

# Assessment of Topeka Correctional Facility

## Executive Summary

The Association of State Correctional Administrators (ASCA) received a request for technical assistance from the Secretary of the Kansas Department of Corrections (KDOC), Ray Roberts, to conduct an assessment of the Topeka Correctional Facility (TCF). The request included specific areas of review related to inmate sexual safety including policies and procedures, staff training, staff and inmate knowledge of misconduct and undue familiarity, facility response to allegations of sexual misconduct, inmate education in reference to understanding sexual misconduct, avenues to report such activity, monitoring systems, and staffing plans. (Attachment A: Assessment of KS DOC Topeka Correctional Facility Scope of Work) The following report details the observations, discussion, and findings of the ASCA consultants.

## Assessment Overview

Patricia Hardyman, Mary Marcial, and Theresa Lantz were selected by ASCA to perform the assessment. (Attachment B: Consultant Bios) An agenda was approved and the assessment was conducted November 27-29, 2012. (Attachment C: Agenda for Topeka Correctional Facility Assessment)

The assessment process that informed this report included *observations of activities, review of policies, procedures and documents, and communication with staff and inmates*. The *observation activities* involved tours on all three shifts and key procedures including pat and strip searches; inmate classification; intake/screening process; tours of housing, programs and support areas; mental health intake process; housing units control centers; video surveillance; feeding/meals; inmate movement; staff supervision; and communication.

A *review of policies and documents* included prior assessment reports, KDOC agency policies (IMPP's), Kansas Administrative Regulations (KAR), TCF General Orders (G.O.'s), external audit reports, Inmate Rule Book, classification materials, staffing plans, among others. (Attachment D: List of Key Documents Reviewed)

The *communication activities* involved two multidisciplinary focus groups with staff (managers/supervisors and line staff), and two focus groups with inmates (one comprised of Central Compound inmates and the other of IJ Compound inmates).

In addition, senior management officials were interviewed including the Warden and her executive team (Deputy Warden, Chief of Security Major, Information Technology manager, the TCF Enforcement, Apprehensions & Investigations (EAI) supervisor), each shift captain, Classification Manager/Sexual Assault Prevention Coordinator, and the staff training manager. Other discussions with staff included food services contract staff, cameras/surveillance

supervisor, shift lieutenants and sergeants, corrections officers in housing units, intake staff, and other staff encountered during the facility tours.

## **General Observations, Findings and Conclusions**

Using the areas identified in the Scope of Work as guidance, we present our observations, findings and conclusions in the following areas.

### **Policies and Procedures**

The KDOC is in the process of updating its Internal Management Policy and Procedure (IMPP) 10-103 Sexual Assault Prevention and Intervention Program directive (dated 4-2-10). The TCF has updated its General Order (G.O.) 01-102 Sexual Assault Prevention and Intervention Program effective 9-29-12 and signed by Warden Hope Cooper. The G.O. policy is in compliance with the agency IMPP. It establishes a zero tolerance mandate, and addresses the procedures of the Sexual Assault Prevention/Intervention Coordinator (SAPC), Education and Training, Preventive Measures, Responding to Allegations of Sexual Assaults, and Follow Up Actions. Training of all staff has been conducted on this policy, and in targeted discussions with supervisors and line staff they are aware and can articulate the zero tolerance policy, which includes their responsibility to comply with agency policy and the duty to report, respond, and maintain confidentiality.

In each inmate housing unit, inmate living areas, program areas, and in the facility lobby, there are postings to reinforce the reporting of sexual misconduct, including access to a confidential (no personal pin # required for access) hotline number (#50) available in each housing unit, and a toll free third party confidential hotline number posted in the facility lobby area for use by visitors and the general public. We conducted a random check of the inmate phones and #50 and reached a recording that encouraged reporting (including anonymous reporting) of sexual abuse or misconduct by leaving a recorded message. A recorded message is retrieved by the KDOC Central Office Enforcement, Apprehension and Investigations Unit and referred to the TCF EAI Unit for follow-up action as appropriate.

During the conduct of two inmate focus groups, the inmates affirmed that they are aware of sexual misconduct interventions, including reporting avenues such as the hotline as well as directly to staff. They receive educational materials and information as part of their initial orientation to the facility. A handout, "The Offender's Guide to Sexual Assault Prevention," is provided to each inmate. It defines sexual abuse/assault, identifies those types of inmates who are most likely targets, how to avoid sexual assault, what to do about staff sexual misconduct, the zero tolerance policy, reporting avenues, medical care, and behavioral expectations and consequences regarding sexual assault.

The TCF is currently in the process of updating its General Orders. Over two-thirds of that work is completed and approved by Warden Hope Cooper. The G.O. related to inmate pat searches

is currently under revision. In January 2013, the facility will transition to only same gender pat searches. The same gender strip search practice will remain in effect. In multiple observations of both cross gender and same gender pat searches, as well as same gender strip searches, staff followed the training/lesson plans. The searches were thorough, professional and efficient. Policy requires that all pat searches be conducted in designated / marked areas where cameras are present. The inmates are aware of these procedures. A few inmates in the focus groups expressed their discontent with pat searches regardless of the gender of staff.

