Elimination Act standard.

The auditor reviewed the agency and facility policies and procedures (policy 151.00 and 335.00); West Virginia Code of Laws 49-1-3; observed agency and facility practices; reviewed data provided by the agency and facility staff; and interviewed residents and staff during an on-site visit and tour of the facility. Based on the above listed information, the agency and facility meets the standard and complies with the standard for the relevant review period.

PREA Standard 115.364: Staff first responder duties.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: Based on agency and facility policy and procedures along with agency staff and resident interviews during the on-site portion of the audit, upon learning of an allegation that a resident was sexually abused, the first staff member to respond to the report shall: separate the alleged victim and abuser; preserve and protect any crime scene until appropriate steps can be taken to collect any evidence; if the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and 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.

If the first responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff. The auditor reviewed an agency and facility generated check list for first responder use.

The auditor reviewed the agency and facility policies and procedures (policy 324.00 and 151.00); agency and facility crime scene check off list per policy 324.00; observed agency and facility practices; reviewed data provided by the agency and facility staff; and interviewed residents and staff during an on-site visit and tour of the facility. Based on the above listed information, the agency and facility meet the standard and complies with the standard for the relevant review period.

PREA Standard 115.365: Coordinated response.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The agency and facility has a coordinated response to an incident of sexual abuse among staff first responders, medical, and mental health practitioners, investigators, and facility leadership. The auditor reviewed the agency and facility policies and procedures (policy 324); observed agency and facility practices; reviewed data provided by the agency and facility staff; and interviewed

residents and staff during an on-site visit and tour of the facility. Based on the above listed information, the agency and facility meets the standard. The auditor received primary/policy and secondary/practice documentation to confirm compliance.

PREA Standard 115.366: Preservation of ability to protect residents from contact with abusers.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: Neither the agency nor any other government entity responsible for collective bargaining on the agency's behalf entered into or renewed any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with any residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

The agency and facility has no collective bargaining as verified with the agency during the on-site portion of the audit. The auditor also received confirmation in the form of a written memorandum from the agency Prison Rape Elimination Act coordinator that no collective bargaining exists. The staff is fully aware that a violation of policy may more than likely result in termination. The auditor reviewed the agency and facility policies and procedures (policy 151.00); observed agency and facility practices; reviewed data provided by the agency and facility staff; and interviewed residents and staff during an on-site visit and tour of the facility. Based on the above listed information, the agency and facility meet the standard and complies with the standard for the relevant review period.

PREA Standard 115.367: Agency protection against retaliation.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The facility reported zero incidents of retaliation reported, known or suspected within the past 12 months. The agency and facility protects all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff. The agency and facility shall employ multiple protection measures, such as cell changes or transfers for resident victims or abusers, removal of alleged staff

or resident abusers from contact with victims, and emotional support services for residents or staff that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. The agency has a code of conduct policy (policy 125) related to the Prison Rape Elimination Act.

For at least 90 days following a report of sexual abuse, the agency monitors the conduct and treatment of residents or staff who reported the sexual abuse and of residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff, and shall act promptly to remedy any such retaliation. The Prison Rape Elimination Act coordinator and compliance manager monitors resident disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. Monitoring continues beyond 90 days if the initial monitoring indicates a continuing need. Monitoring also includes periodic status checks. Any other individuals who cooperate with an investigation expresses a fear of retaliation, the agency takes appropriate measures to protect that individual against retaliation.

The Prison Rape Elimination Act coordinator and compliance manager confirmed no incidents of retaliation during the past 12 month period from the date of the audit. The auditor reviewed the agency and facility policies and procedures (policy 151.00 and 125) along with the West Virginia Code of Laws 49-5E-1; observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed residents and staff during an on-site visit and tour of the facility. Based on the above listed information, the agency and facility meets the standard and complies with the standard for the relevant review period. Agencies must establish a policy for the protection of residents and staff who report sexual abuse or sexual harassment, or cooperate with investigations of sexual abuse or sexual harassment. They policy shall designate staff members or departments within the agency that are responsible with monitoring any retaliation. Agencies must utilize multiple strategies to inhibit and prevent retaliation. The agency and facility meet the standard for the relevant review period.

