

# Prison Rape Elimination Act (PREA) Audit Report

## Adult Prisons & Jails

☐ Interim ☒ Final

Date of Report January 15, 2019

### Auditor Information

Name: James Schiebner	Email: schiebnerj@michigan.gov
Company Name: Michigan Department of Corrections	
Mailing Address: 10274 Boyer Road	City, State, Zip: Carson City, MI 48811
Telephone: 616-902-7498	Date of Facility Visit: April 9-10, 2018

### Agency Information

Name of Agency: Maryland Department of Public Safety and Correctional Services		Governing Authority or Parent Agency (If Applicable): Click or tap here to enter text.	
Physical Address: 300 E. Joppa Road, #1000		City, State, Zip: Towson, MD 21286	
Mailing Address: Click or tap here to enter text.		City, State, Zip: Click or tap here to enter text.	
Telephone: 410-339-5000		Is Agency accredited by any organization? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
The Agency Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
Agency mission: The Department of Public Safety and Correctional Services protects the public, its employees, and detainees and offenders under its supervision.			
Agency Website with PREA Information: www.dpscs.maryland.gov			

### Agency Chief Executive Officer

Name: Stephen T. Moyer	Title: Secretary
Email: Stephen.Moyer@Maryland.gov	Telephone: 410-339-5005

### Agency-Wide PREA Coordinator

Name: David Wolinski	Title: PREA Coordinator MDPSCS
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<b>Email:</b> David.Wolinski@Maryland.gov	<b>Telephone:</b> 410-339-5033		
<b>PREA Coordinator Reports to:</b> Deputy Secretary of Operations	<b>Number of Compliance Managers who report to the PREA Coordinator</b> 23		
<b>Facility Information</b>			
<b>Name of Facility:</b> Brockbridge Correctional Facility (BCF)			
<b>Physical Address:</b> 7930 Brockbridge Road, Jessup MD 20794			
<b>Mailing Address (if different than above):</b> Click or tap here to enter text.			
<b>Telephone Number:</b> 410.799.1363			
<b>The Facility Is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Private not for profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
<b>Facility Type:</b>	<input type="checkbox"/> Jail	<input checked="" type="checkbox"/> Prison	
<b>Facility Mission:</b> Click or tap here to enter text.			
<b>Facility Website with PREA Information:</b> <a href="http://dpscs.maryland.gov/prea/index.shtml">http://dpscs.maryland.gov/prea/index.shtml</a>			
<b>Warden/Superintendent</b>			
<b>Name:</b> Thomas Wolfe		<b>Title:</b> Acting Warden	
<b>Email:</b> Thomas.wolfe@maryland.gov		<b>Telephone:</b> 410-379-6313	
<b>Facility PREA Compliance Manager</b>			
<b>Name:</b> Jon Scramlin		<b>Title:</b> Correctional Case Management Manager	
<b>Email:</b> jon.scramlin@maryland.gov		<b>Telephone:</b> 410-540-6247	
<b>Facility Health Service Administrator</b>			
<b>Name:</b> Mariam Peters		<b>Title:</b> Health Service Administrator	
<b>Email:</b> mpeters@wexfordhealth.com		<b>Telephone:</b> Click or tap here to enter text.	
<b>Facility Characteristics</b>			
<b>Designated Facility Capacity:</b> 651		<b>Current Population of Facility:</b> 603	
<b>Number of inmates admitted to facility during the past 12 months</b>			1744
<b>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:</b>			1744

Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:			1686	
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:			0	
Age Range of Population:	Youthful Inmates Under 18: None	Adults: 18-60+		
Are youthful inmates housed separately from the adult population?		<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> NA
Number of youthful inmates housed at this facility during the past 12 months:			0	
Average length of stay or time under supervision:			36 Months	
Facility security level/inmate custody levels:			Minimum and Pre-Release Security	
Number of staff currently employed by the facility who may have contact with inmates:			104	
Number of staff hired by the facility during the past 12 months who may have contact with inmates:			3	
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:			5	
<b>Physical Plant</b>				
Number of Buildings: 4		Number of Single Cell Housing Units: 0		
Number of Multiple Occupancy Cell Housing Units:		1		
Number of Open Bay/Dorm Housing Units:		11		
Number of Segregation Cells (Administrative and Disciplinary):		40		
Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):  27 cameras with at least 60 days of retention period. Cameras are placed in hallways on main floor and 2nd floor as well as dietary area, sallyport and gate areas.				
<b>Medical</b>				
Type of Medical Facility:		Medical Evaluation Unit only - not an in-patient infirmary		
Forensic sexual assault medical exams are conducted at:		Mercy Hospital		
<b>Other</b>				
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:			117	
Number of investigators the agency currently employs to investigate allegations of sexual abuse:			30	

# Audit Findings

## Audit Narrative

A certified PREA audit was conducted at the Brockbridge Correctional Facility (BCF) located in Jessup, Maryland. The audit team consisted of certified PREA auditor James Schiebner (author), Mary Mitchell, Brock Simmons and Dennis Cassel; all from the Michigan Department of Corrections.

The pre-audit phase began in March 2018 with the delivery, via CD and emails, of the agency documentation. The facility provided the Pre-Audit Questionnaire (PAQ) in mid-March. The facility did not send much in the way of facility documentation prior to the on-site audit. The auditor requested the items, but never received the requested documentation. The standards were divided among the auditors with each reviewing the documentation available for their assigned standards and using the auditor tool as a guide.

Six weeks prior to the onsite visit, the facility was provided with contact information to post throughout the facility for inmates to write the audit team. No letters were received prior to the visit.

The onsite facility audit and tour began Monday, April 9, 2018 with all four auditors at BCF. There was a facility greeting from Acting Facility Manager Charles Mitchell and PREA Compliance Manager Jon Scramlin. Once we entered the facility we completed an entrance introduction with PREA Compliance Manager Jon Scramlin, Acting Facility Manager Charles Mitchell, CO II Dalton Clarke, CO II Audit Coordinator Michelle MacDonald, COII Leatrese Pitt and Warden Thomas Wolfe. The audit team introduced themselves explained the purpose and outline of the audit process and the facility tour was then explained, along with the audit team's expectations and requirements for a successful audit.

After the introduction meeting the tour of BCF began. All four auditors participated in the tour along with various facility staff members. The tour consisted of all general population housing unit dorms, administrative segregation, visitation/chapel area, indoor recreation, gymnasium, control center, inmate dining, dry storage, coolers, maintenance, boiler room, inmate barber shop, medical, intake, property, group meeting space, and the multi-purpose building (computer lab, education, library, and case management).

During the tour it was noted that the PREA Hotline phone number was stenciled in all the areas around the facility informing the population of how to contact the hotline. The only areas of concern during the tour will be noted below. Staff and inmate alike seemed comfortable and were aware of PREA. The facility did not have adequate postings indicating to the inmate population of the agency's zero tolerance policy on sexual abuse and sexual harassment. However, prior to the completion of the second day, David Wolinski had provided the facility with an adequate amount of signage that was posted prior to us leaving the facility. The postings did get placed throughout the facility.

Bathrooms and showers were situated throughout the housing units as well as other locations throughout the facility. All bathroom and showering areas provided the necessary privacy needed for inmates to change clothing and use the toilet facilities without being viewed by staff of the opposite gender. The only exception is noted below in the multipurpose building bathroom.

The facility has 27 cameras with a 60 day retention period. During the tour of the control center it was learned that the camera system has been malfunctioning for at least the last 3 weeks. The malfunction has made it impossible for the staff to view any of the cameras other than the current camera on the viewing screen. They assured us that they system was still recording allowing for playback if necessary.

The dining hall was found to have coolers and doors unsecured without staff supervision in the area. The caustics/mop closet door had cardboard taped over the door latch to prevent it from securing. The pot storage area and dish cleaning room had chairs hidden in the back corners of the rooms. These areas are not viewable by any working camera.

The multipurpose building had a group inmate bathroom down one hallway. This bathroom had a physical layout that would allow for cross-gender viewing if inmates were using the urinals near the doorway. The facility manager indicated that he would have partition walls installed to block the view from the doorway. However, this was not completed as of the time we completed the on-site tour.

The segregation unit did not have any audit postings posted in the unit to inform the inmate population in segregation of this audit. The general population housing units all had the proper audit postings.

During the tour the audit team conducted 25 informal interviews of inmates and 18 informal interviews of staff. Formal interviews were conducted at the completion of the tour and on the second day of the onsite audit. A total of 27 staff were interviewed, which included random staff from each shift.

- Agency Contract Administrator – 1
- Director – 1
- PREA Coordinator – 1
- PREA Compliance Manager – 1
- Designated Staff Member Charged with Monitoring Retaliation – 1
- Incident Review Team – 1
- Investigative Staff – 2
- Human Resources Staff – 1
- SANE/SAFE – 1
- Staff who Perform Screening for Risk of Victimization and Abusiveness – 1
- Medical and Mental Health Staff – 2
- First Responders – 13
- Intake Staff – 1
- Volunteers/Contractor – 1
- Random Staff Interviews – 13
- Warden or Designee – 1
- Intermediate or Higher Level Staff - 1
- Staff who supervise Inmates in Segregation - 1

The following formal inmate interviews took place during the onsite audit process;

- Disabled and Limited English speaking Inmate - 5
- Inmates placed in Segregation - 2
- Inmates who disclosed sexual victimization - 3
- Inmates who reported sexual abuse – N/A
- Random - 29
- Transgender and intersex inmates – N/A

The count on the first day (4/9/2018) of the onsite visit of BCF was 600. The count on day two (4/10/2018) of the onsite visit of BCF was 603.

On the second day of the onsite audit the audit team conducted a brief exit interview with facility staff. The audit team gave an overview of the audit process and thanked the staff for all their hard work and commitment to the Prison Rape Elimination Act.

## Facility Characteristics

The Brockbridge Correctional Facility (BCF) located in the Jessup area of Anne Arundel County is primarily brick and block construction and situated on 6.6 acres of land adjacent to the Maryland Correctional Pre-Release System's administration building. A double fence topped with razor ribbon, and three security towers provides perimeter security.

The facility, which was constructed in 1966, is a two-story building with inmate housing consisting of five, fifty-five bed dormitories on the first floor and a housing unit called Garrett. This unit houses the administrative and disciplinary segregation inmates and has twenty cells, ten on each side with an encircling security corridor and common space. There are two beds each attached to the wall and floor with a stainless-steel combination toilet/wash basin/fountain unit. A lavatory is adjacent to this unit. The open housing configuration in the dormitories includes single, unattached beds, inmate property storage lockers, hygiene/sanitation materials storage cabinet, a television, a coffeepot, and an ice cooler. The dormitories are located off both sides of a long corridor with large view windows permitting observation of the housing units. Adjacent to each dormitory is a lavatory with metal stainless steel toilets, sinks, and urinals. Porcelain washbasins have been installed in the lavatories.

The remainder of the first floor includes a large auditorium, used as a visiting area, administrative office space, general meeting area, roll call room and emergency operation center, security control center with video monitoring capabilities, small visitor waiting area and an attorney visiting room, dining room, dishwashing room, kitchen, public rest rooms, commissary, traffic and operations area, lieutenants office, holding area, religious meeting room and chaplain's office, clothing room, inmate property storage room, laundry room with commercial sized washers and dryers, contraband storage room, some staff offices and miscellaneous storage space.

In addition to inmate housing, the second floor which is configured similar to the first floor, has a barber shop, two game rooms with four pool tables and a table-tennis game, a classroom, two inmate telephone rooms with twenty collect call telephones each, a medical department, and miscellaneous storage space. The basement of the main building includes the boiler room, maintenance shop, storage rooms, tool crib, and a storage crawlspace.

Within the security perimeter there is a multipurpose building which houses the classification, education, psychology, chaplain's, clerical and identification offices, a small library, a gymnasium and weight lifting area with adjacent staff office and equipment storage space. The education area consists of four classrooms, a library, and a storage office and supply storage space. In addition, the building has a separate reclassification boardroom, area for inmate orientation and psychology groups and storage space. Adjacent to the main lobby is the BCF training building that has a classroom, and MCPRS training office, officers' clothes storage area, and services and supply office.

In the recreation yard, there is a 20 by 40-foot trailer that is used to store excess property pending disposal and a recreation shed. The recreation yard has a basketball court, volleyball court, a softball diamond, running/walking track, weightlifting equipment and four horseshoe pits.