A formal process of policy and procedures review has been established at the facility. The Warden has a designated 'compliance officer' who schedules the reviews of facility G.O.s. This includes setting meetings for the executive team to review policy for changes, making the changes/revisions, sending the revised policy to the warden for signature, and disseminating the newly revised G.O. to staff via intranet station computers, emails, postings, communications by supervisors, and reinforced via annual training.

All staff must review and sign post orders to acknowledge their understanding of their performance expectations. Any revisions of post orders include requesting staff feedback prior to approval and reissue. The Warden advises that she is considering adding a section on staff professionalism in each post order to reinforce the value of a sexually safe environment for all inmates. Effective 9-21-2012, all TCF post orders have an Attachment A that details 14-steps that are to be taken in the event staff become aware that a sexual act or allegation of a sexual act has occurred. These steps include safeguarding inmates, preserving the crime scene and evidence, making note of spontaneous statements by witnesses or suspects, and completing an incident report as soon as possible and always before the end of their shift.

## **Classification**

Review of the KDOC classification-related documents, meetings with staff, and observation of the classification meetings in action indicated several significant strengths as well as two concerns associated with the classification process for the women incarcerated at TCF. It is important to first highlight the system strengths, as these are important for the Department's consideration of its options for addressing any concerns noted. The KDOC classification system **strengths** include:

- **Flexibility** – Staff are very accommodating, even though our meeting(s) added to their workload and compounded the struggle to meet the demands to keep pace with the workload at intake and during classification processes.
- **Expertise** - Staff knowledge of the KDOC system was impressive; staff had numerous years of correctional experience in multiple roles and positions.

The KDOC classification system relies on objective initial and reclassification instruments that were designed/updated in 2004 and revalidated for the KDOC male and female offenders in 2007. Observation of staff's classification activities suggested compliance with both the Department G.O. and facility classification-related policies and procedures. The system

appears to operate as it was designed, and to have face validity among the inmates and classification and security staff. Staff reported that the system accurately differentiated minimum from medium custody offenders. However, there was some concern about the differentiation between medium and maximum custody offenders. Staff agreed that the blurring of the behaviors observed by medium and maximum custody offenders was due, at least in part, to the crowded, sometimes chaotic atmosphere in J-Unit.<sup>1</sup> Executive staff questioned the validity of the system for female offenders and would prefer a gender-specific classification system for the KDOC women.

Custody decisions by exception to the criteria (overrides) are relatively rare (9%).<sup>2</sup> The custody distribution at TCF as of October 21, 2012 was: Minimum, 55.3%; Medium, 31.1%; Close/Unclassified, 10.6%; and Maximum, 3.1%.<sup>3</sup> The percentage of minimum custody offenders is slightly less than the norm for female prisoners (i.e., 60-70%), but overall this distribution is comparable with national norms for female prisoners.

The primary weakness of the TCF classification system is the process employed for managing predatory and vulnerable women as required by the PREA standards. The TCF current "PREA" screening process includes: 1) an intake/multi-occupancy housing form to identify the woman's risk of predation and victimization; and 2) a social history completed by the mental health staff that also includes a detailed discussion of trauma, prior institutional experiences, and past abusive relationships. As previously noted, PREA and potential problems that develop from institutional relationships are discussed with the women as part of their initial classification meetings. The Department/Facility is currently developing an internal classification checklist that will identify the woman as: KA (Known Aggressive), AP (Aggressive Potential), UN (Unrestricted), VP (Victim Potential), or VI (Victim Incarcerated). (The intake/multi-occupancy housing form was completed as part of the current intake process, but has not been built into the automated information system and has not been completed for inmates admitted prior to August, 2012. Neither the current housing form nor the draft checklist is reviewed as part of the reclassification process.) Thus, at least, during the initial classification process, the woman's risks for institutional sexual predation and victimization are considered. The concerns noted during this assessment are in regard to how this information is used to manage and make housing unit assignments. TCF does not have a housing unit assignment plan (HUAP) that maps out the purpose of the respective housing units in order to maximize separation of vulnerable from predatory offenders. In addition, the processes for assigning offenders to a specific room/bed within the respective housing units, programs, or work assignments did not appear to take into consideration these factors. Thus, while the initial identification/screening processes are adequate, the review/monitoring processes for minimizing the risks for vulnerable offenders should be enhanced.

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<sup>1</sup> A fence is currently being constructed around the Central Compound. On its completion, (anticipated for mid-December 2012) low-medium custody offenders will be moved to the Compound. This will relieve much of the crowding in J-Unit and should improve conditions therein.

<sup>2</sup> National Institute of Corrections standard recommend an override rate between 5 and 15%. Thus the TCF override rate is well within the recommended rates.