PREA Standard 115.368: Post-allegation protective custody.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The agency and facility has a protective custody policy and procedure. The auditor thoroughly reviewed agency policy (332.00) and it has several provisions for any form of protective custody. Any use of segregated housing to protect a resident who is alleged to have suffered sexual abuse shall be subject to the requirements of protective custody policy and procedure. The facility has two intake cells adjacent to a post that is staffed 24 hours a day. The agency Prison Rape Elimination Act coordinator and facility compliance manager reported no residents being placed in involuntary

segregation in accordance with protective custody policy and Prison Rape Elimination Act standard 115.342 during the previous 12 months prior to the audit.

The auditor reviewed the Robert L. Shell Juvenile Center's segregation unit during the facility visit. The auditor reviewed the agency and facility policies and procedures (policy 332.00 – Specialized Housing); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed residents and staff during an on-site visit and tour of the facility. Based on the above listed information, the agency and facility meet the standard and complies with the standard for the relevant review period.

PREA Standard 115.371: Criminal and administrative agency investigations.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The agency has numerous investigators assigned and is responsible for first responder investigative duties along with agency and facility administrative type of investigations. Any criminal investigation will be referred to the West Virginia State Police as the criminal investigating agency.

Per the standard, when an 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.

Where sexual abuse is alleged, the agency shall use investigators who have received special training in sexual abuse investigations involving juvenile victims pursuant to Prison Rape Elimination Act Standard 115.334. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and deoxyribonucleic acid (DNA) evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator. 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. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as resident or staff. No agency shall require a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. The auditor interviewed the agency's investigator and was impressed with his knowledge and experience.

The agency investigators are assigned to a division within the agency headquarters. The agency has an acknowledgement form for staff specifically referencing the required Garrity warning.

Administrative investigations include efforts to determine whether staff actions or failures to act contributed to the abuse; and are documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. Criminal investigations are 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. Substantiated allegations of conduct that appears to be criminal are referred for prosecution. The agency retains all written reports for as long as the alleged abuser is incarcerated or employed by the agency, plus five years. The auditor received and reviewed written reports and investigations provided by the investigator to confirm compliance with the standard.

The auditor reviewed the agency and facility policies and procedures (policy 111.00 and 151); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed residents and staff during an on-site visit and tour of the facility. Based on the above listed information, the agency and facility meet the standard and complies with the standard for the relevant review period. The agency computer-based programs are impressive.

PREA Standard 115.372: Evidentiary standard for administrative investigations.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The agency has numerous investigators assigned as administrative investigators for the statewide facilities. The agency and facility answered no on the audit questionnaire in reference to if the agency and facility imposes no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

The auditor reviewed the agency and facility policies and procedures (policy 151.00 and 111.00); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed residents and staff during an on-site visit and tour of the facility. Based on the above listed information, the agency and facility meets the standard and complies with the standard for the relevant review period.

PREA Standard 115.373: Reporting to residents.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The Prison Rape Elimination Act compliance manager is responsible for reporting back to any residents in reference to any Prison Rape Elimination Act related incidents. The agency and facility informs the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. Based on the agency's policy, following a resident's allegation that a staff member has committed sexual abuse against a resident, the agency shall subsequently inform the resident (exception being if the allegation is determined to be unfounded) whenever:

1) The staff member is no longer employed by the agency;

2) The staff member is no longer posted within the resident's unit;

3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the agency; or

4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the agency.

Following a resident's allegation that he has been sexually abused by another resident, the facility shall subsequently inform the alleged victim whenever: The facility learns that the alleged abuser has been indicted on a charge related to sexual abuse within the agency; or the facility learns that the alleged abuse has been convicted on a charge related to sexual abuse within the agency.

All such notifications or attempted notifications are documented and retained by the agency Prison Rape Elimination Act compliance manager. The agency's obligation to report under this standard shall terminate if the resident is released from the agency's custody.

Per agency and facility policies and procedures (policy 334.00 and 151); observed agency and facility practices; reviews of data provided by the agency and facility staff; interviews with outside agencies; and interviews with residents and staff during an on-site visit and tour of the facility, compliance is met.

PREA Standard 115.376: Disciplinary sanctions for staff.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The auditor interviewed the facility director. Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment are commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

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.

The auditor reviewed the investigative files during the on-site portion of the audit. The auditor reviewed the agency and facility policies and procedures (policy 138.00); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed residents and staff during an on-site visit and tour of the facility. Based on the above listed information, the Division of Juvenile Services and Robert L. Shell Juvenile Center meets the standard and complies with the standard for the relevant review period.