The construction of the warehouse was completed in 2011. In the vehicle yard, there is a large warehouse building and an outdoor freezer unit, a dietary shed for materials and supplies, a property shed, and storage containers. There is also a vehicle sally port with an enclosed officers' station, two pedestrian sally ports, and a paved staff/visitor parking lot.

## Summary of Audit Findings

**Number of Standards Exceeded:** 0

N/A

**Number of Standards Met:** 45

115.11 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator.  
115.12 Contracting with other entities for the confinement of inmates.  
115.13 Supervision and monitoring.  
115.14 Youthful inmates.  
115.15 Limits to cross-gender viewing and searches.  
115.16 Inmates with disabilities and inmates who are limited English proficient.  
115.17 Hiring and promotion decisions.  
115.18 Upgrades to facilities and technologies.  
115.21 Evidence protocol and forensic medical examinations.  
115.22 Policies to ensure referrals of allegations for investigations.  
115.31 Employee training.  
115.32 Volunteer and contractor training.  
115.33 Inmate education.  
115.34 Specialized training: Investigations.  
115.35 Specialized training: Medical and mental health care.  
115.41 Screening for risk of victimization and abusiveness.  
115.42 Use of screening information.  
115.43 Protective custody.  
115.51 Inmate reporting.  
115.52 Exhaustion of administrative remedies.  
115.53 Inmate access to outside confidential support services.  
115.54 Third-party reporting.  
115.61 Staff and agency reporting duties.  
115.62 Agency protection duties.  
115.63 Reporting to other confinement facilities.  
115.64 Staff first responder duties.  
115.65 Coordinated response.  
115.66 Preservation of ability to protect inmates from contact with abusers.  
115.67 Agency protection against retaliation.  
115.68 Post-allegation protective custody.  
115.71 Criminal and administrative agency investigations.  
115.72 Evidentiary standard for administrative investigations.  
115.73 Reporting to inmates.  
115.76 Disciplinary sanctions for staff.  
115.77 Corrective action for contractors and volunteers.  
115.78 Disciplinary sanctions for inmates.  
115.81 Medical and mental health screenings; history of sexual abuse.  
115.82 Access to emergency medical and mental health services.  
115.83 Ongoing medical and mental health care for sexual abuse victims and abusers.  
115.86 Sexual abuse incident reviews.

115.87 Data collection.  
115.88 Data review for corrective action.  
115.89 Data storage, publication, and destruction.  
115.401 Frequency and scope of audits.  
115.403 Audit contents and findings.

**Number of Standards Not Met:** 0

### **Summary of Corrective Action (if any)**

During the initial audit there were 7 standards not met during the onsite audit. The facility was placed in a corrective action period of 180 days. During this corrective action period they addressed each noncompliant standard as indicated below in this final report. The noncompliant standards were;

115.13 Supervision and monitoring.  
115.41 Screening for risk of victimization and abusiveness.  
115.42 Use of screening information.  
115.67 Agency protection against retaliation.  
115.73 Reporting to inmates.  
115.81 Medical and mental health screenings; history of sexual abuse.  
115.86 Sexual abuse incident reviews.

115.13 Supervision and monitoring.

BCF will need to determine how the holding area for inmates will be monitored by staff to ensure the sexual safety of all inmates and shall be agreed upon by the auditor. During the 180 days corrective action period, BCF will need to provide the auditor with documentation showing how the staffing plan takes into consideration the holding area as well as documentation proving the area is monitored.

#### **Corrective Action:**

BCF updated the Post Orders (110-1-34a) for the Traffic Officers indicating that they are required to conduct 30 minute security round checks of the rooms 141 and 142 which are the holding areas referenced in the onsite audit. They have incorporated a log book and provided copies of the Post Orders and Log Book order as supporting documentation of the changes. The direction is for 30 minutes rounds to be conducted and logged in the log book as well as the security status of the rooms, the number of inmates in the room and any status changes.

115.41 Screening for risk of victimization and abusiveness.

For any inmates that have arrived at BCF within the last 30 days of the date of this report and throughout the 180 days of corrective action, the facility will need to provide the auditor with documentation of the inmate's arrival date at BCF, 72 hour risk assessment completion, as well as 30 day risk assessment completion. These documents will need to be provided to the auditor at the end of each month during the corrective action period.

#### **Corrective Action:**



PCM Scramlin provided the auditor with copies of numerous screening forms throughout the corrective action period proving that the reassessments are taking place within 30 days of arrival. In every instance the document supports the facility is now completing the assessments and reassessments within the required time limits upon an inmate's arrival at BCF.

#### 115.42 Use of screening information.

BCF will need to provide documentation demonstrating to the auditor that the facility uses the information produced from the screening tools to make work, education and program assignments. BCF will need to provide the auditor with documentation showing they use the screening tools to separate possible aggressors from possible victims.

#### Corrective Action:

BCF provided an updated directive, BCFID.020.0026.2, indicating that risk assessment information is entered in the base file and facility data system to inform housing, bed, work, education, and program assignments. Case management will use this information to assign inmates to housing, assignments and programming. They will also notify the assignment supervisor of any special PREA conditions. The initial screening is used for housing purposes and verified by case management after the Traffic Officer completes the initial screening. Prisoners are separated by housing units based on PREA scores and housed on different levels within the facility.

The facility provided a copy of a spreadsheet that is used to track the PREA scores for inmates for staff to use for programming and housing assignments.

#### 115.67 Agency protection against retaliation.

BCF will need to provide the audit team with a plan indicating who will provide the retaliation monitoring when it is necessary, and that staff have been trained. They will also provide the audit team with any monitoring documentation that occurs during the corrective action period, using the agency Retaliation Monitoring form as well as an investigation log, to support which new allegations require monitoring. This documentation will need to be supplied monthly for the duration of the corrective action period.

#### Corrective Action:

BCF has made it the responsibility of the facility PCM to ensure retaliation monitoring is completed for each required case. The facility provided me all retaliation monitoring forms for each case as well as copies of their log of PREA cases to ensure that all required monitoring was in fact started and completed. All provided examples were in compliance with standard 115.67.

#### 115.73 Reporting to inmates.

BCF will need to ensure they are notifying all inmate victims of the investigation finding when the investigation is completed. BCF will also need to ensure they are notifying all inmate victims of the other notification requirements listed in the above standard. BCF and the agency will need to demonstrate how and when the inmates are notified and provide documentation proving compliance over the next 180 days by providing copies of all notification forms along with a copy of the investigation log to cross reference to completed investigations.

#### Corrective Action:

PCM Scramlin adopted a PREA Outcome Notification Form that he is utilizing to ensure that all inmates are notified of the outcome of the PREA investigation. The form has a spot to indicate who notified the inmate of the outcome and a spot for both the inmate and staff person to sign. The facility provided numerous examples during the corrective action period showing all notifications were made and signed for by the inmate and staff.

115.81 Medical and mental health screenings; history of sexual abuse.

The agency will need to provide the auditor with executive directives, documentation and any forms utilized to support that medical and mental health will receive informed consent prior to them reporting any incidents of sexual abuse that took place outside an institutional setting. The agency will also provide the auditor with proof of agency wide dissemination which shows enforcement of these changes. The facility will need to show the auditors proof that staff at the facility are aware of the change and how they were made aware. Documentation will also need to be provided to support that prisoners are evaluated within 14 days by mental health staff after disclosing prior sexual victimization.

Corrective Action:

The agency provided Wexford Health's Procedure in the Event of Sexual Assault, a Mental Health Informed Consent form and the Department of Public Safety and Correctional Services Office of Clinical Services/Inmate Health Medical Records Manual, Chapter 1 – Consent to Treatment, as evidence to address the informed consent issue. The documentation requires that consent must be obtained for prior victimization/abuse not occurring in an institutional setting.

115.86 Sexual abuse incident reviews.

BCF will have to conduct proper incident reviews on all prior allegations of sexual abuse (unless unfounded) and provide documentation when complete. The Facility will also have to conduct incident reviews on all future allegations of sexual abuse as required by this standard and/or Agency policy and provide verification that they are being completed for the next 180 days. An investigation log will also need to be provided as reference for allegations being reported.

Corrective Action:

The agency created and submitted a new Sexual Abuse Incident Review form which was disseminated to all facilities. BCF reviewed their investigation logs for 2017 and 2018 noting that all cases of sexual abuse have been determined to be "unfounded". They indicated that upon closing a case for anything other than unfounded that the proper incident review will be conducted with the required 30 days. To this date they have not had a substantiated sexual abuse case.

## PREVENTION PLANNING

### Standard 115.11: Zero tolerance of sexual abuse and sexual harassment; PREA coordinator

All Yes/No Questions Must Be Answered by The Auditor to Complete the Report

#### 115.11 (a)

- Does the agency have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment? ☒ Yes ☐ No
- Does the written policy outline the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment? ☒ Yes ☐ No

#### 115.11 (b)

- Has the agency employed or designated an agency-wide PREA Coordinator? ☒ Yes ☐ No
- Is the PREA Coordinator position in the upper-level of the agency hierarchy? ☒ Yes ☐ No
- Does the PREA Coordinator have sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities?  
☒ Yes ☐ No

#### 115.11 (c)

- If this agency operates more than one facility, has each facility designated a PREA compliance manager? (N/A if agency operates only one facility.) ☒ Yes ☐ No ☐ NA
- Does the PREA compliance manager have sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards? (N/A if agency operates only one facility.)  
☒ Yes ☐ No ☐ NA

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

(a): Maryland Department of Public Safety and Correctional Services (MDPSCS) does have written policies and operating procedures in place mandating zero tolerance toward all forms of sexual abuse and sexual harassment. MDPSCS practices are precise in outlining the agency's approach to preventing, detecting and responding to sexual abuse and sexual harassment. MDPSCS has implemented Secretary's Directive DPSCS.020.0026, effective August 19, 2016 which states "this directive continues policy for the Department of Public Safety and Correctional Services concerning sexual abuse and sexual harassment of an inmate. Furthermore, the directive continues to state the Department does not tolerate sexual abuse or sexual harassment of an inmate and in section 5-G, the

Department shall continue an aggressive approach to preventing, detecting, and responding to acts of sexual abuse and sexual harassment involving an inmate. Section 5-F requires the Department to ensure that existing efforts and new strategies to prevent, detect, and respond to acts of sexual abuse and sexual harassment involving an inmate comply with applicable national standards established under the authority of PREA. Additionally, MDPSCS has provided a copy of Executive Directive OSPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015 which states the Department does not tolerate sexual misconduct by an employee, by either omission or commission, and does not consider alleged or actual consent as a defense to an allegation of sexual misconduct. Executive Directive OSPS.200.0004, Inmate on Inmate Sexual Conduct-Prohibited, effective November 13, 2015 also prohibits inmate-on-inmate sexual conduct of any sort.

(b): MDPSCS provided the agency's organizational chart identifying David Wolinski as a Special Assistant to the Deputy Secretary for Operations for the MDPSCS. Mr. Wolinski is the agency's PREA Coordinator. As an assistant to the number two position within the MDPSCS, Mr. Wolinski is in a position to have the authority and impact necessary to carry out the duties of a PREA Coordinator as required by this standard. Upon interviewing Mr. Wolinski, he indicated he has sufficient time and authority to manage his PREA related responsibilities on behalf of the agency. Furthermore, Mr. Wolinski stated he has the authority to make changes and implement policy on behalf of the agency in order to improve PREA efforts. Mr. Wolinski also stated he and a Major are actively involved in the annual staffing plan reviews of each correctional facility within the DPSCS. In addition to Mr. Wolinski's PREA compliance duties, he is responsible for gathering aggregate data in order to assess and improve efforts toward sexual abuse and sexual harassment prevention. Specifically, Mr. Wolinski reviews the information gathered in order to look for trends or pockets of allegations to determine whether changes need to be made to policy or practice within a particular location or facility. Mr. Wolinski indicated there are 23 PREA Compliance Managers within the MDPSCS. He regularly interacts with them through email and telephone calls, as well as during site visits to the facilities.