<sup>3</sup> Performance Based Measures System (October, 2012) "PBMS\_KSDOC\_TopekaCharacteristics.xls." as input by Kansas Department of Corrections.

## **Staff Training**

The TCF Staff Training Academy provides all orientation, basic, annual and supervisory training to staff assigned to TCF. There is specific and policy-mandated training provided to contractors and volunteers. A review of the training documents including lesson plans, schedules, sign-in sheets, and training delivery avenues and materials, indicates they are in compliance with the agency and staff training policy expectations (including volunteers and contract staff) as cited in IMPP 10-103 Sexual Assault Prevention and Intervention Program Section III.

There are mandatory staff training modules that cover Inmate Sexual Assault Prevention/PREA, Pat Searches, Ethics/Standards of Conduct, Sexual Harassment, Cultural Awareness, Gender Responsive Strategies, Communication Skills, Undue Familiarity/Sexual Misconduct, and Crime Scene Preservation/Rules of Evidence. In addition, there are specific modules for male staff and female staff regarding Professional Boundaries. As part of that training all staff acknowledge in writing that they have read and understand the information contained in a pamphlet regarding professional boundaries. All of these training modules have a direct connection with the PREA standards and in total provide a comprehensive approach to creating a sexually safe environment.

## **Staff and Inmate Knowledge of Misconduct and Undue Familiarity**

Focus groups, individual interviews, and informal discussions with staff and inmates were utilized to determine staff and inmate knowledge of what constitutes sexual misconduct and undue familiarity. Overall, staff and inmates indicated knowledge of PREA and of the policies, procedures and reporting avenues related to sexual misconduct and undue familiarity.

Staff and inmates acknowledged an awareness of the previous investigations conducted relative to sexual misconduct and they also indicated that there has been a heightened mindfulness of expectations regarding appropriate behavior between staff and inmates. They are familiar with the ways to report suspected misconduct. They understand there is zero tolerance for this type of conduct and they believe there is a willingness on the part of inmates to report inappropriate sexual behavior.

Staff and inmates reported that the current Warden has had a significant and positive impact on the facility. The Warden is perceived as visible and accessible. She is clear in her expectations regarding sexual misconduct and undue familiarity and she is invested in promoting a positive correctional environment.

Staff receive training related to sexual misconduct and undue familiarity. The majority of staff interviewed had an understanding of the requirements related to PREA and of the Department's policies with respect to sexual misconduct. However, some staff expressed concern with the manner in which some staff communicate with inmates. It was reported that some staff speak to inmates in a harsh or disrespectful manner. Based on interviews, there also appears to be a

misunderstanding over staff's ability to have appropriate professional conversations with inmates. As a result, some staff overcompensate by having unnecessarily small amounts of dialogue with inmates.

### **Inmate Grievance Process**

A general appraisal of the inmate grievance process was conducted including a review of the Kansas Department of Corrections, Kansas Administrative Regulations (KAR) 44-15 Grievance Procedure for Inmates, the KDOC Inmate Rule Book (revised 7/13/2007), and the TCF Reception Diagnostic Unit Orientation Manual (dated February 2011). Interviews with staff and inmates, and examination of the current grievance log book and specific grievances filed also provided understanding of the grievance process.

In discussions with inmates, they expressed very little trust and confidence in the grievance process. They indicated that staff "makes fun of the grievance process." Also, inmates indicated that staff will taunt them when they ask for a grievance form and that they often felt intimidated by staff to not file a grievance. As such, requiring inmates to ask staff for a grievance form and having to submit grievances directly to unit staff is not in keeping with best practices that should promote fairness and reduce confrontation between inmates and staff.

Concerns regarding the grievance process included the requirements that prior to filing an official grievance, a "Form 9" must be completed. Additionally, prior to filing a grievance the inmate has to attempt to informally resolve the issue with the staff member who is the subject of the grievance, and the formal grievance form must be first submitted and reviewed by the Unit Team Manager (UTM). Also seen as an impediment to filing a grievance is the practice that Form 9's and grievance forms are not readily available to the inmates, and that they have to request the forms from a staff member. On one of the units toured, there were no Form 9's or grievance forms available. The correction officer on the unit did not know how to access a supply of forms and indicated that the UTM was responsible for ensuring that the forms are available.

When interviewing staff regarding the inmates' concerns regarding concerning the requirement of first attempting informal resolution, they indicated that inmates could file a grievance directly to the Warden. However, this option is not clearly indicated on the grievance form or included in the TCF Reception Diagnostic Unit Orientation Manual. Kansas Administrative Regulations (KAR) 44-15 Grievance Procedure for Inmates does cover "special procedures" and this language is included in the State of Kansas Inmate Rule Book. Yet, the inmate population is not generally aware of the provision regarding their ability to file a grievance directly to the Warden or the Secretary of Corrections. It was reported that the TCF Orientation Manual is currently being updated.

