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Report on Mercy Corps' Sexual Exploitation and Abuse Policies and Their Application to Issues Raised by Tania Culver Humphrey

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I. Executive Summary

Mercy Corps engaged Nichols Liu to assess the quality of its current policies and procedures regarding sexual exploitation and abuse (“SEA”), measured against the standards and expectations of its major donors. We find that the organization’s current SEA standards adopt the requirements, expectations, and best practices of major multilateral and government institutions in the international development sector. In fact, Mercy Corps’ policies promote leading-edge principles in this vital area that exceed the requirements of the organization’s largest donor – the U.S. Agency for International Development (“USAID”) – by taking a survivor-centered approach to handling SEA allegations and safeguarding matters. We also find that Mercy Corps could further strengthen and define its internal protocols to improve application of the policies to certain, specific situations, as described below.

Mercy Corps also asked Nichols Liu to assess whether its Board’s investigation in the 1990s – which attempted to address child abuse allegations by Tania Culver Humphrey against her father Ellsworth Culver – conformed with Mercy Corps’ current SEA policies and investigative processes. Mr. Culver co-founded Mercy Corps in 1979 and served in the organization until his death in 2005. More information on the underlying circumstances can be found in Vestry Laight’s report *Findings and Recommendations Regarding the Actions by Mercy Corps Following the 2018 Receipt of Allegations Concerning Co-Founder Ellsworth Culver*.

Relying on information in The Oregonian Report and collected from Mercy Corps, we find that the Board’s investigation in the 1990s fell short of Mercy Corps’ current standards. Modern approaches to handling SEA issues had not been widely promoted or adopted until relatively recently. The investigation in the 1990s appears inadequately survivor-centered, was conducted by individuals with insufficient independence, and did not afford Ms. Culver Humphrey engagement with a specialist in SEA investigations and safeguarding measures. We express no opinion as to how the Board’s investigation in the 1990s comported with the SEA standards of that era.

Finally, Mercy Corps requested that Nichols Liu opine on Vestry Laight’s determination that the organization did not follow its current SEA policies when

responding to the Integrity Hotline report submitted by Chris Humphrey,¹ Ms. Culver Humphrey's husband, in November 2018. Based on our review, we believe that there is ambiguity as to whether the current SEA policies apply to the 2018 hotline submission, which called out events that occurred in the 1990s and involved a victim who was neither a Mercy Corps employee nor a beneficiary. However, we agree with Vestry Laight that, had Mercy Corps applied the values underlying its SEA policies – including taking a survivor-centered approach – the communications with the Humphreys likely would have been far more constructive.

Mercy Corps seeks a document – to be shared with its employees and major donors – that assesses the organization's current SEA policies and protocols and addresses how they applied to Mercy Corps' Board investigation in the 1990s and its recent response to the Humphreys' inquiries in 2018. This report addresses these requests.

II. Major Donors and Their SEA Standards and Expectations

The vast majority of Mercy Corps' funding comes from grants awarded by governmental and multilateral institutions. The United Nations ("UN"), in particular, has been at the forefront of developing organizational policies and processes to prevent and address SEA. Its key SEA standards and expectations are contained in the following documents:

- *Secretary-General's Bulletin Special Measures for Protection from Sexual Exploitation and Sexual Abuse* (2003)
- *Statement of Commitment on Eliminating Sexual Exploitation and Abuse by UN and Non-UN Personnel* (2006)
- *Voluntary Compact on Preventing and Addressing Sexual Exploitation and Abuse* (2017)
- *Protocol on Allegations of Sexual Exploitation and Abuse Involving Implementing Partners* (2018)
- *United Nations Protocol on Allegations of Sexual Exploitation and Abuse Involving Implementing Partners* (2018)
- *Report on Special Measures for Protection from Sexual Exploitation and Abuse* (2019)

¹ Mr. Humphrey submitted the initial report and subsequent communications on Ms. Culver Humphrey's behalf with a copy to her.