The agency has Policy Directives in place supporting section (b) of this standard. Secretary's Directive DPSCS.020.0026, effective August 19, 2016 mandates, under section 5-A that the Secretary shall designate a Department PREA Coordinator. Section 5-B mandates the PREA Coordinator shall have sufficient time and appropriate authority to develop, implement, and oversee Department activities taken to comply with PREA standards in Department correctional and detention facilities. At a minimum, the PREA Coordinator is responsible for oversight of Department prevention, detection, and response activities designed to support the Department's zero tolerance policy for sexual abuse and sexual harassment of an inmate, ensuring the Department PREA-related activities comply with federal PREA standards, authorizing procedures for the Department related to prevention, detection, and response to acts of sexual abuse and sexual harassment involving an inmate, and ensuring preparation and submission of PREA-related reports.

(c): BCF provided documentation indicating that Jon Scramlin, who is a Correctional Case Management Manager, has been designated as the PREA Compliance Manager for BCF. Mr. Jon Scramlin reports to the facility Warden. During an interview with Mr. Scramlin, he indicated that PREA is very time consuming and he does not have sufficient time to complete his regular assigned duties, along with assuring that the facility is compliant with PREA.

The agency/facility offered evidence showing support of this standard, Secretary's Directive DPSCS.020.0026, effective August 19, 2016, section 5-C, requires the managing official for each Department detention, correctional, and community confinement facility, shall identify a PREA Compliance Manager (PCM) for that facility. The PCM shall have the authority to independently act on behalf of the managing official on facility PREA compliance activities.

## Standard 115.12: Contracting with other entities for the confinement of inmates

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

### 115.12 (a)

- If this agency is public and it contracts for the confinement of its inmates with private agencies or other entities including other government agencies, has the agency included the entity's obligation to comply with the PREA standards in any new contract or contract renewal signed on or after August 20, 2012? (N/A if the agency does not contract with private agencies or other entities for the confinement of inmates.) ☒ Yes ☐ No ☐ NA

### 115.12 (b)

- Does any new contract or contract renewal signed on or after August 20, 2012 provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards? (N/A if the agency does not contract with private agencies or other entities for the confinement of inmates OR the response to 115.12(a)-1 is "NO".) ☒ Yes ☐ No ☐ NA

### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

(a): Maryland Department of Public Safety and Correctional Services (MDPSCS) contracts with "Threshold, Inc." for its pre-release services. MDPSCS provided a July 2016 copy of the contract with "Threshold, Inc." as documentation of meeting this standard. The contract, under sections 25.3 and 25.4, requires "Threshold, Inc." to comply with all Federal, State and Local laws, regulations, and ordinances applicable to its activities and obligations under this contract, and; shall fully comply with the standards set forth in the Prison Rape Elimination Act of 2003, and with all applicable regulations issued by the U.S. Department of Justice.

(b): Under the inspections and evaluations portion of the contract (2.10.1), the Contractor shall permit the Contract Monitor or authorized representatives to conduct audits, physical inspections, and evaluations of the Center at any time during the contract period. The Department's Contract Monitor or authorized representatives may enter the Center at any time without prior notice to the Contractor.

Additionally, MDPSCS provided a copy of the most recent PREA audit completed at “Threshold, Inc.” The audit report, dated September 24, 2015 shows “Threshold, Inc.” is in full compliance with PREA. This is the only agency contracted by the MDPSCS and complies with the requirements of the standard.

The contract administrator interview with the agency PREA Coordinator, David Wolinski, was previously conducted the week of January 22, 2018 during a previous audit. The interview revealed that Maryland DPSCS has assigned an agency staff member as the PREA Compliance Manager/Contract Monitor at each contracted facility to ensure continued compliance with the contract and with PREA. Mr. Wolinski has regular intermittent conversations with the contractor and with the Contract Monitors regarding the facility’s continued compliance. The final report for the contracted facility’s audit has been posted on the agency’s website.

## Standard 115.13: Supervision and monitoring

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

### 115.13 (a)

- Does the agency ensure that each facility has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? ☒ Yes ☐ No
- Does the agency ensure that each facility has documented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? ☒ Yes ☐ No
- Does the agency ensure that each facility’s staffing plan takes into consideration the generally accepted detention and correctional practices in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No
- Does the agency ensure that each facility’s staffing plan takes into consideration any judicial findings of inadequacy in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No
- Does the agency ensure that each facility’s staffing plan takes into consideration any findings of inadequacy from Federal investigative agencies in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No
- Does the agency ensure that each facility’s staffing plan takes into consideration any findings of inadequacy from internal or external oversight bodies in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No
- Does the agency ensure that each facility’s staffing plan takes into consideration all components of the facility’s physical plant (including “blind-spots” or areas where staff or inmates may be isolated) in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration the composition of the inmate population in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No
- Does the agency ensure that each facility's staffing plan takes into consideration the number and placement of supervisory staff in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No
- Does the agency ensure that each facility's staffing plan takes into consideration the institution programs occurring on a particular shift in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No ☐ NA
- Does the agency ensure that each facility's staffing plan takes into consideration any applicable State or local laws, regulations, or standards in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No
- Does the agency ensure that each facility's staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No
- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

#### 115.13 (b)

- In circumstances where the staffing plan is not complied with, does the facility document and justify all deviations from the plan? (N/A if no deviations from staffing plan.)  
☒ Yes ☐ No ☐ NA

#### 115.13 (c)

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The staffing plan established pursuant to paragraph (a) of this section? ☒ Yes ☐ No
- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The facility's deployment of video monitoring systems and other monitoring technologies? ☒ Yes ☐ No
- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The resources the facility has available to commit to ensure adherence to the staffing plan? ☒ Yes ☐ No

#### 115.13 (d)



- Has the facility/agency implemented a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment? ☒ Yes ☐ No
- Is this policy and practice implemented for night shifts as well as day shifts? ☒ Yes ☐ No
- Does the facility/agency have a policy prohibiting staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility? ☒ Yes ☐ No

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

(a): MDPSCS Staffing Analyst and Overtime Management establishes a staffing plan for the facilities to comply with on a regular basis and states that all facility staffing plans are reviewed annually. Maryland Executive Directive OPS.115.0001, effective September 4, 2015 assigns responsibilities and authorizes a procedure manual for the MDPSCS to manage security staffing and overtime at a correctional and detention facility. While the agency policy does not specifically address all of the sub-sections of this standard, it is evident that BCF has developed, documented and continues to make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing. In addition, the policies provided do not specifically address items 1-11 of section (a) of this standard. BCF did provide their November 16, 2017 completed facility staffing plan and annual review and it does incorporate some of the factors from this section. During facility tour BCF's camera monitoring system was not operational and unable to view all facility cameras. The Facility Administrator indicated during an interview that there is a video monitoring plan which Administration is in current discussions with regard to installation of new cameras.

During the tour, a holding area for inmates was observed connected to the traffic office. A door does separate the holding area from the traffic office and usually remains shut even if inmates are present in the holding area. During interviews with staff, it was learned that inmates may be dropped off anytime day or night and placed in this room until the next transporting cadre picks them up to take them to their final destination. Staff interviewed informed the auditor the inmates could be in the holding area for up to 12-18 hours or more depending. It was also learned the bathroom, located in a separate room inside the holding area, was open to all inmates in the holding area at all times. Staff also informed the auditor during interviews there are no cameras in view of this area, no staff assigned to monitor this area, nor is there rounding requirements for this area. Staff did say nothing prohibits them from going into the separate room to make rounds, but it is not the normal operations.

(b): During an interview with the Major, he reported that "collapsed positions" are considered based on the safety and security of the facility and inmates; in addition, he provided a detailed explanation from



the Facility Staffing Plan Summary outlining the information that is considered and the steps which are followed to ensure enough staff are assigned to cover essential areas where inmates are housed and active, ensuring the sexual safety of the inmate population. He also indicated that each shift submits a daily staffing plan at the conclusion of each shift, which will indicate if any positions need to be closed along with the reason. He also stated that if in the event a position has to be closed; inmate activities are suspended in this area if there is no available coverage. As evidence to support this standard, MDPSCS provided Directive DCD# 110-29, Collapsible Posts, issued August 1, 2001, which establishes a policy whereby specified posts may be collapsed to perform other essential security functions. This policy is to be utilized by wardens as a management tool to control overtime. It is the policy of the Department to allow managing officers to identify posts that may be collapsed in order to perform other more vital security assignments and reduce overtime usage. In order to ensure the safety of staff and inmates, the managing officer or designee shall select Operational Security Levels (OSL) for posts. The OSL for each post is designated on the Facility Staffing Plan (FSP), as well as all shift Post Assignment Worksheets. Each OSL level has specific guidelines which the managing officer must follow when there is a need to collapse a post. OSL 1 post may be collapsed for the duration of a shift while maintaining normal operations without interruption. OSL 2 posts may be collapsed during periods of diminished staffing levels by reducing operations while still maintaining institutional security, this may limit some activities. OSL 3 posts are only collapsed in a complete institutional lock down. OSL 4 posts shall not be collapsed except in an emergency; these posts remain staffed during a lock down.

Section VI-D of the policy mandates that posts shall be collapsed so as not to jeopardize the security, safety, and welfare of staff or inmates. The MDPSCS Staffing Analysis and Overtime Management Manual also include the responsibility and instructions of collapsing (closing) assignments. Documentation was provided for justification of incidents in which there was an assignment(s) collapsed and there was deviation from the staffing plan. The Special Assignment Post Request/Justification forms were reviewed and provided sufficient justification for assignments which were being collapsed.

(c): The agency did provide sufficient documentation to show that MDPSCS along with BCF does review staffing plans at least on an annual basis. During the interview with the Major, he did indicate that there is communication with the Agency PREA Coordinator on an annual basis to determine whether any adjustments are needed to the staffing plan and any other technologies that ensure BCF inmate sexual safety. As evidence to support the standard, MDPSCS provided their Staffing Analysis and Overtime Management Manual which echoed the requirements set forth in the executive directive listed below. Specifically, the purpose outlined in the manual states, "to establish policy and procedures to ensure safe, secure and efficient staffing of DPSCS facilities." Section VI also reaffirms the managing official shall maintain a current Facility Staffing Plan (FSP) approved by the Commissioner and the managing official, or designee, shall ensure the staffing plan reflects the most efficient use of officers to accomplish the mission of the facility by annually performing a review of the FSP.

Executive Directive OPS.115.0001, effective September 4, 2015, section .03-B-5 requires the Department to establish and maintain a uniform system to annually review staffing and posts to ensure effective security and control at the correctional and detention facility. Section .05-C-2 states at least annually, or on an as needed basis, the managing official is responsible for conducting a review of the existing Facility Staffing Plan that includes an analysis of each post to identify:

1. The number of days each week the post is staffed;
2. The rank of the correctional officers assigned to the post;

3. The operational staffing level (OSL) for the post; and
4. The designation as an emergency response post.

In addition to the above Executive Directive, the policy requires an analysis of the correctional or detention facility's operations to determine if changes warrant establishing new posts and modification of the Facility Staffing Plan.

Maryland DPSCS OPS.115.0001, section .05, indicates the facility will annually, in collaboration with the PREA Coordinator, review the staffing plan to see where adjustments are needed in the plan, monitoring equipment, or the allocation of facility resources are needed to ensure compliance. BCF conducts reviews of the Facility Staffing Plan yearly to ensure the safety and security of the facility, as well as to protect staff and inmates and to ensure the sexual safety of the inmate population.

The agency PREA Coordinator, Mr. David Wolinski indicated that he and the Major assigned to assist each facility within the agency with the annual review of the facility's staffing plan discuss each of the facility staffing plans. He then sends an email to the facility indicating he has reviewed the staffing plan and provides comments and/or direction when necessary. The Major and PREA Compliance Manager indicated that Mr. Wolinski sends an email with regard to his review of the Facility Staffing Plan and he is in contact with the administration regarding PREA compliance.

(d): During the audit tour, area logbooks were reviewed and clearly showed a presence of multiple first line, intermediate and higher level supervision log entries. These log entries were made at different times throughout each day, showing that supervisory rounds are being done at random times. There were no negative patterns found in the supervisory log book entries. Multiple supervisory signatures were present in the site log book, on all three shifts, and were signed in a different color ink which made it easy to review supervisory presence. Also, during the tour, there was a presence of supervisory staff in and out of each area of the prison. Random interviews with inmates also helped to support the fact that supervisors are prevalent and available to an inmate if needed. Interviews with intermediate and higher level supervisors, as well as housing unit staff, also confirmed that unannounced rounds are being conducted and line staff are aware that they are prohibited from announcing to other staff that a supervisor is entering their area.