The Deputy Warden investigates the grievances submitted to the Warden. She is knowledgeable regarding the grievance process and appears to be thorough in her investigation of the grievances submitted to the Warden. The Deputy Warden indicated the coding for the

grievance tracking is often challenging. She notes that many of the grievances she reviews are complaints regarding an inmate's perception of disrespectful treatment (i.e., being yelled at or the use of insulting language) by a staff member. As such, the only code available in which to log this type of grievance is under "physical threat or abuse by institutional staff." Also, there is no official tracking of grievances until they get to the Warden. The Unit Team Managers do not keep grievance logs and the system used by the Warden's Secretary is a stand-a-lone Excel spreadsheet. Therefore, it is difficult to ascertain how the facility audits the effectiveness of the grievance system or the inmate population's understanding of the policy.

The facility Classification Manager/SAPC is responsible for the supervision of the unit managers, and as part of his function he maintains copies of the resolved level one grievances. He indicated that in the last eighteen months, 350 inmates have accepted the Unit Team Manager's response and have withdrawn their formal grievances. However, there is no formal review of these withdrawn grievances and it is unclear what, if any, reports are generated that might inform the administration as to the issues initially grieved and what subsequent action were taken to resolve them. As an integral part of ensuring a reporting culture, the grievance system needs to meet PREA best practice.

#### **Facility Response to Allegations of Sexual Misconduct/Abuse (Investigations)**

Facility General Order 01-102 Sexual Assault Prevention and Intervention Program (effective 9-19-12) defines the TCF policy, procedures and response to allegations of PREA related incidents. When a PREA related incident is reported or suspected, the Unit Team Manager or facility shift supervisor ensures that the response is compliant with agency and facility policy. In accordance with General Order 01-102, the Sexual Assault Prevention/Intervention Coordinator (SAPC), who is also the facility Classification Manager, is responsible for coordinating all elements of the Sexual Assault Intervention Program. This responsibility includes working with the TCF Enforcement, Apprehension and Investigations Unit (EAI). The EAI Unit handles formal investigations at the facility including those that involve allegations of sexual misconduct.

The EAI Unit is comprised of a supervisor with over 30 years of law enforcement experience, an investigator with extensive law enforcement experience with investigations, and an intelligence officer with no investigative experience who performs administrative duties. The EAI staff is all male and they have had no specialized training in conducting PREA specific investigations. The investigators define their unit as a 'police office' and specialize in criminal investigations for referral to the county District Attorney for prosecution consideration. In 2011, they conducted 124 investigations, 69 of which were PREA related. Of those 69 PREA related investigations, 37 were determined by EAI staff to meet the U.S. Department of Justice/Bureau of Justice Statistics' (BJS) definition of Abusive Sexual Contacts. Of those 37 cases, only one was substantiated (an inmate on inmate incident) by EAI Unit staff using evidence obtained by a video recording taken from a housing unit surveillance camera. The other cases were unsubstantiated and referred back to facility staff for disposition.

When conducting an investigation, the EAI staff do not make findings related to policy violations, and do not offer recommendations to the Warden for disposition and further action. Of the six criminal cases filed in 2011, two involved male staff. One of those incidents involved trafficking in contraband and resulted in a Diversion disposition and the other involved a charge of sexual battery, which resulted in a dismissal. Four inmates were charged. One inmate was found not guilty by a jury of Aggravated Battery), a second inmate received a 24 month Probation sentence for Aggravated Escape from Custody, another inmate's case is pending on a charge of Battery on a Correctional Employee (2 counts), while another inmate's case is still pending on a charge of Battery on a Corrections Officer. In 2012, two staff have charges pending for possession of drugs/paraphernalia and three inmates are pending disposition of charges.

When a suspected PREA incident occurs, the facility shift supervisor files an incident report that includes the completed form 'Shift Supervisor P.R.E.A. Checklist.' The Warden, EAI Unit and the Sexual Assault Prevention/Intervention Coordinator (SAPC) receive copies of those reports. In addition, notification is made using the 'KDOC S.A.P.C. PREA Checklist' form that is forwarded to the Statewide PREA Coordinator and Central Office EAI Unit within three business days. The facility SAPC and EAI staff work together to address the facility's response to any reported PREA-related incidents.

In general, the EAI staff view their roles best served when they focus on cases that meet the BJS definition of sexual misconduct with possible referral for prosecution. The EAI staff feels their relationship with the facility has improved in the past year. However, because of the limited staff and resources in their office, they suggest that the facility staff vet and handle administratively the cases that are policy related but do not meet the degree of severity and burden of proof for referral for prosecution.

According to the SAPC and the EAI staff, there is no written protocol that delineates which possible incidents should be referred to EAI for investigation and those that should be handled at the facility administrative level. They are now working with a color-coding process that does offer a general understanding of the degree of severity for each reported incident, but this is an informal process and not included in written policy or procedure. The SAPC and EAI staff are interested in a clearly defined formal process/structure. They believe the EAI workload is heavy, their unit staff is limited in number, and their special skills are better concentrated on criminal activity. They acknowledge that not having a female investigator may inhibit the interview process with a female inmate; however, a prior request for a female investigator was denied.