- *Six Core Principles Relating to Sexual Exploitation and Abuse*, Inter-Agency Standing Committee (“IASC”) (2019)
- *Summary of IASC Good Practices: Preventing Sexual Exploitation and Abuse and Sexual Harassment and Abuse of AID Workers*, IASC (2019)

The U.S. government (“USG”) is Mercy Corps’ largest funding source, primarily through USAID and the U.S. Department of State. Key SEA guidelines² from the USG for both contractors and Non-governmental Organizations (“NGOs”) include:

- *Child Safeguarding Standards*, 48 CFR 752.7037 (2016)
- *USAID’s Policy Against Sexual Exploitation and Abuse* (2018)
- Acquisition & Assistance Policy Directive 18-03, *Strengthening Prevention of Sexual Exploitation and Abuse in the Partner Community* (2018)
- *USAID Inspector General: Prompt Reporting of Fraud, Abuse Critical in Humanitarian Aid Programs - OIG Oversight Roundtable Highlights Anti-Fraud Lessons, Tactics for NGOs*, USAID Office of Inspector General (2018)
- Acquisition Directive System (“ADS”) 303, ADS 303maa, *Standard Provisions for U.S. Nongovernmental Organizations* (2019)

USAID largely follows – and requires its implementing partners to follow – the standards promulgated by the UN and its IASC. *USAID’s Policy Against Sexual Exploitation and Abuse* incorporates the principles found in Section 3 of the *UN Secretary-General’s Bulletin Special Measures for Protection from Sexual Exploitation and Sexual Abuse* and the IASC’s *Six Core Principles Relating to Sexual Exploitation and Abuse*. Additionally, USAID’s *ADS 303maa* requires recipients to comply with these same UN and IASC principles. USAID also requires its award recipients to have a Code of Conduct that is consistent with six core principles adopted by the UN Inter-Agency Standing Committee on Protection from Sexual Exploitation and Abuse in Humanitarian Crises. USAID expects recipients to consult with the relevant Mission Director and the Agreement or Contracting Officer when addressing SEA allegations involving their employees, and it

² The USG also has numerous standards and expectations around human trafficking, which are not the subject of this analysis.

encourages implementing partners to report credible allegations of sexual exploitation and abuse to the USAID Office of Inspector General.³

Mercy Corps' non-U.S. government donors also largely follow the SEA standards promulgated by the UN and its IASC. Current guidance from these donors include:

- *Humanitarian Protection: Improving Protection Outcomes To Reduce Risks For People in Humanitarian Crises*, European Commission Directorate-General for Humanitarian Aid and Civil Protection (2016)
- *Putting People First: an International Summit to Tackle Sexual Exploitation and Abuse and Sexual Harassment, in the International AID Sector*, United Kingdom's Department for International Development (2018)
- *International Development: Safeguarding Policy*, Scottish Charity Regulator (2018)
- *Sexual Exploitation, Abuse and Harassment (SEAH) in the International Aid Sector Victim and Survivor Voices: Main Findings from a DFID-led Listening Exercise DFID Safeguarding Unit*, Department for International Development ("DFID") (2018)
- *Sexual Exploitation and Abuse in International Assistance*, Canada's Department of Foreign Affairs, Trade and Development (2019)

III. Principles Found in Major Donors' SEA Requirements and Expectations

Given that the donors follow and build upon the standards promulgated by the UN and its IASC, they share materially similar requirements and expectations for their organizations, employees, and partners. We have gleaned the following 19 principles, some of which are overlapping, from the donor SEA policies listed above:

1. Commonly define sexual exploitation and abuse as including when people in power exploit or abuse vulnerable populations for sexual purposes.
2. Have zero tolerance for sexual exploitation and abuse.

³ In contrast, credible allegations of trafficking, procurement of commercial sex acts, or the use of forced labor must be reported by the implementing partner to the Agreement or Contracting Officer.

3. Prohibit all personnel from engaging in child abuse, exploitation, or neglect.
4. Ensure compliance with host country and local child welfare and protection legislation or international standards, whichever gives greater protection, and with U.S. law where applicable.
5. Require a particular duty of care toward women and children.
6. Prohibit sexual activity with children (persons under the age of 18) regardless of the age of majority or age of consent locally, and do not consider mistaken belief in the age of a child as a defense.
7. Consider child safeguarding in project planning and implementation to determine potential risks to children that are associated with project activities and operations.
8. Apply measures to reduce the risk of child abuse, exploitation, or neglect, including, but not limited to, limiting unsupervised interactions with children and prohibiting exposure to pornography. Also comply with applicable laws, regulations, or customs regarding the photographing, filming, or other image-generating activities of children.
9. Promote child-safe screening procedures for personnel, particularly personnel whose work brings them in direct contact with children.
10. Consider sexual exploitation and sexual abuse as acts of serious misconduct and therefore grounds for disciplinary measures, including summary dismissal.
11. Strongly discourage sexual relationships between staff and beneficiaries of assistance, since they are based on inherently unequal power dynamics and undermine the credibility and integrity of the work of the organization, and prohibit any sexual relationship that involves improper use of rank or position.
12. Have a procedure for ensuring that personnel and others recognize child abuse, exploitation, or neglect. Such procedures typically also include mandating that personnel and others report allegations, investigating and managing allegations in a confidential manner, and taking appropriate action in response to such allegations, including, but not limited to, dismissal of personnel.