MDPSCS provided executive directive OSPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015. This directive specifically states in section D, item 1, that a supervisor, manager, or shift commander shall take responsible actions to eliminate circumstances that may result in or contribute to an incident of sexual misconduct that include conducting and documenting security rounds to identify and deter staff sexual abuse and harassment that are preformed randomly on all shifts. The directive continues on to state that except when necessary to prevent prohibited cross-gender viewing of an inmate or as part of a legitimate facility operation, rounds shall be unannounced in order to prohibit staff from alerting other staff that the rounds are being conducted and shall be conducted at a frequency established by the managing official.

#### **Corrective Action Plan:**

BCF will need to determine how the holding area for inmates will be monitored by staff to ensure the sexual safety of all inmates and shall be agreed upon by the auditor. During the 180 days corrective action period, BCF will need to provide the auditor with documentation showing how the staffing plan takes into consideration the holding area as well as documentation proving the area is monitored.

#### **Corrective Action:**

BCF updated the Post Orders (110-1-34a) for the Traffic Officers indicating that they are required to conduct 30 minute security round checks of the rooms 141 and 142 which are the holding areas referenced in the onsite audit. They have incorporated a log book and provided copies of the Post Orders and Log Book order as supporting documentation of the changes. The direction is for 30 minutes rounds to be conducted and logged in the log book as well as the security status of the rooms, the number of inmates in the room and any status changes.

## Standard 115.14: Youthful inmates

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.14 (a)

- Does the facility place all youthful inmates in housing units that separate them from sight, sound, and physical contact with any adult inmates through use of a shared dayroom or other common space, shower area, or sleeping quarters? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

#### 115.14 (b)

- In areas outside of housing units does the agency maintain sight and sound separation between youthful inmates and adult inmates? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA
- In areas outside of housing units does the agency provide direct staff supervision when youthful inmates and adult inmates have sight, sound, or physical contact? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

#### 115.14 (c)

- Does the agency make its best efforts to avoid placing youthful inmates in isolation to comply with this provision? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA
- Does the agency, while complying with this provision, allow youthful inmates daily large-muscle exercise and legally required special education services, except in exigent circumstances? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA
- Do youthful inmates have access to other programs and work opportunities to the extent possible? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

### Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

BCF houses male inmates ranging in age from 18-60; no youthful inmates are housed at BCF. As per MDPDS Directive 100.0003, Separation of Adult and Juvenile Detainees, all youthful offenders are housed at a juvenile institution or a housing unit designated for juvenile offenders. This was confirmed during the onsite visit by interviewing the Warden and PREA Compliance Manager, who stated that no juvenile inmates were housed at BCF. This was also verified through general observation during the site tour, the inmate and staff interviews and inmate file reviews. The agency PREA Coordinator also confirmed that no juvenile inmates were housed at BCF. There are no youthful inmates being housed at BCF, nor are their housing units designated for youthful inmates at BCF.

## Standard 115.15: Limits to cross-gender viewing and searches

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.15 (a)

- Does the facility always refrain from conducting any cross-gender strip or cross-gender visual body cavity searches, except in exigent circumstances or by medical practitioners?  
☒ Yes ☐ No

#### 115.15 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female inmates in non-exigent circumstances? (N/A here for facilities with less than 50 inmates before August 20, 2017.) ☒ Yes ☐ No ☐ NA
- Does the facility always refrain from restricting female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision? (N/A here for facilities with less than 50 inmates before August 20, 2017.) ☒ Yes ☐ No ☐ NA

#### 115.15 (c)

- Does the facility document all cross-gender strip searches and cross-gender visual body cavity searches? ☒ Yes ☐ No
- Does the facility document all cross-gender pat-down searches of female inmates?  
☒ Yes ☐ No

#### 115.15 (d)

- Does the facility implement a policy and practice that enables inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks? ☒ Yes ☐ No
- Does the facility require staff of the opposite gender to announce their presence when entering an inmate housing unit? ☒ Yes ☐ No

#### 115.15 (e)

- Does the facility always refrain from searching or physically examining transgender or intersex inmates for the sole purpose of determining the inmate's genital status? ☒ Yes ☐ No
- If an inmate's genital status is unknown, does the facility determine genital status during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner? ☒ Yes ☐ No

#### 115.15 (f)

- Does the facility/agency train security staff in how to conduct cross-gender pat down searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs? ☒ Yes ☐ No
- Does the facility/agency train security staff in how to conduct searches of transgender and intersex inmates in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs? ☒ Yes ☐ No

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

(a): BCF reported in the PAQ that there were no instances in the past 12 months of cross-gender searches, including strip searches, body cavity searches and pat-down searches. During staff interviews, all staff indicated that neither cross-gender strip searches nor cross-gender visual body cavity searches are conducted and these cross-gender searches would not occur unless it was an emergency, and in those cases a supervisor would need to authorize and appropriately document the search.

The facility also provided the Maryland DPSCS, executive directive OPS.110.0047, Search Protocol-Inmates, effective April 15, 2015. It states in section F(4) that an inmate strip search shall be conducted by a single correctional officer of the same gender as that of the inmate being searched; in a location and manner that ensures maximum privacy for the inmate being searched; and in the presence of additional correctional officer. The training documents provided regarding strip searches states the officer conducting the search shall be the same sex as the inmate being searched. The standard continues to state, "Ideally, another officer, also of the same sex should be present."

(b): Section (b) of this standard is not applicable as there are no females housed at BCF.

(c): The facility PAQ reported zero instances of cross gender searches occurring in the last 12 months at BCF. During interviews with random staff and inmates, it was evident that cross-gender strip searches and body cavity searches do not occur at BCF. In addition, there are no females housed at BCF.

In addition, BCF staff provided MDPSCS, executive directive OPS.110.0047, Search Protocol-Inmates, effective April 15, 2015. This directive provides detailed information regarding personal searches of inmates which supports that the facility is in compliance with inmate search requirements as mandated by this standard. The latter part of section (c) of this standard is not applicable, as there are no female inmates housed at BCF.

(d): During the tour of BCF, it was evident that the female staff announce their presence when entering a housing unit or an announcement is made, upon entry of a female staff person into the housing unit, informing inmates that a female staff is in the housing unit. While conducting random and specialized interviews with staff and inmates, they also confirmed that "knocking and announcing" is occurring on all three shifts, each time a female staff enters a housing unit. During the audit tour, it was obvious that inmates had sufficient privacy to change clothes, perform bodily functions and shower without direct cross-gender viewing by staff. Showers were located in an area allowing privacy from staff of the opposite gender viewing their breasts, buttocks or genitalia and all inmates interviewed indicated they felt they had enough privacy to change clothes, shower and perform bodily functions without being viewed by the opposite gender.

Further evidence was presented to support that this standard is being followed by MDPSCS and BCF: Maryland DPSCS, executive directive OPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015 defines "cross gender viewing" as an employee observing the breasts, buttocks, or genitalia of an inmate of the opposite sex while the inmate is showering, performing bodily functions, changing clothing, or any similar activity. This directive also defines "sexual misconduct" to include cross gender viewing, if performed without warning by non-medical staff at times other than incidental to routine cell check, supervisory rounds to prevent sexual abuse and harassment, or exigent circumstances.

(e): During interviews of random staff, it was clear that staff knew they could not conduct a search or examine a transgender inmate for the sole purpose of determining the inmate's genital status. Staff also indicated that this was part of their annual training. During an interview with the PREA Compliance Manager, it was stated that he does not recall there ever been a Transgender inmate housed at BCF, however if they ever do intake a Transgender inmate, appropriate PREA standard requirements will be followed by BCF staff.

BCF does show support of this practice in facility policy, BCFID.020.0026.1, Sexual Misconduct-Prohibited, which states, "(6-7) Transgender inmates and inter-sex inmates will be verified through the Medical Department. Should it become necessary to pat search a transgender or inter-sex inmate, the



supervisor will contact medical for verification. Once the inmate is verified by medical as being transgender or inter-sex the officer will ask the inmate if he prefers to be pat searched by a male or female officer. The transgender inmate will document his choice on an inmate statement form prior to the pat search. The pat search shall only be conducted by the gender choice of the inmate. The inmate statement form will be forwarded to case management. At no time will a transgender or inter-sex inmate be strip searched to ascertain their sexual orientation.”

Also, Maryland DPSCS, executive directive OPS.110.0047, Search Protocol-Inmates, effective April 15, 2015, states in section F(3), Strip searches of transgender and intersex inmates, states a strip search may not be conducted for the sole purpose of determining the inmate’s genital status. Subsection (b) states when circumstances allow, staff should consult with a transgender or intersex inmate before conducting a search to determine the inmate’s preference in the gender of the officer conducting the search. While there have not been any transgender inmates housed at BCF, all staff clearly indicated that searching a transgender for the sole purpose of determining the genital status is not allowed and would not occur at BCF.

(f): BCF Training staff presented the PREA training module which is given annually to all staff. This module demonstrated that it does train staff in how to conduct cross-gender pat down searches and searches of transgender and intersex inmates professionally and respectfully. As further evidence to show support of this standard the Maryland Police and Correctional Training Commissions Lesson Plan for Security Custody and Control, dated November 2, 2015 was presented. This lesson plan covers searches of inmates, including cross-gender and transgender inmates. The lesson plan gives clear and detailed instruction on how to conduct these searches and includes a video on transgender searches. Training records were reviewed for randomly selected staff. Of those selected, all have had training covering PREA, LGBTI inmates and training covering searches of inmates, including cross-gender and transgender inmates. All staff interviewed also confirmed that they have had this training and complete it annually.

## **Standard 115.16: Inmates with disabilities and inmates who are limited English proficient**

### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### **115.16 (a)**

- Does the agency take appropriate steps to ensure that inmates 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, including: inmates who are deaf or hard of hearing? ☒ Yes ☐ No
- Does the agency take appropriate steps to ensure that inmates 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, including: inmates who are blind or have low vision? ☒ Yes ☐ No
- Does the agency take appropriate steps to ensure that inmates 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, including: inmates who have intellectual disabilities? ☒ Yes ☐ No

- Does the agency take appropriate steps to ensure that inmates 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, including: inmates who have psychiatric disabilities? ☒ Yes ☐ No
- Does the agency take appropriate steps to ensure that inmates 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, including: inmates who have speech disabilities? ☒ Yes ☐ No
- Does the agency take appropriate steps to ensure that inmates 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, including: Other (if "other," please explain in overall determination notes)? ☒ Yes ☐ No
- Do such steps include, when necessary, ensuring effective communication with inmates who are deaf or hard of hearing? ☒ Yes ☐ No
- Do such steps include, when necessary, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? ☒ Yes ☐ No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have intellectual disabilities? ☒ Yes ☐ No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have limited reading skills? ☒ Yes ☐ No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Are blind or have low vision? ☒ Yes ☐ No

#### 115.16 (b)

- Does the agency take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient? ☒ Yes ☐ No
- Do these steps include providing interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? ☒ Yes ☐ No

#### 115.16 (c)



- Does the agency always refrain from relying on inmate interpreters, inmate readers, or other types of inmate assistance except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under §115.64, or the investigation of the inmate's allegations? ☒ Yes ☐ No

### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

(a)-(b): The Maryland Department of Public Safety and Correctional Services (MDPSCS) does have directives in place to ensure that inmates with disabilities are treated equally and are able to benefit from all agency and facility efforts related to PREA. MDPSCS, division of correction directive, DCD # 200-1 states under section VI(c) each warden shall ensure that newly received inmates are provided information about inmate rights, general institutional schedules, procedures and institutional plans. This orientation may be provided through group sessions or by giving the inmate an orientation package. Subsection (1) of this directive states special assistance shall be provided to inmates with language or reading problems. Furthermore, executive directive OEO.020.0032, Limited English Proficiency (LEP), states that the department shall take reasonable steps to ensure that LEP individuals receive meaningful access to programs and services. The department is required to provide language assistance services in accordance with applicable State and Federal law.