In a review of sample cases, the report format is routine and the process appears to be thorough. The overwhelming majority of cases handled by the EAI result in an unsubstantiated finding. An unfounded finding is extremely rare. Very few cases are referred for prosecution, and none of those referred for prosecution during the past year involved staff to inmate contact. The Warden reviews all investigations and is the final facility decision-maker on all actions.

In summary, the SAPC works well with the EAI Unit and plans on having access to the EAI database for enhanced coordination. The EAI Unit has limited staff resources to conduct the high volume of referrals for investigations. The SAPC and the EAI staff have not received

specific PREA training related to investigations, and the last training may have occurred seven years ago. Staff is currently using a color-coded process that generally describes the severity of the incident and assists in targeting incidents for timely attention, but this has yet to be defined in policy or procedures. No female investigator is available to assist or conduct PREA related investigations at TCF.

## **Inmate Education**

A general examination of relevant policies, procedures, and orientation handouts identified earlier in this report, as well as discussion with staff and inmates, was used to gauge the level of inmates' understanding of sexual misconduct, feelings of sexual safety, and avenues for reporting any such activity.

Focus groups and informal discussions with inmates indicated that they are provided information and have an understanding of sexual misconduct, sexual safety and the avenues to report any such activity. In each inmate housing unit, inmate living areas, program areas, and in the facility lobby, there are postings to reinforce the reporting of sexual misconduct, including access to a confidential (no personal pin # required for access) hotline number (#50) available in each housing unit, and a toll free third party confidential hotline number posted in the lobby area for use by visitors/public. We conducted a random check of the inmate phones and #50 and reached a recording that encouraged reporting, including anonymous reporting, of sexual abuse or misconduct by leaving a recorded message. The recorded message is retrieved by the KDOC Central Office Enforcement, Apprehension and Investigations Unit and referred to the TCF EAI Unit for follow-up action as appropriate. Although the inmates expressed some doubt as to the confidentiality of the hotline reporting, they are aware of its intent.

Inmates receive educational material and information as part of their orientation to the TCF. A handout, "The Offender's Guide to Sexual Assault Prevention," is given to each inmate. It clearly defines sexual abuse/assault, those who are most likely targets, how to avoid sexual assault, what to do about staff sexual misconduct, the zero tolerance policy, reporting avenues, medical care, and behavioral expectations and consequences regarding sexual assault. The pamphlet states, "All calls to the #50 help line are confidential and may be anonymous." Upon completion of the basic orientation, inmates participate in an individualized treatment team meeting. Information regarding sexual safety, sexual misconduct and the avenues to report such activity are reviewed again during the treatment team meeting.

The TCF Reception and Diagnostic Unit Orientation Manual includes information regarding the Offenders Guide to Sexual Assault and Prevention. However, the information provided regarding access to reporting via the KDOC Sexual Assault Line by dialing #50 does not indicate that the calls are confidential and may be anonymous.

The KDOC Inmate Rule Book is dated 7/13/2007 and includes rules regarding "sexually explicit materials," "sexual activity; aggravated sexual activity; sodomy; aggravated sodomy," and "lewd acts." It does not include updated information regarding PREA.

## **Monitoring Systems**

TCF implemented a comprehensive video surveillance project that now includes 378 installed, activated, and continuously recording cameras. This surveillance system is managed by facility staff and inspected daily to ensure optimal operation. Cameras are targeted for high activity areas and identified 'blind spots' throughout the facility. Great effort is made to ensure they do not include observation inside living cells/areas occupied by inmates with the exception of the few close observation cells in which inmates with acute mental health issues are housed. The cameras are clearly visible in living units (doorways and hallways), programs areas, along the facility perimeter and all access points, recreation areas and walkways, dining areas, and other areas to which inmates have access. Inmate pat searches areas are also under video camera surveillance as is the area just outside the inmate strip search area. Cameras are not located inside the strip search area itself.

The Warden, Major, EAI staff, Shift Captains/Lieutenant offices, Unit Team Managers, and electronic technology staff have access to monitors to view what the cameras are recording. Control stations in housing units can also monitor what the cameras are recording within their respective housing units.

Staff expressed concern that only a limited number of cameras are actually monitored on a regular and consistent basis. As such, the cameras serve as a limited deterrent and not as a potential real-time prevention and detection opportunity. Unless an incident is known after the fact, the cameras recording system will record over/erase a potential PREA related incident within 30 days. In addition, staff also expressed their concern that cameras cannot substitute for a correctional staff presence via ongoing tours within the housing units, especially for detection of incidents in an inmate room/cell. For example, housing units on the Central Compound have only one officer assigned to monitor and supervise more than 100 inmates.