13. Require reporting, via established reporting mechanisms, where an organization's staff member develops concerns or suspicions regarding sexual exploitation or sexual abuse by a fellow worker, whether in the same agency or not.
14. Obligate staff, particularly managers, to create and maintain an environment that prevents sexual exploitation and sexual abuse – encourage a speak up culture and hold people responsible to “do no harm.”
15. Commit their organizations to work actively to protect and support victims and place the needs of all victims in the center of their efforts (*i.e.*, take a “survivor-centered approach”).
16. Commit that their organizations will not remain silent or passive in the face of reported incidents, regardless of the perpetrator.
17. Require that their organizations conduct investigations that can withstand judicial scrutiny in disciplinary and criminal proceedings.
18. Ensure the appropriate accountability of all individuals covered by their policies.
19. When individuals are found guilty of sexual misconduct, impose and publicly acknowledge sanctions that are commensurate with the seriousness of the offenses in the interest of accountability and justice.

While these principles receive somewhat different treatment by various governmental and multilateral donors, variances are relatively minor and may focus more on the details of implementation than on the principles themselves.

IV. Mercy Corps' SEA Policies Reflect Donor Requirements and Expectations and Follow Best Practices

Mercy Corps currently has four policies that directly address sexual exploitation, abuse, and misconduct.⁴ Together, they incorporate and require compliance with the principles outlined above and set forth in the guidelines published by the UN, USAID, DFID, and other major donors. The following sections highlight how Mercy Corps' policies apply several of these principles.

⁴ Additionally, Mercy Corps has an anti-trafficking policy, which is not the subject of this analysis.

a. **Mercy Corps' SEA Policies Comply with Donor Requirements and Expectations**

First, Mercy Corps has a *Sexual Exploitation and Abuse of Beneficiaries and Community Members Policy*, adopted in November 2018. This policy establishes Mercy Corps' standards of conduct to prevent sexual exploitation, abuse or harassment of individuals who come into contact with Mercy Corps. It states that Mercy Corps is "committed to the core principles regarding prevention of sexual exploitation and abuse laid out by the United Nations Secretary General in 2003" and that the organization is a signatory to the "Statement of Commitment on Eliminating Sexual Exploitation and Abuse by UN and non-UN Personnel."

The policy applies to Mercy Corps Global and Mercy Corps Europe, their subsidiaries and affiliate organizations, members of the Mercy Corps' Boards of Directors, officers, management, employees, seconded employees, interns and volunteers (collectively "Team Members"); sub-recipients, partner organizations, contractors and outside experts, and any other organization or individual that acts on Mercy Corps' behalf or at Mercy Corps' direction (collectively "Partners"); and visitors such as photographers, journalists, private donors and prospective donors (collectively "Visitors"). Team Members, Visitors, and Partners are expected to "put the well-being and best interests of its beneficiaries as the highest priority, to treat all beneficiaries and host community members with respect and dignity, and to never engage in conduct that could be perceived as abusive, exploitative or harassing."

In some aspects, Mercy Corps' SEA policy exceeds USAID's expectations. USAID expects conduct consistent with the UN's standards, and under Section 3 of the Secretary-General's Bulletin, sexual relationships between United Nations staff and beneficiaries of assistance are "strongly discouraged." Section 3.1 of Mercy Corps' SEA policy is a little more strongly worded, by "generally prohibit[ing]" expatriate Team Members from engaging in romantic or sexual relationships with beneficiaries. Mercy Corps also "will, first and foremost, take into account the safety, security and well-being of the survivors during any investigation or follow-up action, but will also take into account the safety and well-being of the accused and any witnesses." USAID's SEA policy and applicable provisions of the ADS do not mandate a survivor-centered approach; in fact, USAID's regulatory requirements and written guidance is silent on *how* implementers should investigate and is non-specific when it comes to how survivors and witnesses should be treated.