BCF requires that prior to being placed into general population, each inmate is provided with an orientation to the facility. Inmates are provided a copy of the inmate handbook to review in English or Spanish (whichever applies) for information and orientation purposes. The handbook includes information on PREA, access to health services, the grievance system, medical co-pays, etc. It also requires that if the inmate declares illiteracy, the handbook will be read to the inmate, or as appropriate, other orientation tools may include the showing of videos (in English and Spanish as required) and the completion of intake forms. In addition, non-English speaking inmates will be provided with interpretive services. A signed acknowledgement form is to be obtained from the inmate(s) and forwarded to case management for inclusion in his base file. During an interview with the Case Manager, he provided auditors with PREA education in both English and Spanish and indicated that there were staff available who speak other languages, as well as an interpreter service, if there are no staff available or no staff who speak the language necessary for interpretation. In addition to the interpreter services, there are videos, pamphlets and postings regarding PREA readily available to inmates in both English and Spanish; however, BCF does not currently house any inmates who have disabilities or language barriers requiring the need for interpretation.

(c): BCF reported no instances of interpreters being utilized in the last 12 months; however, the PREA Compliance Manager provided a list of interpreter services that will be utilized in the event an interpreter is needed. Statewide language interpretation services contracts have been awarded to

Telephonic Language Interpretation, Vital Written Documents Translation, and Onsite Language Interpretation. BCF inmate files were reviewed and signed acknowledgements were present.

During the tour of the facility, both English and Spanish PREA documents were present and available. Interviews with random facility staff confirmed that inmates would not be used as interpreters and that interpreter services were available. Staff did state if it was an emergent situation and if information was needed right away, they would utilize an inmate to get details needed to better understand the situation. There was no hearing impaired or vision impaired inmates currently housed at BCF; however, staff did show that the appropriate tools are available for these types of disabled inmates in order to promote effective communication.

To show further support of this standard, BCF provided executive directive OSPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015 which states, in section E(6), that inmates, inmate readers, or other types of inmate assistance are not used to communicate information required under this directive to other inmates, except under limited circumstances where a delay in obtaining an effective non-inmate interpreter would compromise the inmate's safety, their performance of first responder duties, or the investigation of an inmate's allegation. Additionally, BCF provided executive directive OSPS.200.0004, Inmate on Inmate Sexual Conduct-Prohibited, effective November 13, 2015, which states, except under limited circumstances where a delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first responder duties, or the investigation of an inmate's allegation, inmate interpreters, inmate readers, or other types of inmate assistance are not used to communicate information required under this directive to other inmates.

## Standard 115.17: Hiring and promotion decisions

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.17 (a)

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? ☒ Yes ☐ No
- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who 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? ☒ Yes ☐ No
- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? ☒ Yes ☐ No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? ☒ Yes ☐ No

- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who 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? ☒ Yes ☐ No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? ☒ Yes ☐ No

#### 115.17 (b)

- Does the agency consider 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 inmates? ☒ Yes ☐ No

#### 115.17 (c)

- Before hiring new employees, who may have contact with inmates, does the agency: perform a criminal background records check? ☒ Yes ☐ No
- Before hiring new employees, who may have contact with inmates, does the agency: consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse? ☒ Yes ☐ No

#### 115.17 (d)

- Does the agency perform a criminal background records check before enlisting the services of any contractor who may have contact with inmates? ☒ Yes ☐ No

#### 115.17 (e)

- Does the agency either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with inmates or have in place a system for otherwise capturing such information for current employees? ☒ Yes ☐ No

#### 115.17 (f)

- Does the agency ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions? ☒ Yes ☐ No
- Does the agency ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in any interviews or written self-evaluations conducted as part of reviews of current employees? ☒ Yes ☐ No

- Does the agency impose upon employees a continuing affirmative duty to disclose any such misconduct? ☒ Yes ☐ No

#### 115.17 (g)

- Does the agency consider material omissions regarding such misconduct, or the provision of materially false information, grounds for termination? ☒ Yes ☐ No

#### 115.17 (h)

- Does the agency provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work? (N/A if providing information on substantiated allegations of sexual abuse or sexual harassment involving a former employee is prohibited by law.) ☒ Yes ☐ No ☐ NA

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

(a): Upon interviewing the Central Office Human Resources Officer, she indicated every new employee, contractor or volunteer undergoes a criminal background check before being allowed access to MDPSCS facilities or contact with inmates. Furthermore, the applications for employees, contractors and volunteers ask the applicant directly whether they have been involved with past sexual abuse or sexual harassment. Additionally, a review of applications for newly employed staff from the past 12 months confirms the practice is implemented as indicated during the interview.

MDPSCS does have executive directives in place which show support of this standard. MDPSCS executive directive DPSCS.020.0026, Prison Rape Elimination Act-Federal Standards Compliance, effective August 7, 2015 states the Department shall investigate the background of all prospective employees, promotions and contractual service providers who have direct contact with inmates to determine suitability for hire or promotion under the standards established by the Prison Rape Elimination Act.

Section F(1)(a)-(c) of this directive states:

(1) The Human Resources Services Division (HRSD) shall adopt hiring policy consistent with federal PREA standards prohibiting the hiring or promotion of anyone who may have contact with inmates, and prohibiting the enlisting of the services of any contractor, who may have contact with inmates, who:

(a) Engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);

(b) Was 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

(c) Was civilly or administratively adjudicated to have engaged in the activity described in §.04B (3) of this directive.

Maryland executive directive ADM.050.0041, Criminal History Records Check-Non-Mandated Employees, effective June 5, 2013 outlines, in detail, the processes required of the Department to conduct criminal history checks before an employee begins to perform duties and responsibilities of employment. This includes conducting criminal history records checks as mandated in this standard.

(b): Again, reviews of employee records show the applications utilized by the DPSCS directly ask applicants whether they have been the subject of sexual harassment in the past. During the interview it was verified this information is considered when determining whether or not to hire or promote anyone who may have contact with inmates. Executive directive DPSCS.020.0026, Prison Rape Elimination Act-Federal Standards Compliance, effective August 7, 2015 states in section F(2) that Human Resources shall consider incidents of sexual harassment when determining to hire or promote an employee or contract with a service provider if the individual may have contact with an inmate. The Department affirmatively asks all the appropriate questions necessary to comply with this standard on the Personal Interview Form-Correctional Applicant. The Department also provided a memo from the executive director of the Office of Personnel Services and Benefits permitting the Maryland DPSCS to consider questions regarding convictions of sexual abuse and harassment while making hiring and promotion decisions.

(c): During the interview it was verified that background checks are performed on every applicant before offering a position, and they do consider pertinent civil or administrative judgments when determining whether or not to hire or promote anyone who may have contact with inmates, including contractors. Furthermore, DPSCS utilizes a system titled the "State Rap Act" which continuously monitors all staff for law enforcement contact. If contact is made, the agency is immediately notified of the contact and the details surrounding the incident. The facility reported they have had three new employees within the last 12 months; those documents were scanned and forwarded to the auditor for review during the audit as the facility does not have any onsite human resource staff. Of the files reviewed it was found that they all had both completed PREA questionnaire and a completed background check.

Executive directive DPSCS.020.0026, Prison Rape Elimination Act-Federal Standards Compliance, effective August 7, 2015 states, in section F(3), before hiring a new employee to perform duties involving contact with an inmate, the Human Resources Services Division shall conduct a criminal background records check and consistent with federal, state, and local law, make a best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse or a resignation during a pending investigation of an allegation of sexual abuse.

(d): MDPSCS and BCF do require that a criminal background check is completed prior to enlisting the services of any contractor. This was confirmed during the interview with the Headquarters' Human Resource Officer. Executive directive DPSCS.020.0026, Prison Rape Elimination Act-Federal Standards Compliance, effective August 7, 2015, in section F(3)(c) states before enlisting a contractor

to perform services that involve contact with an inmate, the HRSD shall conduct a criminal background records check of the contractor's employees who may have contact with an inmate.

(e): MDPSCS and BCF do require that background checks are conducted at least every five years for current employees and contractors. Furthermore, the agency demonstrated their participation in the State Rap Act, which monitors employee contact with law enforcement on a continuous basis (24/7). If an employee has any contact with a law enforcement agency, the contact is immediately reported to the agency. This exceeds the requirement of a background check once every five years.

During an interview with the Headquarters' Human Resource Officer, she acknowledged the agency's participation in the State Rap Act which monitors employee contact with law enforcement. In further support of this standard, Executive Directive DPSCS.020.0026, Prison Rape Elimination Act-Federal Standards Compliance, effective August 7, 2015, was reviewed and states, in section F(3)(d) Human Resources shall conduct criminal records background checks every five years on employees or a contractor's services provider who may have contact with an inmate.

(f): MDPSCS provided the PREA guidelines for hiring, promoting and transferring employees that requires all applicants who report for an interview must read and complete the "PREA Interview Questions for Non-Mandated Positions, Mandated Positions, Promotional and Transfer Candidates." The questionnaire affirmatively asks all the questions outlined in this standard. The applicant must provide the response in writing as well as sign and date the questionnaire. Reviews of employee records show the applicants have completed the pre-employment application which directly asks applicants about past sexual abuse and sexual harassment and their records contain the interview questions mentioned above. It was confirmed in the interview with the Headquarters' Human Resources Officer that the agency does require all employees and applicants to disclose verbally and/or in writing any previous or withstanding misconduct pertaining to sexual abuse or sexual misconduct, of any kind, that they may have been convicted of, including any civil or administrative judgments. Executive directive DPSCS.020.0026, Prison Rape Elimination Act-Federal Standards Compliance, effective August 7, 2015 states, in section F(4)(a)-(b) the HRSD shall inquire of each applicant and current employees who may have contact with an inmate directly about previous misconduct described in §.04B(3) of this directive in a written application or interview for employment or promotions and an interview or written self-evaluation conducted as a part of a review of a current employee.

(g): The interview with the Headquarters' Human Resource Officer confirmed that employment would be terminated if it was ever discovered an employee falsified an application or gave false information during the application process.

Executive directive DPSCS.020.0026, Prison Rape Elimination Act-Federal Standards Compliance, effective August 7, 2015 states, in section F(5) a material omission regarding conduct described in this directive or providing materially false information shall be grounds for termination of employment.

(h): The Department did supply the auditor with documentation showing that personnel files, which includes substantiated allegations of sexual abuse or sexual harassment involving a former employee, would be made available to a requesting institution for their review prior to transferring or promoting an MDPSCS employee. During the interview with the Headquarters' Human Resources Officer, she indicated that if an employee applies for work at another institution, the departing facility would accommodate any requests for information related to a former employee being investigated for substantiated allegations of abuse or sexual harassment from another institution.



## Standard 115.18: Upgrades to facilities and technologies

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

### 115.18 (a)

- If the agency designed or acquired any new facility or planned any substantial expansion or modification of existing facilities, did the agency consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not acquired a new facility or made a substantial expansion to existing facilities since August 20, 2012, or since the last PREA audit, whichever is later.)  
☐ Yes ☐ No ☒ NA

### 115.18 (b)

- If the agency installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology, did the agency consider how such technology may enhance the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012, or since the last PREA audit, whichever is later.)  
☐ Yes ☐ No ☒ NA

### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

(a-b): The Facility Head interview was conducted with facility Major Charles Mitchell. Mr. Mitchell indicated there have been no new facilities or substantial expansions or modifications of existing facilities. MDPSCS provided a PREA Audit Compliance report submitted by PSA--DEWBERRY + PENZA BAILEY ARCHITECTS regarding the new BCDC Youth Detention Center. The report indicates that the facility was designed in accordance with the PREA, Prisons and Jail Standards, United States Department of Justice Final Rule, National Standards to Prevent, Detect, and Respond to Prison Rape Under the Prison Rape Elimination Act (PREA), 28 C.F.R. Part 115.

Specifically, the facility incorporates best practices: Sight and sound separation; design which minimizes blind spots, and maximizes direct supervision; all housing units incorporate direct supervision; access to recreation; access to education; classrooms are designed with glazing to the corridor to allow for full visibility into classroom; correctional officers continually patrol education corridors during school hours; glazed doors and walls where visibility and control is critical; showers are locker room style with a small frosted window to permit visual supervision without violating privacy;

strategically located supervision control and nursing stations; provision of normalized environment through effective and extensive daylighting and proper material and color choices.

BCF reported there have been no substantial expansions or modifications to buildings on the premises; this was also apparent during the audit tour. During interviews, Administrative staff indicated that they have made request for security upgrades to their video monitoring system; however there have been no approvals at this time.