PREA Standard 115.377: Corrective action for contractors and volunteers.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The auditor interviewed contractors and volunteers during the on-site portion of the audit. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with residents and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. Appropriate steps are taken in reference to remedial measures, and consideration made whether to prohibit further contact with residents, in the case of any other violation of agency and facility sexual abuse or sexual harassment policies by a contractor or volunteer. The agency and facility reported no incidents of sexual abuse by contractors or volunteers within the past 12 months of the audit.

The auditor interviewed a random sampling of contractors and volunteers assigned to the Robert L. Shell Juvenile Center. The auditor was impressed with the facility contractors and volunteers. The auditor briefed the facility director concerning contractors and volunteers as part of the on-site portion of the audit. The auditor received a written memorandum from the facility Prison Rape Elimination Act compliance manager and facility director that no contractor or volunteer corrective actions initiated during the previous 12 month period.

The auditor reviewed the agency and facility policies and procedures (policy 151.00, 138, 311); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed residents and staff during an on-site visit and tour of the facility. Based on the above listed information, the agency and facility does meet the standard and complies with the standard for the relevant review period.

PREA Standard 115.378: Interventions and disciplinary sanctions for residents.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The auditor interviewed the Robert L. Shell Juvenile Center Prison Rape Elimination Act compliance manager during the on-site phase of the audit process. Sanctions are commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories. The disciplinary process considers whether a resident's mental disabilities or mental illness contributed to their behavior when determining what type of sanction, if any, should be imposed.

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. The agency and facility prohibits all sexual activity between residents and may discipline residents for such activity. In the event a disciplinary sanction results in the isolation of a resident, agencies shall not deny the resident daily large-muscle exercise or access to any legally required educational programming or special education services. Residents in isolation shall receive daily visits from a medical or mental health care clinician. Residents in isolation shall also have access to other programs and work opportunities to the extent possible. 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 offer the offending resident participation in such interventions.

The auditor was impressed with the agency and facility computer-based operations system. The auditor reviewed the Division of Juvenile Services and Robert L. Shell Juvenile Center policies and procedures (policy 330.00); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed residents and staff during an

on-site visit and tour of the facility. Based on the above listed information, the agency and facility meets the standard and complies with the standard for the relevant review period.

PREA Standard 115.381: Medical and mental health screenings; history of sexual abuse.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The West Virginia Division of Juvenile Services contracts with PRIMECARE for medical health services and PSIMED for mental health services. If the medical and mental health screening indicates that a resident has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, agency staff ensures that the resident is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening. If the screening indicates that a resident has previously perpetrated sexual abuse or sexual victimization, whether it occurred in an institutional setting or in the community, agency and facility staff shall ensure that the resident is offered a follow-up meeting with a mental health practitioner within 14 days of the intake process. PSIMED staff has an immediate contact protocol consisting of the headquarters staff for the Division of Juvenile Services, State Police if applicable, and the West Virginia Child Abuse Hotline. The auditor received documentation, company policy, and assessment and screening forms from the facility. The facility policy specifically references and is in accordance with the West Virginia Code of Law Chapter 49 – Child Welfare.

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 agency staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, and program assignments, or as otherwise required by Federal, State, or local law. Medical and mental health practitioners shall obtain informed consent from residents before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the resident is under the age of 18.

The auditor interviewed the facility nursing staff, counseling staff, and the resident intake staff. The auditor reviewed the agency and facility policies and procedures (policy 335.00, 151.00, West Virginia Code of Law 49 – Child Welfare, and PRIMECARE policy); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed residents and staff during an on-site visit and tour of the facility. Based on the above listed information, the agency and facility meets the standard. The auditor was impressed with the expertise of the nursing staff and mental health therapist.

PREA Standard 115.382: Access to emergency medical and mental health services.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The facility has access to Cabell Hospital of Huntington, West Virginia. Resident victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment. 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 take preliminary steps to protect the victim and shall immediately notify the appropriate medical and mental health practitioners. Resident victims of sexual abuse while incarcerated are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. Treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

Robert L. Shell Juvenile Center staff provided the auditor with secondary documentation confirming compliance with the standard. The auditor reviewed the agency and facility policies and procedures (policy 413.00 and 151.00); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed residents and staff during an on-site visit and tour of the facility. Robert L. Shell meets compliance with the standard.