Second, *Mercy Corps has a Child Safeguarding Policy* ("CSP") adopted as of March 2018. The CSP details Mercy Corps' commitment to children, establishes expectations, and prohibits certain kinds of conduct, including zero tolerance for sexual abuse or exploitation. The policy begins with a purpose statement stating the following:

“Mercy Corps has a special obligation to ensure the safety and dignity of all children it comes into contact with through its work. This policy reinforces our commitment to the best interests of children. This policy states Mercy Corps’ expectations regarding team member conduct with children and what conduct is prohibited...”

Under the “Policy Statements and Standards of Conduct” section of the policy, it states generally that Mercy Corps expects all Team Members, Partners, and Visitors to adhere to the “highest standards of accountability and professionalism, which requires honest, ethical and non-abusive or exploitative conduct.” Mercy Corps expects management to “fully enforce adherence to this standard.” It also provides an overarching commitment that Mercy Corps has “zero tolerance for and abhors conduct towards children that is exploitative or abusive... Mercy Corps expects and requires Team Members who are aware of specific facts that would lead them to suspect that another Mercy Corps Team Member, Partner or Visitor is engaged in child abuse or exploitation to report such behavior.”

The policy also specifies application of the policy to beneficiaries, and particularly children, expecting that Team Members, Partners, and Visitors treat them with respect and dignity and “to always act in the best interests of their physical and emotional well-being, and never engaging in conduct that could be perceived as abusive or exploitative.”

Third, Mercy Corps has a *Sexual Misconduct in the Workplace Policy*. The policy states that Mercy Corps has worldwide zero tolerance for sexual assault and harassment at the workplace, either at corporate headquarters or in the field.

Fourth, as described in more detail below, Mercy Corps’ follows its protocol *Overview of Reporting & Investigations* for investigating SEA allegations.

Fifth, Mercy Corps has a policy of flowing down to its subrecipients USAID’s Standard Provisions from ADS 303/303maa and Office of U.S. Foreign Disaster Assistance’s special provision requiring a Code of Conduct. These flow-downs are designed to ensure that all of Mercy Corps’ subrecipients comply with the principles outlined above.

Nichols Liu’s analysis of the Mercy Corps’ policies found that the organization has adopted the key UN guidance on SEA, USAID requirements on SEA, and all 19 of the principles set forth above. Of course, Mercy Corps has its own protocols for how to implement these policies, standards, and principles.⁵ Our conclusion, based on our analysis and expertise advising organizations in this area,

⁵ Mercy Corps’ implementation efforts are not the subject of this analysis.

is that Mercy Corps is on the leading edge of International NGOs in terms of its written policies and procedures for preventing and handling SEA concerns.

b. Mercy Corps' SEA Policies Also Follow Best Practices

Additionally, Mercy Corps' policies also follow best practices with regard to taking a survivor-centered approach and managing SEA-related allegations.

i. Survivor-Centered Approach

Through its policies and procedures, Mercy Corps aims to take a survivor-centered approach. For example, Section 3.4 of its *Sexual Exploitation and Abuse of Beneficiaries and Community Members Policy* is entitled "Support for Survivors" and provides: "Mercy Corps will offer to provide (and provide if they choose) survivors of sexual exploitation and abuse independent medical, psychosocial support and legal support and will assist them with reporting incidents to the proper authorities should they chose to do so directly." Section 3.8.2 of the policy states that, during the investigative phase following a report of prohibited conduct, Mercy Corps places primacy on the safety, security, and well-being of survivors.

Mercy Corps has also assembled a cross-functional Safeguarding Working Group to protect beneficiaries and Team Members from all forms of physical and emotional abuse and sexual harm. The purpose of this group is to ensure oversight and accountability for Mercy Corps' commitment to the prevention of and response to sexual exploitation, abuse, and harassment. The group is responsible for taking a systemic approach to safeguarding across the organization.

Mercy Corps has created two specific roles to further support a survivor-centered approach in each of its countries: Safeguarding Focal Points and Safeguarding Co-Investigators.