## RESPONSIVE PLANNING

### Standard 115.21: Evidence protocol and forensic medical examinations

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.21 (a)

- If the agency is responsible for investigating allegations of sexual abuse, does the agency follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  
☒ Yes ☐ No ☐ NA

#### 115.21 (b)

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.) ☒ Yes ☐ No ☐ NA
- Is this protocol, as appropriate, adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.) ☒ Yes ☐ No ☐ NA

#### 115.21 (c)

- Does the agency offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate? ☒ Yes ☐ No
- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible? ☒ Yes ☐ No



- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)? ☒ Yes ☐ No
- Has the agency documented its efforts to provide SAFEs or SANEs? ☒ Yes ☐ No

#### 115.21 (d)

- Does the agency attempt to make available to the victim a victim advocate from a rape crisis center? ☒ Yes ☐ No
- If a rape crisis center is not available to provide victim advocate services, does the agency make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member? ☒ Yes ☐ No
- Has the agency documented its efforts to secure services from rape crisis centers? ☒ Yes ☐ No

#### 115.21 (e)

- As requested by the victim, does the victim advocate, qualified agency staff member, or qualified community-based organization staff member accompany and support the victim through the forensic medical examination process and investigatory interviews? ☒ Yes ☐ No
- As requested by the victim, does this person provide emotional support, crisis intervention, information, and referrals? ☒ Yes ☐ No

#### 115.21 (f)

- If the agency itself is not responsible for investigating allegations of sexual abuse, has the agency requested that the investigating entity follow the requirements of paragraphs (a) through (e) of this section? (N/A if the agency/facility is responsible for conducting criminal AND administrative sexual abuse investigations.) ☐ Yes ☐ No ☒ NA

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

- If the agency uses a qualified agency staff member or a qualified community-based staff member for the purposes of this section, has the individual been screened for appropriateness to serve in this role and received education concerning sexual assault and forensic examination issues in general? [N/A if agency attempts to make a victim advocate from a rape crisis center available to victims per 115.21(d) above.] ☐ Yes ☐ No ☒ NA

### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

(a): Maryland DPSCS utilizes a specialized unit within its Department to conduct such investigations. Staff assigned to the Internal Investigative Unit (IID), or temporarily assigned to assist the IID, are tasked with conducting investigations into allegations of sexual abuse and sexual harassment. MDPSCS does follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The IID secretary provided the auditors with a report verifying that every investigative Detective assigned to the unit has received the agency's specialized training for investigators.

The following directives and training modules were provided to show support of this standard: Maryland DPSCS directive IIU.110.0011, Investigating Sex Related Offenses, effective April 1, 2014 states the Department shall promptly, thoroughly, and objectively investigate each allegation of employee or inmate misconduct involving a sex related offense according to a uniform protocol based on recognized investigative practices that maximize evidence collection to support effective administrative dispositions and, if appropriate, criminal prosecution of the identified perpetrator. Furthermore, IIU.110.0011 continues to require, in paragraph B, that personnel assigned to conduct an investigation of alleged employee or inmate misconduct involving a sex related offense shall be trained in techniques related to conducting investigations of sex related offenses in the correctional setting. Maryland DPSCS utilizes an internal training course titled Specialized Training: The training was developed in May 2014 and is intended to identify the proper methods of investigating sex related offenses in a Maryland DPSCS correctional facility.

#### TRAINING FOR INVESTIGATORS:

Maryland DPSCS directive OSPA.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015 states in section .05(G)(2), in every case where the allegation of alleged sexual misconduct involves sexual abuse, the investigator assigned to investigate the allegation shall have received specialized training related to conducting sexual abuse investigations in a confinement setting that, at a minimum, specifically address:

- (a) Interview sexual abuse victims;
- (b) Using Miranda and Garrity warnings;
- (c) Sexual abuse evidence collection; and
- (d) Criteria and evidence necessary to substantiate administrative action and, if appropriate, referral for criminal prosecution.

BCF staff are required to take immediate action once staff has been made aware of an incident of sexual assault, abuse or misconduct to ensure physical evidence is not destroyed. Directive OSPA.050.030, Sexual Misconduct, provides steps that shall be taken to ensure that evidence is preserved, and the victim is protected. The PREA in-service training curriculum also trains staff on responding responsibilities, which includes preserving and protecting a crime scene until appropriate steps can be taken to collect any evidence. Formal and random interviews with staff indicate that they

are aware of evidence preservation and all stated in some manner that the crime scene would be secured, supervisors and medical and mental health staff notified, forensic exams completed by SANE/SAFE staff as necessary, and the incident referred to IID for investigation. Staffs were also aware that IID would be the one to conduct investigations related to sexual abuse and sexual harassment incidents.

(b): Maryland DPSCS training module, Specialized Training: Investigations-PREA, was thoroughly reviewed and substantially adheres, although developed before 2011, to the principles published in the most recent version of, "A National Protocol for Sexual Abuse Medical Forensic Examinations, Adults/Adolescents." The agency PREA Coordinator indicated that policies were compared to the National Protocol and that DPSCS is committed to consulting the Protocol when making any future changes to their evidence protocol.

(c): MDPSCS/BCF does offer all victims of sexual abuse access to forensic medical examinations off site at Mercy Hospital at no cost to the inmate. These examinations are performed by SANE/SAFE staff. The SANE/SAFE Administrator at Mercy Hospital was contacted for an interview. She stated that all forensic exams are conducted for BCF. She also indicated that there is SANE/SAFE staff available during all hours. BCF indicated on the PAQ that there was no forensic medical examination conducted in the past 12 months by SANE/SAFE staff at no cost to the victim; and review of the investigation files and interviews supported the same. Additionally, staff interviews with the PREA Compliance Manager, Health Care and the Major all confirmed that forensic medical examinations will be offered to all victims when necessary at Mercy Hospital at no cost to the victim.

As further evidence showing support of this standard the following directives were presented: Maryland DPSCS directive IIU.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, section .05(D)(2), states when the possibility for recovery of physical evidence from a victim exists or otherwise is medically appropriate, coordinate with appropriate Department facility staff to arrange for the victim to undergo a forensic medical examination that is performed by SANE/SAFE, or if documented attempts to obtain the services of a SANE or SAFE are unsuccessful, a licensed health care professional who has been trained to perform medical forensic examinations of sexual abuse victims.

Additionally, BCF staff provided auditors with the SAFE/SANE Resource Listing for the MDPSCS, and as listed, inmates at BCF would be sent to Mercy Hospital. Directive OSPA.050.030, Sexual Misconduct, requires that forensic medical examinations will be offered to all victims of sexual abuse and that examinations are conducted by a Sexual Assault Forensics Examiner (S.A.F.E) or a Sexual Assault Nurse Examiner (S.A.N.E). The directive also indicates that treatment services are provided to every victim without financial cost and regardless of whether the victim names the perpetrator or cooperates with any investigation arising out of the incident.

(d)(e): DPSCS has contracted with Maryland Coalition Against Sexual Assault (MCASA) to provide these advocacy services statewide. The Maryland MCASA is the federally recognized state sexual assault coalition. Its core members are the state's 17 rape crisis and recovery centers, but it also represents the voices of many other professionals and service providers working with sexual assault survivors. MCASA provides policy advocacy, technical assistance, training, outreach, and prevention. MCASA's Sexual Assault Legal Institute (SALI) provides direct legal services for victims and survivors of sexual violence. As further evidence showing support of this standard, the following directives were presented:

Maryland DPSCS directive IIU.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, section .05(D)(3) states, if the victim requests, coordinate with the managing official, or a designee, to

arrange for a victim advocate to accompany the victim to provide support for the victim through the medical forensics examination and investigatory interviews.

Directive OSPS.050.030, Sexual Misconduct, requires the facility to attempt to make available to the victim a victim advocate from a rape crisis center, in person or by other means and these efforts will be documented. If a rape crisis center is unavailable, the facility will provide access to a qualified staff member from a community-based organization. The directive also indicates if requested, the facility will attempt to make available to the victim a person to accompany and support the victim through the forensic medical examination process and investigatory interviews.

Phone contact was made with a MCASA – College and Prevention Policy Attorney and she did confirm they are in fact contracted with the MDPSCS and they do assist in providing advocacy services statewide. In addition, BCF provided documentation which listed Life Crisis Center as the rape crisis center they would contact in order to provide a victim advocate for an inmate victim. Life Crisis Center is one of the rape crisis centers contracted through MCASA.

In addition, during a phone interview with Mercy Hospital's SANE/SAFE Supervisor, she indicated that there is a victim advocate available 24 hours a day, 7 days a week. Life Crisis Center is contacted, and they provide the victim advocate if one is requested by the inmate; the advocates have a 45 minute response time. BCF has appointed a facility health care staff as victim advocates, if necessary.

(f): This subsection is not applicable to Maryland Department of Public Safety and Correctional Services because they have an investigative division staffed with sworn police officers who conduct all of the agency's investigations, both administrative and criminal.

(g): This subsection is not applicable to Maryland Department of Public Safety and Correctional Services because they have an investigative division staffed with sworn police officers who conduct all of the agency's investigations, both administrative and criminal.

(h): The facility has indicated they would utilize the services at the Mercy Hospital who meet the qualifications to serve in this role. The supervisor of the SANE/SAFE program at Mercy Hospital indicated during an interview that there is always a victim advocate available. Life Crisis Center is contacted, and they provide the victim advocate if one is requested by the inmate victim; the victim's advocates from Life Crisis respond within 45 minutes.

## **Standard 115.22: Policies to ensure referrals of allegations for investigations**

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

### **115.22 (a)**

- Does the agency ensure an administrative or criminal investigation is completed for all allegations of sexual abuse? ☒ Yes ☐ No
- Does the agency ensure an administrative or criminal investigation is completed for all allegations of sexual harassment? ☒ Yes ☐ No

#### 115.22 (b)

- Does the agency have a policy and practice in place to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior? ☒ Yes ☐ No
- Has the agency published such policy on its website or, if it does not have one, made the policy available through other means? ☒ Yes ☐ No
- Does the agency document all such referrals? ☒ Yes ☐ No

#### 115.22 (c)

- If a separate entity is responsible for conducting criminal investigations, does such publication describe the responsibilities of both the agency and the investigating entity? [N/A if the agency/facility is responsible for criminal investigations. See 115.21(a).] ☐ Yes ☐ No ☒ NA

#### 115.22 (d)

- Auditor is not required to audit this provision.

#### 115.22 (e)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

(a): During the past 12 months, BCF reported there were 10 allegations of sexual abuse/sexual harassment received. IID investigation logs, along with the interview with the PREA Compliance Manager, as well as the IID sergeant, confirmed there were 10 allegations reported at BCF. IID investigation logs were reviewed and the records verified the same.

James Schiebner, PREA Auditor, conducted the facility head interview with Major Charles Mitchell, on April 10, 2018. Regarding allegations referred for investigation, the agency head stated that absolutely all allegations are investigated for administrative violations and criminal acts as appropriate. He further indicated that every investigation is tracked by the agency investigation division, IID. When asked how an investigation is completed, the agency head responded that when an allegation is received by the agency, it is assigned to the agency's IID who then determines whether to investigate criminally or to

assign it to the facility as an administrative investigation. The investigation is then conducted with a final determination detailed in the report which is retained by the agency.

To show further support of this standard, BCF provided Maryland DPSCS directive DPSCS.020.0026, Prison Rape Elimination Act-Federal Standards Compliance, effective August 7, 2015, requires that an employee with knowledge of an incident of inmate sexual abuse or sexual harassment shall report that knowledge according to Department procedures for reporting employee misconduct or inmate rule violations. Further, Maryland DPSCS directive IIU.110.0011, Investigating Sex Related Offenses, effective April 1, 2014 states the Department shall promptly, thoroughly, and objectively investigate each allegation of employee or inmate misconduct involving a sex related offense according to a uniform protocol based on recognized investigative practices that maximize evidence collection to support effective administrative dispositions and, if appropriate, criminal prosecution of the identified perpetrator.

(b): An investigator, in regard to investigations of allegations of sexual abuse and sexual harassment within the Maryland DPSCS, is defined as a Department employee permanently assigned to, or assigned to assist, the IID with the responsibilities specified under the Correctional Services Article, §10-701(a)(3), Annotated Code of Maryland.