## **Staffing Plans**

The facility has enhanced its complement of female staff by focusing on recruitment and hiring. Currently, just over 50% of the CO I staff are women. According to staffing reports and Human Resources staff, about one-third of all security staff have been employed for less than one year and two-thirds have less than five years of service. Correctional officer positions were added to the TCF complement in 2011 and most recently ten positions were added in July 2012. The Warden is analyzing the facility needs and plans to provide a request with justification for additional positions. At this time, five positions are vacant.

To be gender responsive to the needs of women offenders, staff must be accessible to address the myriad of unique issues that arise within this population. Areas that appeared to be challenged by the number of security staff assigned include the housing units in the Central Compound and the J-Unit. Both staff and inmates reported high demands for managing the

population in these areas. With the move to same gender pat searches in January 2013, utilizing trained non-security female staff to conduct this security procedure will be critical.

### **General Observations and Comments by Staff and Inmates**

Overall, staff comments were very positive towards the Warden and they support her vision and leadership to professionalize the workforce and improve facility operations. Staff also indicated they were forward looking, ready for change, and wanted to distance themselves from the past issues that resulted in outside government intervention and negative media attention related to staff sexual misconduct. Raw, 'haunting' feelings were expressed by senior staff regarding the public's perception that all of staff are guilty of sexual misconduct when so few staff were identified as actually involved in inappropriate/unlawful behaviors. New staff expressed their appreciation for the teamwork and leadership at TCF. However, they felt training could be improved in areas such as gender responsive supervision which would better prepare them to do their job.

Staff reported feeling safe at work and that they can trust their fellow staff in the event of an emergency. When questioned about a code of silence at the facility, the staff did not feel there was one related to sexual misconduct and that they would report it in accordance with policy. They expressed understanding of clear boundaries between staff and inmates. Some staff comments referred to 'negative' staff and that avoiding those staff is how best to deal with them. Staff is consistent in their feelings regarding I and J Units and that the 'out of control' behaviors of inmates in those units are a significant issue. They identified inmate idleness as an issue and suggested providing more programs and mental health services would be beneficial to the population. Observations of staff on posts in the housing units and in areas such as dining hall, walkways, and in the process of conducting security procedures indicated they are professional in the performance of their duties.

In conversation and in focus groups, inmates mirrored the staff comments regarding the J-Unit and the need for order and a sense of calm. They also expressed concern about crowding, noise levels, inconsistent treatment from 'guards', inappropriate language used by some staff, an ineffective grievance system, lack of access to the Warden, dislike of pat and strip searches, boredom, lack of programming for long-term offenders, the lengthy amount of time locked in a cell, and identified a few staff as either unprofessional or not attentive/responsive.

The inmates also identified 'strengths' of the facility, including 20 programs and activities that they felt were beneficial to them. Those programs included mental health services, religious services, mentoring programs, Girl and Boy Scouts, Pooches and Pals, the Running Club, Reaching Out From Within Program, various culture groups, Voc. Tech program, GED program and tutors, industry jobs, and landscaping.

Overall, the inmates reported feeling sexually safe with each other and staff. They expressed that 'things are getting better' at the facility. A few spoke of some discomfort with male staff in the units at night, but did not offer specifics. They would like to see the newer officers receive

more training. Although they did not express confidence in the grievance system or the hotline #50 phone reporting system, they reported there are staff they can talk to if they are having an issue with sexual misconduct with another inmate or staff member. They mentioned the chaplain and mental health staff as staff with whom they could trust and had a positive relationship. They would like to have staff listen to their concerns and be more consistent in how they manage them across all shifts.

### **Closing Comments**

We were received with professional courtesy and respect by staff. All areas of the facility were accessible to us, and no attempt was made to conceal anything from us. There is a genuine sense of optimism that the facility is transitioning from a troubled time a few years ago to one that is making strides in its goal to being a high performing organization. The Warden and her leadership team, with support from the Secretary and Central Office Administration, have an opportunity to truly influence the facility's culture, to embrace the tenants of PREA, and address any vestiges of staff sexual misconduct. Hopefully, areas identified in this report will inform the tasks ahead.

## **Attachment A**

### **Assessment of KS DOC Topeka Correctional Facility Scope of Work (Revised 10/29/12)**

Recently, the U.S. Department of Justice published findings in which they allege that the Topeka Correctional Facility (TCF) is not providing an environment free from sexual misconduct. The Kansas Department of Corrections (KDOC) has requested the assistance of the Association of State Correctional Administrators (ASCA) to provide an assessment of the facility. The following areas will be examined in this assessment.

#### **POLICIES AND PROCEDURES**

- Review policies related to the prevention, detection, investigation and response of staff sexual abuse against inmates;
- Review pat search policy and practice, including meeting and assisting the work group assigned to implement the elimination of cross-gendered searches;
- Review the process of notification and implementation of policy and procedures changes; and
- Review classification procedures, decision-making, case management, and housing/program assignments.

#### **TRAINING**

- Review training for staff, volunteers and contract employees related to gender specific strategies and staff sexual misconduct.