PREA Standard 115.383: Ongoing medical and mental health care for sexual abuse victims and abusers.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The agency and facility offers medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in the facility. The evaluation and treatment of such victims include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other

facilities, or their release from custody. The agency and facility provides such victims with medical and mental health services consistent with the community level of care. Resident victims of sexual abuse while incarcerated are offered tests for sexually transmitted infections as medically appropriate. Resident victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. If pregnancy results from abusive vaginal penetration, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services. Treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

The auditor interviewed the facility nursing staff, therapist, and counseling staff during the on-site portion of the Prison Rape Elimination Act audit. The auditor reviewed the agency and facility policies and procedures (policy 151.00); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed residents and staff during an on-site visit and tour of the facility. Based on the above listed information, the agency and facility meets the standard and complies with the standard for the relevant review period.

PREA Standard 115.386: Sexual abuse incident reviews.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The agency and facility conducts a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not be substantiated, unless the allegation has been determined to be unfounded. This review ordinarily occurs within 30 days of the conclusion of the investigation. The review team includes upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners. The agency and facility review team considers the following:

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 above paragraph numbers 1 to 5, and any recommendations for improvement, and submit such report to the facility head and Prison Rape Elimination Act compliance manager.

Robert L. Shell staff provided the auditor with secondary documentation confirming compliance with the standard. The auditor reviewed the agency and facility policies and procedures (policy 151.00); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed residents and staff during an on-site visit and tour of the facility. The auditor emphasized the importance of reviewing past incidents at the exit briefing during the on-site portion of the audit process for continued process improvements and staff training. Based on the above listed information, the agency and Robert L. Shell Juvenile Center meets the standard and complies with the standard for the relevant review period.

PREA Standard 115.387: Data collection.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: The agency and facility is in the first year of the audit cycle. The agency collects accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. The agency aggregates the incident-based sexual abuse data at least annually. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice. The agency maintains, reviews, and collects data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. Upon request, the agency shall provide all such data from the previous calendar year to the United States Department of Justice no later than June 30.

The Division of Juvenile Services utilizes a computer-based program to document and track agency wide data. The auditor reviewed the agency and facility policies and procedures (policy 151.00); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed resident and staff during an on-site visit and tour of the facility. Based on the above listed information, the agency and facility meets the standard.

PREA Standard 115.388: Data review for corrective action.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: Based on policy and procedure review along with agency staff interviews, the agency reviews data collected and aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, 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.

The agency is in its first year audit review and will compare the current year's data and corrective action with those from next years and shall provide an assessment of the agency's progress in addressing sexual abuse. The agency's report is approved by the director of the agency and is in the process of being made readily available to the public through its website once completed. The auditor recommended postings on the agency website. The agency redacts 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.

The auditor was impressed with the agency computer-based programs. The agency and facility is in compliance with the standard for the relevant rating period.

PREA Standard 115.389: Data storage, publication, and destruction.

□ Exceeds Standard (substantially exceeds requirement of standard)

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

□ Does Not Meet Standard (requires corrective action)

Auditor comments: Based on a review of documents, policy, and procedure along with interviewing the agency Prison Rape Elimination Act coordinator, the agency should ensure that data is collected and

securely retained. The agency makes all aggregated sexual abuse data, from facilities under its direct control, readily available to the public at least annually through its website. The auditor thoroughly reviewed the newly updated agency website, www.djs.wv.gov, and was impressed with the sections addressing the Prison Rape Elimination Act. Before making aggregated sexual abuse data publicly available, the agency removes all personal identifiers. The agency maintains sexual abuse data collected for at least 10 years after the date of the initial collection.

The agency maintains a website. The West Virginia Division of Juvenile Services and Robert L. Shell Juvenile Center is in compliance with the standard for the relevant review period.

AUDITOR CERTIFICATION:

I certify that:

√ The contents of this report are accurate to the best of my knowledge.

√ No conflict of interest exists with respect to my ability to conduct an audit of the West Virginia Division of Juvenile Justice or the Robert L. Shell Juvenile Center, and

√ I have not included in the final report any personally identifiable information (PII) about any resident or staff member, except where the names of administrative personnel are specifically requested in the report template.

Walter Sipple April 20, 2016

Auditor Signature Date