Maryland Correctional Services Code Ann. §10-701 establishes the Internal Investigative Unit (IID). Subsection (b) of the code states in part, an investigation of the IID may exercise the powers of a peace or police officer in the State on property that is owned, leased, operated by, or under the control of the Department. The agency employs investigators who are sworn police officers who are authorized under Maryland law to conduct both administrative and criminal investigations. DPSCS website was reviewed and the policy was posted on the website. Investigative staff did indicate during the interview process that all reports of sexual abuse and sexual harassment must be referred immediately to IID for investigation and if it rises to possible felonious behavior it is then referred for prosecution by IID, who are sworn Peace Officers.

(c): Maryland DPSCS conducts all investigations of sexual abuse and sexual harassment for the agency. Therefore, this portion of the standard is not applicable to the agency.

(d): Maryland DPSCS directive IIU.110.0011, Investigating Sex Related Offences, effective April 1, 2014 is the policy governing the conduct of PREA investigations.

(e): Maryland DPSCS is not a DOJ component. Therefore, this portion of the standard is not applicable.

## TRAINING AND EDUCATION

### Standard 115.31: Employee training

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### 115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment? ☒ Yes ☐ No



- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on inmates' right to be free from sexual abuse and sexual harassment ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on the dynamics of sexual abuse and sexual harassment in confinement? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on the common reactions of sexual abuse and sexual harassment victims? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to detect and respond to signs of threatened and actual sexual abuse? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to avoid inappropriate relationships with inmates? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities? ☒ Yes ☐ No

#### 115.31 (b)

- Is such training tailored to the gender of the inmates at the employee's facility? ☒ Yes ☐ No
- Have employees received additional training if reassigned from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa? ☒ Yes ☐ No

#### 115.31 (c)

- Have all current employees who may have contact with inmates received such training? ☒ Yes ☐ No
- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures? ☒ Yes ☐ No



- In years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies? ☒ Yes ☐ No

#### 115.31 (d)

- Does the agency document, through employee signature or electronic verification, that employees understand the training they have received? ☒ Yes ☐ No

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

(a): All staff interviewed during the on-site audit at Brockbridge Correctional Facility indicated they receive annual PREA training. It was clear during random and formal interviews that the BCF staff was educated on PREA and had a good overall understanding of each of the criteria presented in this substandard. Staff knew of the Agency and Facility Zero Tolerance Policy and also were confident in being able to report what steps they would take in the event they were directly involved in a complaint or instance involving sexual abuse or sexual harassment.

MDPSCS and BCF provided the following directives and training curriculums showing further support of this standard: Maryland DPSCS Facility Directive DPDS-030-001 which establishes procedures to ensure compliance with the established training requirements for the Division of Pretrial Detention and Services Personnel. This directive is applicable to both Correctional and Civilian employees of the DPDS. The directive indicates it is the policy of the Division of Pretrial Detention and Services that facility training units shall provide documented pre-service and annual in-service training as modeled by the Maryland Police and Training Commission, the American Correctional Association and the Maryland Commission on Correctional Standards. The directive mandates that documentation of field training is maintained in the individual employee's training file and documented in the Skills Manager Database (SMD) per protocol.

Maryland DPSCS Executive Directive OSPA.050.0030 "Sexual Misconduct-Prohibited" covers the applicable definitions and elements as covered in standard 115.31 (a) 1-10. The directive indicates that the head of a unit, or a designee, responsible for the custody and security of an inmate, in addition to responsibilities under section .05, paragraph B of this directive, shall ensure that, among other requirements, each employee attends approved training related to preventing, detecting, and responding to acts of sexual misconduct.

Maryland DPDS Executive Directive OSPA.200.0004 continues policy for the DPSCS, prohibiting inmate on inmate sexual conduct and assigns responsibility and procedures for reporting, responding to, investigating, processing, and resolving a complaint of inmate on inmate sexual conduct. Section .05, paragraph B of the directive indicates that the head of a unit, or designee, is responsible for

ensuring that, among other requirements, that each supervisor, manager, shift commander and contractor who has contact with an inmate under the authority of the unit head is familiar with Department policy prohibiting inmate on inmate sexual conduct. Paragraph C of the same section requires that an employee attends approved training related to preventing, detecting, and responding to acts of inmate on inmate sexual conduct. Paragraph G Investigating, Documenting, and Resolving a Complaint requires that an IID Investigator, or an investigator designated by the IID, shall conduct a prompt, thorough and objective investigation of every complaint of alleged inmate on inmate sexual conduct according to applicable statutory, regulatory, case law, contract, Department or agency procedures, or other reasonably accepted standards.

Training documentation to support that the requirements of standard 115.31 (a) 1-10 are met include:

- Maryland Police and Correctional Training Commissions Lesson Plan for Correctional Entrance Level Training Program.
- Code of Maryland Regulations (COMAR), Title 12 DPSCS, subtitle 10 Correctional Training Commission requires in section 12.10.01.16 "Mandated Employee In-Service Training and Firearms Training and Qualifications that each employee completes 18 hours of Commission approved mandated employee in-service training by December 31 of each calendar year.
- CELTP Academy Curriculum Outline indicates that each employee receives training on Sexual Harassment and Misconduct, Female Offenders, and Special Management Issues as well as other training prior to starting work with inmates.
- Maryland Department of Public Safety and Correctional Services Maryland Police and Correctional Training Commission Correctional Training Unit Lesson Plan, Lesson Title "Managing the Female Offender".
- Maryland Police and Correctional Training Commission Lesson Plan, Lesson Title "Correctional In-Service Training Program, Prison Rape Elimination Act."
- Maryland Department of Public Safety and Correctional Services Professional Development and Training Division Lesson Plan, Lesson Title "Sexual Harassment Awareness".
- Maryland Department of Public Safety and Correctional Services Professional Development and Training Division Lesson Plan, Lesson Title "Special Management Issues in Corrections", which covers managing transgender inmates and PREA.
- Maryland Department of Public Safety and Correctional Services Professional Development and Training Division Lesson Plan, Lesson Title "Prison Rape Elimination Act".

(b): DPSCS has an approved lesson plan titled, "Managing the Female Offender". This training is tailored towards staff working at a facility that houses female inmates. The BCF Facility Directive.124.0000- Sexual Misconduct Prohibited indicates: the facility training department offers annual PREA training to all facility staff to include staff, all non-custody staff and any staff having contact with inmates. BCF's training is tailored to the gender of the inmates that are housed at the facility. In interviews with training staff, line staff and after reviewing facility training curriculum, it was clear that BCF staff is receiving the training tailored towards Male offender. However, if a BCF employee were reassigned to other facilities housing the opposite gender, staff are also given additional training and custody staff will receive training on conducting cross-gender pat-down searches and searches of transgender and intersex inmates. BCF houses male inmates. BCF staff receives PREA Training on an annual basis.

(c): BCF reported that in the past 12 months 723 staff who have contact with inmates received the necessary PREA Training. BCF's Training Officer presented me with training records showing that all BCF staff were in fact PREA trained. The Agency presented the following directive showing further support of this standard: Code of Maryland Regulations (COMAR), Title 12 DPSCS, subtitle 10

Correctional Training Commission requires in section 12.10.01.16 “Mandated Employee In-Service Training and Firearms Training and Qualifications that each employee completes 18 hours of Commission approved mandated employee in-service training by December 31 of each calendar year.

(d): BCF training documentation provided to auditors showed all staff from the Eastern Correctional Institution completed the mandatory in-service training for PREA, as indicated by their personal signatures. During the on-site audit 15 staff files were selected at random and their training records reviewed. All staff reviewed had completed in-service training within the last 12 months. The agency uses a computer-based program to track employee training records. The program was maintained only by approved staff and was very detailed and informative.

## Standard 115.32: Volunteer and contractor training

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

### 115.32 (a)

- Has the agency ensured that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency’s sexual abuse and sexual harassment prevention, detection, and response policies and procedures? ☒ Yes ☐ No

### 115.32 (b)

- Have all volunteers and contractors who have contact with inmates been notified of the agency’s zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents (the level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with inmates)? ☒ Yes ☐ No

### 115.32 (c)

- Does the agency maintain documentation confirming that volunteers and contractors understand the training they have received? ☒ Yes ☐ No

### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

(a): BCF provided auditors with the institution's Volunteer and Orientation Guide entitled PREA Information Booklet for Volunteers and Contractual workers. This is a 6-page guide that outlines the volunteer/contractors' responsibilities as they relate to PREA including how one would report such incidents. Medical and Mental Health staff at BCF are full-time contractual staff. All Mental Health and Medical staff that were interviewed formally and informally stated that they receive annual training related to PREA. Mental Health and Medical training records were provided by BCF/Wexford Medical confirming that all medical staff has completed PREA training.

An interview with a facility volunteer Michael Arthur (Religious Volunteer) was conducted and he did state that prior to being able to have contact with the inmate population, he completed PREA related training which left them with a clear understanding of what PREA was and their responsibilities as they relate to PREA.

MDPSCS Executive Directive OSPS.050.0030 "Sexual Misconduct-Prohibited" mandates that each employee attends approved training related to preventing, detecting, and responding to acts of sexual misconduct. Under the applicable directive "Employee" is defined as: "an individual assigned to or employed to or employed by the Department in a full-time, part-time, temporary, or contractual positions regardless of job title or classification, which includes contractors, interns, volunteers and employees of the Maryland Department of Education, Labor, Licensing and Regulation and Baltimore City Public Schools."

(b): BCF indicated that they have 140 volunteers/contractors that are cleared to provide service inside BCF. Training records for these volunteers/contractors are maintained at the facility training house and were reviewed during the audit. MDPSCS provided a copy of the brochure titled "Sexual Assault Prevention and Reporting, Staff Information Brochure". This brochure is provided to all volunteers and contractors and outlines their requirements and gives the necessary PREA education that each volunteer/contractor would need in order to manage PREA issues as they arise. The department also provided a copy of the DPSCS Volunteer Program Administrative Manual which outlines the training required for all volunteers prior to beginning any assignment within the MDPSCS. Executive Directive ADM.170.0002 "Volunteer, Intern and Contractor Contact and Personal Information" establishes policy and responsibilities for a DPSCS volunteer, intern and contractor to ensure that contact and personal information on file with the department is accurate.

(c): BCF presented auditors with the signature sheets of volunteers and contractors who had been given the "PREA Information Booklet for Volunteers and Contractual Workers". The signature of these individuals signifies that they received PREA training and they understand the training they have received. BCF maintains a volunteer/contractor PREA acknowledgement log and indicates the date PREA training/information was provided.

## Standard 115.33: Inmate education

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.33 (a)

- During intake, do inmates receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment? ☒ Yes ☐ No

- During intake, do inmates receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment? ☒ Yes ☐ No

#### 115.33 (b)

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from sexual abuse and sexual harassment? ☒ Yes ☐ No
- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from retaliation for reporting such incidents? ☒ Yes ☐ No
- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Agency policies and procedures for responding to such incidents? ☒ Yes ☐ No

#### 115.33 (c)

- Have all inmates received such education? ☒ Yes ☐ No
- Do inmates receive education upon transfer to a different facility to the extent that the policies and procedures of the inmate's new facility differ from those of the previous facility?  
☒ Yes ☐ No

#### 115.33 (d)

- Does the agency provide inmate education in formats accessible to all inmates including those who are limited English proficient? ☒ Yes ☐ No
- Does the agency provide inmate education in formats accessible to all inmates including those who are deaf? ☒ Yes ☐ No
- Does the agency provide inmate education in formats accessible to all inmates including those who are visually impaired? ☒ Yes ☐ No
- Does the agency provide inmate education in formats accessible to all inmates including those who are otherwise disabled? ☒ Yes ☐ No
- Does the agency provide inmate education in formats accessible to all inmates including those who have limited reading skills? ☒ Yes ☐ No

#### 115.33 (e)

- Does the agency maintain documentation of inmate participation in these education sessions?  
☒ Yes ☐ No

#### 115.33 (f)

- In addition to providing such education, does the agency ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats? ☒ Yes ☐ No

### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

(a): BCF reported that 1686 inmates who were admitted to BCF in the past 12 months received PREA information at intake. Inmates who were interviewed randomly and formally indicated they are receiving information on the zero tolerance policy and are also receiving PREA education by way of pamphlets and PREA video. Upon reviewing the files of 12 random inmates, each file showed signed inmate documentation indicating receipt of the PREA education. During formal interviews of inmates that had arrived at the facility in the last 12 months, each inmate indicated that he had received PREA education upon within 72 hours of arrival at BCF, this education included the facilities' zero tolerance policy and how to report sexual abuse and sexual harassment.