#### **STAFF AND INMATE KNOWLEDGE OF MISCONDUCT AND UNDUE FAMILIARITY**

- Review the application of TCF policies regarding sexual misconduct and undue familiarity;
- Review the grievance policy, process and utilization; and
- Assess potential barriers to reporting sexual misconduct.

#### **FACILITY RESPONSE TO ALLEGATIONS**

- Evaluate the investigative process to include:
  - General protocols;
  - Investigators' training;
  - Timeliness of investigations;
  - Analysis of information to identify trends; and
  - Facility handling of unfounded/false allegations.

## **INMATE EDUCATION**

- Evaluate the information provided to inmates to ensure adequate education and understanding of sexual misconduct, sexual safety, and avenues to report any such activity.

## **MONITORING SYSTEMS**

- Review current monitoring systems and accessibility to the systems; and
- Review enhancement plans of monitoring systems.

## **STAFFING PLANS**

- Analyze current staffing for gender responsive practices and review future plans.

## **Report**

An Assessment Report will be submitted that includes findings and conclusions informed by review of facility policies, procedures and relevant documents, onsite observations of practices and activities, and direct communication with staff and inmates including discussions, interviews, and focus groups.

## **Proposed Assessment Schedule**

Start Date: November 12

Onsite Field Work: November 26 – 30

Submit Draft Report: December 14

Submit Final Report: December 31

## **Assessment Team**

Theresa Lantz, Team Leader

Mary Marcial, Team Member

Patricia Hardyman, Team Member

George Camp, Project Manager

## **Attachment B**

### **Consultant Bios**

**Patricia Hardyman** - Patricia has 25 years of research experience with classification system design and validation, data base development and management, court services, parole decision-making and community supervision innovations. Her experiences include, but were not limited to, design of classification systems for the Florida, Hawaii, Idaho, Iowa, Kentucky, Mississippi, Nebraska, Philadelphia Prison System, Wyoming, Rhode Island, Tennessee, Oklahoma, Delaware, Maine, Montana, and West Virginia. While her work with the Florida, Idaho, West Virginia, and Wisconsin focused primary upon the gender-specific classification issues of female offenders, she also developed gender-specific classification systems for Idaho, Nebraska, Wyoming, and Hawaii. She served as a consultant to the Cook County Temporary Juvenile Detention Center and the Georgia Department of Juvenile Justice to develop and implement of objective classification, risk assessment, and intake systems. Dr. Hardyman was the Co-Principal Investigator for the NIC internal classification initiative in Florida, South Dakota, Oregon, New Jersey, Missouri, Colorado, Connecticut, and Washington State and designed gender-specific aggression/vulnerability instruments for Wyoming, Nebraska, and Bristol County, Massachusetts. Ms. Hardyman is a Principal with Criminal Justice Institute and ASCA and previously served as a Senior Researcher for the National Council on Crime and Delinquency (NCCD), Institute on Crime, Justice and Corrections, U. S. Parole Commission and Ohio Department of Rehabilitation and Corrections. She received her Bachelor's degree in psychology and sociology from Miami University of Ohio, her Master's degree in criminal justice from University of Cincinnati and her Doctorate, also in criminal justice, from the School of Criminal Justice at Rutgers University.

**Mary Marcial** - Mary has 28-years of experience in corrections. She began her career with the Connecticut DOC in 1984 and was the first female security staff to work at the Brooklyn Correctional Center. She worked as a Correctional Counselor in Addiction Services and Classification and Case Management. In 1992 she was appointed as Warden of the Brooklyn Correctional Center. She subsequently served as Warden of eight different facilities including the state's largest jail, a programmatic minimum-security institution, a multi-security-level male youth facility and she was the first female Warden of a Connecticut maximum Security facility. In 2003, Mary was appointed to the Commissioner's Executive Team as the Director of Programs and Treatment. In that role she was responsible for: Education, Program Development, Correctional Enterprises, Health and Addiction Services, Offender Classification and Population Management, Reentry Services, Religious Services, Victim Services, and Volunteer and Recreation Services. Mary has taught leadership development for CTDOC's leadership program. She is currently an independent Criminal Justice Consultant working on various projects for the Criminal Justice Institute (CJI) and the Association of State Correctional Administrators (ASCA). She is an Honors Scholar, graduating Summa Cum Laude from the University of Connecticut with a BS in Human Development and Family Relations. Mary has

served on numerous boards, including: Connecticut's Commission on Children, Literacy Volunteers of America, the Criminal Justice advisory board for Three Rivers Community-Technical College, the Middle Atlantic States Correctional Association, Families in Crisis organization and was appointed by Connecticut's Governor to serve as a management trustee for the State Retirement Commission.