- Safeguarding Focal Points will coordinate, support and advise on the implementation of Mercy Corps' commitment to mainstreaming Safeguarding in country program operations. Responsibilities of Safeguarding Focal Points are (i) to identify, map, and regularly update local support services available to survivors; (ii) to act as a resource to survivors and help ensure their safety, security, and well-being; and (iii) to help support a survivor-centered approach.
- Safeguarding Co-Investigators will support the response function when potential allegations of safeguarding violations are reported.

Mercy Corps has identified employees to serve as Focal Points and Co-Investigators and is in the process of deepening its bench to cover all the countries

in which the organization implements projects. These employees have received - and will continue to receive - training from an external company with deep expertise in this area and will work with the Safeguarding Team to continually sharpen their skillset when it comes to survivor support.

ii. **Handling of SEA-related Allegations**

Mercy Corps categorizes as “safeguarding complaints” all allegations involving sexual exploitation and/or sexual abuse of program participants or community members, internal sexual misconduct (workplace sexual harassment or abuse), trafficking, and child safeguarding. These allegations typically come to Mercy Corps through its Integrity Hotline email address (“Hotline”) or through its online reporting platform mercy Corps.org/integrityhotline. Safeguarding incidents may also be reported to any Mercy Corps leader or supervisor or directly to members of the Ethics, Safeguarding, or Human Resources (“HR”) Teams. Safeguarding complaints and disposition of those complaints are recorded separately by Mercy Corps in order to better ensure confidentiality and sensitive treatment of these cases.

Four members of the Ethics Team, including the Senior Ethics Specialist (“SES”) for Safeguarding and the paralegal, have access to Hotline complaints. If an allegation involves a safeguarding issue, it is brought to the SES for Safeguarding’s attention. A determination is then made whether the allegation falls under the SES for Safeguarding’s or HR’s purview. If the allegation involves “Team Member to Team Member” activity, it is generally referred to HR. However, for particularly egregious alleged activity or depending on other factors such as caseload and gender of the complainant, the SES for Safeguarding may coordinate with HR to conduct or support the investigative effort. For all allegations involving community members, partners, or participants, the SES for Safeguarding oversees the investigation and may even conduct the investigation herself.

The general reporting and investigative processes are outlined in the document *Overview of Reporting & Investigations*, which is available online to Mercy Corps employees. Investigations of safeguarding complaints typically follow an even more thoughtful approach than other categories of allegations. For instance, even before developing an investigative plan, the SES for Safeguarding and HR Team Lead will assess the allegation and consider factors such as whether the in-country-designated investigator is particularly suited to handle the complaint. If the SES for Safeguarding or the HR Team Lead feel that an alleged survivor may be more comfortable with an investigator of a particular race, gender, or religion, Mercy Corps endeavors to accommodate those sensitivities. All safeguarding-related investigations are overseen by a Team Member with training in survivor-centered SEA investigations. This is usually the SES for Safeguarding.

Other considerations include whether a disclosure should be made to the donor, Office of Inspector General, and/or local law enforcement, and whether immediate disciplinary action, such as administrative leave for the alleged subject of complaint (“SOC”) should be taken. If continued employment may put others at risk or interfere with an investigation, the SOC is placed on administrative leave pending the investigation. When credible allegations of sexual exploitation and abuse are raised, the SOC is always suspended during the investigation. Potential survivors may also raise concerns of reprisal for raising a complaint and may prefer to work off-site or take leave. The SES for Safeguarding and HR engages with these potential survivors and works to provide accommodations.

Mercy Corps offers medical and emotional-psychosocial assistance to survivors. Where relevant, Mercy Corps-designated staff also provide information to potential survivors and witnesses to engage with law enforcement and can discuss with them the potential consequences of pursuing police or court action.⁶ Accommodations may be offered to assist the survivor or witness in feeling more secure, such as temporary relocation or support with security planning. Support to survivors is confidentially recorded by Mercy Corps and on-going conversations are had with them to continually assess the adequacy of that support.

Once the preliminary considerations are complete, an investigative plan is developed. If the complaint involves a Team Member and a Participant-Beneficiary, Mercy Corps investigators work with even a greater sense of urgency. This may involve flying investigators immediately to the site, setting shorter turnaround times for evidentiary documents to be collected and reviewed and for reports to be written, and prioritizing bringing findings and recommendations to the relevant management personnel for action.

As part of Mercy Corps’ efforts to increase awareness around safeguarding issues and to better protect community members and participants, and to also help expedite investigations of safeguarding complaints, Mercy Corps has put into place two new initiatives: Safeguarding Focal Points (discussed above) and Community Accountability Reporting Mechanisms (“CARM”). Mercy Corps launched an in-country Safeguarding Focal Points and Co-Investigators Initiative in September 2019. Beginning in December 2019 and continuing through the Spring 2020, trainings conducted by a third-party provider on safeguarding issues, best practices, and investigative techniques particular to these kinds of allegations will be held in the field. Mercy Corps is currently undergoing recruitment and vetting of Team Members to serve as potential Focal Points and Co-Investigators. CARMs are

⁶ Local law may require that the accused be able to confront the accuser before being charged. Survivors who have engaged in discussions with Mercy Corps will be notified of potential ramifications such as this.

community-facing mechanisms, particularized to each country, that may include suggestion boxes, toll-free hotlines, and WhatsApp messaging. Mercy Corps has also formed a cross-discipline Safeguarding Working Group and hired a full-time Safeguarding Technical Advisor and Project Officer.

V. **Assessing Mercy Corps' 1990s Investigation and 2018 Response to the Humphreys Against Current SEA Policies and Procedures**

On October 8, 2019, The Oregonian/Oregon Live published an investigative report detailing allegations that Mercy Corps' co-founder Ellsworth Culver had sexually abused his daughter, Tania Culver Humphrey, decades earlier. The report criticized how Mercy Corps' Board of Directors investigated these allegations in the 1990s, as well as the organization's 2018 response to the Humphreys request "to ensure that [the 1990s investigation] was handled in conformance with Mercy Corps' current ethics policy and investigative processes." Mercy Corps' current Board of Directors, through a Special Committee, engaged Vestry Laight to investigate the facts and evidence around Mercy Corps' 2018 response to the Humphreys. Vestry Laight recently delivered its *Findings and Recommendations Regarding the Actions by Mercy Corps Following the 2018 Receipt of Allegations Concerning Co-Founder Ellsworth Culver*.

While Vestry Laight's report focuses on organizational missteps in Mercy Corps' 2018 response, Nichols Liu has considered this response vis-à-vis current SEA policies. Additionally, Nichols Liu addresses below the Humphreys' request to assess the 1990s investigation these policies. Our analysis is based on information in The Oregonian Report and collected from Mercy Corps.

We agree with Vestry Laight that Mercy Corps did not follow its current safeguarding policies in responding to the Humphreys' 2018 request. We also concur that at least five factors contributed to this situation:

1. While Mercy Corps has built SEA efforts into its programs for some time, the improved safeguarding program was fairly nascent at the time the Humphreys submitted their hotline report.
2. The organization did not have an SEA expert available at the time to assign to the hotline report when it came in.
3. The General Counsel delegated the handling of the matter to the Senior Legal Counsel, who had no training on SEA matters.
4. The Senior Legal Counsel interpreted the hotline report as requesting a review of the 1990s investigation rather than reporting sexual abuse.

5. There was ambiguity as to whether current SEA policies and protocols would apply to allegations that a long-deceased employee had sexually abused a family member, with no other relation to Mercy Corps, decades earlier.

Additionally, we agree with Vestry Laight that, regardless of whether the SEA policies expressly covered the Humphrey's request in 2018, Mercy Corps at least should have drawn upon the values underlying those policies in their response. Had Mercy Corps been more active in ensuring a proper resolution to the request, engaged a trained SEA expert to manage the matter, and taken a survivor-centered approach in its dealings with the Humphreys, Mercy Corps' approach in 2018 almost certainly would have been more constructive and helpful.

Finally, there can be no doubt that Mercy Corps' investigation in the 1990s also fell short of the standards and values contained in current SEA policies and protocols. Our review of the evidence identified the following six concerns:

1. The 1990s investigation was conducted by Board members, including an executive manager who co-founded the organization with Mr. Culver. At least two of the three participants on the investigation team worked closely with Mr. Culver on programmatic implementation and executive management of the organization. This posed an apparent conflict of interest that warranted engaging an independent third party to investigate.
2. According to The Oregonian/OregonLive report, the investigation team apparently looked for signs that Mr. Culver was dysfunctional. This would have been a subjective judgment considering that none of the investigation Team Members were experts on personality indicators of sexual perpetrators.
3. The investigation team cited a lack of precision in Ms. Culver Humphrey's description of the abuse as one of the reasons for finding the allegations unsubstantiated. However, describing sexual violence as a survivor can be a traumatic experience in and of itself. With greater attention paid to survivors' stories today, we have more insight into survivors' experiences and how they recall these traumatic events. Nondescript language used when reliving instances of abuse is common and not necessarily an indicator that the abuse did not occur.
4. The investigation team relied on techniques that may be considered unreliable and intrusive by today's standards, such as placing significant

emphasis on the opinion of a specialist on “recovered memory” who did not even speak directly with Ms. Culver Humphrey.