**Theresa Lantz** – Theresa has over 36 years of correctional experience, beginning her career as a correctional officer at the Women's Detention Center in Washington, DC. Her other positions with the District of Columbia Department of Corrections included correctional counselor and staff training academy manager. In 1988, Theresa joined the National Institute of Corrections (NIC) Academy in Boulder, Colorado as a Correctional Program Specialist where she developed and delivered training programs for executive and leadership staff from across the country. Eighteen months later she was appointed the Director of Training and Staff Development for the Connecticut Department of Correction. In 1991, Theresa was appointed as Deputy Commissioner for Administration and served almost three years in that role. She was appointed Warden of the York Correctional Institution in 1993 and activated the newly constructed multi-classification women's facility that housed 550 pre-trial and sentenced offenders. In 1996 she was assigned as Warden of the New Haven Correctional Center and in 1999 was assigned as Warden of the Corrigan Correctional Center, both high security facilities that housed pre-trial and sentenced male offenders. In 2000, Theresa was again appointed as a Deputy Commissioner and served in that role until her appointment by the Governor as Commissioner of the Department of Correction in 2003. She served in that capacity under two governors until her retirement in June 2009. Since retiring, Theresa has served as a consultant for organizations in various areas focused on women offenders including NIC training programs, facility sexual safety assessments, PREA training and assessments, leadership development and prison operations. Her experience also includes serving as a US Department of Justice expert witness in three cases, one involving women offenders. She has BS and MS degrees in Criminal Justice and has been an instructor/faculty for 20 years with Tunxis Community College, CT.

## Attachment C

### Agenda for Topeka Correctional Facility Assessment

#### ***Tuesday, November 27, 2012***

Assessment Team Activities include:

- 8:15am Arrive at TCF
- 8:30am Meeting with Warden Cooper and leadership team
- 9:15am Tour of facility; observations and discussion
- 11:00am Focus Group: Senior Facility Staff (managers/supervisors, multidisciplinary)  
  
Meet with Classification Manager; observe classification process, case management, orientation, housing assignments, etc. (throughout the day)
- 12:00pm Lunch (offsite)
- 1:00pm Focus Group: Line Staff (multidisciplinary)  
  
Interviews with Program Managers, tours, observations of activities  
  
Shift change: discussion with staff; tour as needed to observe activities  
  
Meet with Education Staff  
  
Observe searches  
  
Ongoing policy review and application
- 3:00pm Focus groups with women offenders (*will do two simultaneously or sequential*)
- 5:00pm Debrief/Exit facility
- 10:00pm Tour on '10-6 shift'; Discussions with staff and observations in housing units

#### ***Wednesday, November 28, 2012***

Assessment Team activities include:

- 9:00am Arrive at TCF; tours and observations of activities to include programs, interviews, discussions with staff/inmates, etc.  
  
Review of inmate grievance process; meet with Grievance Coordinator

Assess PREA policy, implementation; discussion with PREA Coordinator

Analyze staffing plan for gender responsive practices and needs

Meet with designated facility Work Group(s)

Noon Lunch

1:15pm Continue data gathering activities:

Review staff training; meet with training coordinator

Review facility monitoring systems

4:30pm Debrief with Superintendent/staff

5:00pm Exit Facility

***Thursday, November 29, 2012***

Assessment Team Activities include:

8:00am Arrive at facility

Continue with data gathering activities

Meet with lead facility investigator

Noon Lunch (offsite team discussion)

1:15pm Discussion with Warden Cooper

2:00pm Debrief with Warden/TCF Leadership Team; other KDOC officials

3:30pm Close-out Meeting (Location TBD)

Prepared by: ASCA Consultants 11-23-12

## Attachment D

### List of Key Documents Reviewed

Internal Management Policy and Procedure (IMPP) 10-103 Sexual Assault Prevention and Intervention Program directive, dated 4-2-10, signed by Secretary Roger Werholtz

NIC Technical Assistance Report 10B4606, Kansas Legislative Division of Post Audit 10PA08 dated January 2010

US Department of Justice Letter to Governor Samuel D. Brownback Re: Investigation of the Topeka Correctional Facility, dated September 6, 2012, signed by Thomas E. Perez, Assistant Attorney General Civil Rights Division

TCF General Order (G.O.) 01-102 Sexual Assault Prevention and Intervention Program effective 9-29-12<sup>4</sup> signed by Warden Hope Cooper

Kansas Department of Corrections, Kansas Administrative Regulations (KAR) 44-15 Grievance Procedure for Inmates

A review of two current grievances filed to the Warden

The KDOC Inmate Rule Book (revised 7/13/2007);

The TCF Reception Diagnostic Unit Orientation Manual dated February 2011

TCF Grievance Log for fiscal year 2012 and fiscal year 2013

TCF General Order 17-103 Inmate Reception and Orientation (effective date 10/29/12) signed by Warden Hope Cooper

TCF General Order 03-108 Staff/Inmate Interaction

KDOC Offender's Guide to Sexual Assault Prevention pamphlet

TCF Camera Plans

TCF Training Schedules and Lesson Plans (current)

TCF EAI Investigations (completed/closed)

TCF Classification and Population Management materials

TCF Post Orders (random samples)