5. Evidence suggests that the investigation team in the 1990s was influenced, at least in part, by local law enforcement not pursuing the allegations. Yet Mercy Corps’ current policies do not alter the approach to SEA matters based on whether law enforcement does or does not take action.
6. It appears clear that Mercy Corps’ investigation in the 1990s did not take a “survivor-centered approach” by placing Ms. Culver Humphrey at the center of their efforts.

These aspects of the 1990s investigation do not align with modern SEA standards recently adopted by Mercy Corps and likely would be handled differently by the organization if presented today.

VI. Areas for Potential Policy Improvements

Nichols Liu has identified seven opportunities for Mercy Corps to improve its SEA policies.

1. Mercy Corps should adopt and incorporate into its policies a clear and robust definition of safeguarding. The parameters of safeguarding remain vague in the minds of many, particularly in the U.S., and there is no single definition across organizations. The UK, on the other hand, is further along in defining the concept and may serve as guideposts in this endeavor. Mercy Corps should determine the definitions that best fit its intentions, in alignment with its major donors.
2. While Mercy Corps’ policies apply to “Team Members,” they do not specify whether they apply just to current Team Members or also to former Team Members, or whether they are limited to ongoing projects or to closed projects as well. For example, if an SEA allegation involves a Team Member who has left Mercy Corps and concerns activities in the distant past, would such allegations be covered by Mercy Corps’ current policies? Donor guidance is similarly non-specific on this question, but donors appear to expect a certain level of responsibility and response from implementers when faced with these unique situations. Mercy Corps should clarify its policies to clarify its positions on these issues.
3. Mercy Corps’ policies provide a general statement that the organization has “zero tolerance for and abhors conduct towards children that is exploitative or abusive” They also more specifically state that Mercy

Corps does not tolerate exploitive and sexual conduct with beneficiaries and “children with whom it works.” Mercy Corps should clarify whether it intends for its Child Safeguarding Policy to prohibit sexual or romantic activity between Team Members and children anywhere, including in their own home.

4. Mercy Corps’ investigative processes for safeguarding allegations appear robust and clear when it comes to allegations raised against a Team Member involving a beneficiary. However, there is ambiguity when it comes to an allegation involving a Mercy Corps executive. According to Mercy Corps’ *Overview of Reporting and Investigations* processes, if an allegation involves a Mercy Corps executive, the Ethics Team or an audit committee of the Board “may investigate this level of allegation or any they choose.” Mercy Corps should clarify its protocol in this area.
5. Mercy Corps may wish to set clear consequences for failure to investigate thoroughly or report sexual abuse and exploitation. As an example, Mercy Corps’ policies provide for discipline, up to and including termination, against Team Members who are aware of possible exploitation and/or abuse of children by Team Members, Partners, or Visitors yet do not ensure that these allegations are reported. Instances of unreported SEA and child safeguarding abuses may come to light and cause reputational damage to the organization, even though senior managers may have been unaware of the abuse. By making clear to those working on Mercy Corps programs both directly and indirectly that they have a responsibility to report or else face serious consequences, Mercy Corps can mitigate this risk and serve as an unfortunate, but needed, deterrent.
6. Given that Mercy Corps has recently updated its policies to be on the leading edge of implementing donor standards and expectations, we advise that Mercy Corps ensure these policies are fully rolled out to its employees and effectively implemented. Mercy Corps may also wish to have periodic internal or external audits of its implementation of these policies and amend its policies accordingly if additional gaps or vulnerabilities are identified.
7. As stated, Mercy Corps should consider revising its SEA policies to apply the values, if not all of the processes, that they contain any person coming to the organization with SEA allegations – particularly in recognizing the trauma that survivors may have endured and taking a survivor-centered and compassionate approach.