BCF provided the BCF Inmate Orientation Handbook 2016, page 11 which gives the definition of PREA and how inmates can report these incidents. Also presented was the Maryland DPSCS Facility Directive DCD 200-1 which establishes the rights of Division of Corrections inmates. The directive mandates that each Warden ensure that newly received inmates are provided information about inmate rights, general institutional schedules, procedures and institutional plans. The orientation may be provided through group sessions or by giving the inmate an orientation package. It further mandates that special assistance shall be provided to inmates with language or reading problems. The orientation materials or handbooks shall also be made available to the inmates for reference in the library or a designated area.

Directive DPDS.180.0005 establishes procedures for the timely provision of information and instruction to newly admitted inmates. The directive establishes responsibility for the orientation of inmates, with reasonable accommodations for persons with language, literacy or hearing limitations. This directive mandates that orientation be completed within seven (7) calendar days of intake.

## Standard 115.34: Specialized training: Investigations

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

### 115.34 (a)

- In addition to the general training provided to all employees pursuant to §115.31, does the agency ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).) ☒ Yes ☐ No ☐ NA

#### 115.34 (b)

- Does this specialized training include techniques for interviewing sexual abuse victims? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA
- Does this specialized training include proper use of Miranda and Garrity warnings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA
- Does this specialized training include sexual abuse evidence collection in confinement settings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA
- Does this specialized training include the criteria and evidence required to substantiate a case for administrative action or prosecution referral? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA

#### 115.34 (c)

- Does the agency maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA

#### 115.34 (d)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)



## Instructions for Overall Compliance Determination Narrative

(a)(b): Upon interviewing IID staff, which included informal interviews with administrative staff, detectives and training supervisors, as well as formal interviews with an Investigative Detective Sergeant, it was evident the detectives assigned to conduct investigations into sexual abuse and sexual harassment allegations have been thoroughly trained to do so.

All allegations of sexual abuse and sexual harassment, criminal and administrative, are conducted by the IID unit and the detectives assigned to these investigations. The IID is quite large and has many detectives stationed throughout the state, and generally all detectives are former police officers with experience in conducting investigations prior to being hired as an IID detective. The agency provided the training module required of all IID detectives before conducting sexual abuse and sexual harassment investigations. While interviewing IID Detective Anne Nicodemus, she indicated she not only received the training as required by MDPSCS policy, she also trains facility staff on how to assist with investigations. Ms. Nicodemus indicated the specialized training she received regarding investigating sexual abuse and sexual harassment was in addition to the general PREA training all staff received.

Ms. Nicodemus was able to articulate the definition and appropriate application of Miranda and Garrity and had a clear understanding of how preponderance of the evidence is used to determine the outcome of an investigation.

To further support this standard, MDPSCS presented auditors with the following directives and documentation: Title 12 DPSCS, subtitle 04 Police Training Commission, Chapter 01 General Regulations provides the minimum standards for entrance level training for police officers which includes training on criminal investigations.

Maryland Correctional Services Code Ann. § 10-701 establishes the power of investigators within the Maryland Correctional Services to be able to exercise the powers of a peace or police officer on state owned or property controlled by the department. This code also establishes that an investigator in the Investigative Unit shall meet the minimum qualifications required and satisfactorily complete the training prescribed by the Maryland Police Training Commission.

Maryland DPSCS Executive Directive OSPA.050.0030 "Sexual Misconduct-Prohibited", Section .05, paragraph G(2) of the directive and Executive Directive OSPA.200.0004 indicates that to the extent possible, but in every case where the allegations of alleged sexual misconduct involves sexual abuse, the investigator assigned to investigate the allegation shall have received specialized training related to conducting sexual abuse investigations in a confinement setting that, at a minimum, specifically addresses interviewing sexual abuse victims, using Miranda and Garrity warning, sexual abuse evidence collections and criteria and evidence necessary to substantiate administrative action and, if appropriate, referral for criminal prosecution.

Executive Directive IIU.110.0011 "Investigating Sex Related Offenses" establishes policy and procedures for DPSCS investigators conducting an investigation of an allegation of misconduct that involves a sex related offense. This policy defines all the related PREA terms, explains the responsibility of employees who observe or have knowledge of an incident, outlines the requirements for investigating sex related offenses as well as responding to them, including treating the victim as well as the perpetrator.

The Maryland Police and Correctional Training Commissions Lesson Plan titled Specialized Training Investigations for PREA indicates what training is received by the special investigators. This includes the definition, purpose and history of PREA, definitions, first responder duties, medical examinations, comprehensive investigations, evidence collection, interviewing the victim, suspect and witnesses, Miranda rights, Garrity rights, and handling false accusations.

(c): MDPSCS provided documentation during the site visit that all IID investigators have completed the agency's mandatory training for sexual abuse investigators.

(d): MDPSCS provided training plans and documentation for all related training provided to its employees. Documentation for the following training has been reviewed as part of this audit; Cross Cultural, Fraternalization Academy, Interpersonal Communication, LGBTI, Managing the Female Offender Gender Response, PREA Academy, PREA Contractor, PREA In-Service, PREA Investigator, Security Custody Control, Sexual Harassment Academy, Sexual Harassment In-Service, Sexual Harassment Contractor and PREA Training.

## **Standard 115.35: Specialized training: Medical and mental health care**

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

### **115.35 (a)**

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to detect and assess signs of sexual abuse and sexual harassment? ☒ Yes ☐ No
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to preserve physical evidence of sexual abuse? ☒ Yes ☐ No
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to respond effectively and professionally to victims of sexual abuse and sexual harassment? ☒ Yes ☐ No
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how and to whom to report allegations or suspicions of sexual abuse and sexual harassment? ☒ Yes ☐ No

### **115.35 (b)**

- If medical staff employed by the agency conduct forensic examinations, do such medical staff receive appropriate training to conduct such examinations? (N/A if agency medical staff at the facility do not conduct forensic exams.) ☒ Yes ☐ No ☐ NA

### **115.35 (c)**

- Does the agency maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere?  
☒ Yes ☐ No

#### 115.35 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.31? ☒ Yes ☐ No
- Do medical and mental health care practitioners contracted by and volunteering for the agency also receive training mandated for contractors and volunteers by §115.32? ☒ Yes ☐ No

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

(a)(c)(d): Brockbridge Correctional Facility receives services from Wexford Health Sources Incorporated. The contract policy with Wexford covers the required elements of PREA training and must be given to each employee prior to working with inmates. Medical and Mental Health staff at BCF are full-time contractual employees. BCF reported that 100% of its Medical and Mental Health staff have received the necessary PREA training. The training documentation provided to auditors was reviewed and showed that all medical and mental health staff did complete PREA training, and the training does cover the required elements of how to detect and assess signs of sexual abuse and harassment, how to preserve evidence, how to respond to victims and how and whom to report allegations or suspected abuse and/or harassment. Medical and Mental Health staff interviewed all indicated they complete PREA training annually and also submit their documentation directly to their employer, Wexford Health.

To further support this standard, I reviewed Executive Directive DPSCS.020.0026 which establishes policy for the department concerning sexual abuse and sexual harassment of an inmate. This directive (section .05 paragraph B(2) requires that the department ensures compliance in areas of PREA, including Medical and Mental Health Care as required by this standard. Also, Maryland DPSCS Executive Directive OSPA.050.0030 "Sexual Misconduct-Prohibited" mandates that each employee attends approved training related to preventing, detecting, and responding to acts of sexual misconduct. Under the applicable directive "Employee" is defined as "an individual assigned to or employed by the Department in a full-time, part-time, temporary, or contractual position regardless of job title or classification which includes: contractors, interns, volunteers and employees of the Maryland Department of Education, Labor, Licensing and Regulation and Baltimore City Public Schools." This would include medical and mental health staff, whether direct employees or contractual employees.

(b): Maryland DPSCS medical staff does not conduct forensic examinations.

## SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

### Standard 115.41: Screening for risk of victimization and abusiveness

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.41 (a)

- Are all inmates assessed during an intake screening for their risk of being sexually abused by other inmates or sexually abusive toward other inmates? ☒ Yes ☐ No
- Are all inmates assessed upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates? ☒ Yes ☐ No

#### 115.41 (b)

- Do intake screenings ordinarily take place within 72 hours of arrival at the facility?  
☒ Yes ☐ No

#### 115.41 (c)

- Are all PREA screening assessments conducted using an objective screening instrument?  
☒ Yes ☐ No

#### 115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?  
☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes? ☒ Yes ☐ No

#### 115.41 (e)

- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: prior acts of sexual abuse? ☒ Yes ☐ No
- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: prior convictions for violent offenses? ☒ Yes ☐ No
- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: history of prior institutional violence or sexual abuse? ☒ Yes ☐ No

#### 115.41 (f)

- Within a set time period not more than 30 days from the inmate's arrival at the facility, does the facility reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening? ☒ Yes ☐ No

#### 115.41 (g)

- Does the facility reassess an inmate's risk level when warranted due to a: Referral?  
☒ Yes ☐ No
- Does the facility reassess an inmate's risk level when warranted due to a: Request?  
☒ Yes ☐ No
- Does the facility reassess an inmate's risk level when warranted due to a: Incident of sexual abuse? ☒ Yes ☐ No
- Does the facility reassess an inmate's risk level when warranted due to a: Receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness?  
☒ Yes ☐ No

#### 115.41 (h)

- Is it the case that inmates are not ever disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (d)(1), (d)(7), (d)(8), or (d)(9) of this section? ☒ Yes ☐ No

#### 115.41 (i)

- Has the agency implemented appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates? ☒ Yes ☐ No

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

(a)-(g): All inmates transferring into the Brockbridge Correctional Facility (BCF) are screened immediately upon arriving at the facility, well within the 72 hours permitted in this standard.

During a tour of the intake area auditors were able to observe the actual intake process. Auditors observed incoming inmates going directly through intake, and it was confirmed through the interview process of intake staff that this is the normal occurrence upon arrival to the facility. The intake sergeant detailed the process that each inmate follows upon arrival; during the process, each inmate is interviewed and educated with regard to PREA. PREA educational material is given to each inmate and a PREA Intake Screening is completed for each inmate as well; the educational pamphlet and PREA Intake Screening form was reviewed by the auditor and includes all criteria required by this standard. Once the intake process is complete, each inmate's PREA Intake Screening is then forwarded to the appropriate case manager, who then reviews the form for necessary programming and

placement. Auditors were not able to verify that the facility was conducting the 30 day reassessments timely through interview with the staff who conduct risk assessments. The auditor reviewed 12 files at BCF, of which all of the 30 day reassessment were not completed timely.

All of the random inmate interviews also indicated that they were seen within 72 hours of their arrival at BCF and assessed, however there was no indication that a reassessment was taking place within 30 days. Auditors were not able to prove that PREA risk reassessments were being completed following a referral, request, incident of sexual abuse, or if additional information received bore on the inmate's risk of sexual victimization or abusiveness; there were zero instances of reassessments indicated in the PAQ. During the tour, there were 25 inmates interviewed and all were aware of PREA and indicated that they were asked questions related to PREA during intake.

Maryland DPSCS Executive Directive OSPS.200.0005 establishes policy and assigns responsibilities for screening individuals housed in a correctional facility under the authority of the MDPSCS to assess the risk of the individual being sexually abused or being sexually abusive towards other inmates. Section .03 of this directive mandates that a screening instrument be utilized as part of the intake and facility transfer or at other times deemed appropriate to assess each inmate's risk for being sexually abused or being sexually abusive towards other inmates. The directive also mandates that the information obtained from the assessment be applied to decisions concerning areas such as inmate housing, programming, treatment, and work assignments to minimize circumstances that contribute to incidents of victimization or abusiveness. Section .05, paragraph B of the directive requires that the screening instrument is utilized to assess each inmate within 72 hours of arrival at a facility and again within 30 days of the inmate's arrival. It also mandates that an inmate be re-assessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or potential for abusiveness.

(h)-(i): Staff and inmate interviews support that the facility meets the requirements of this standard; there was no evidence found during the audit which would indicate that an inmate would be disciplined for refusing to answer or disclose information related to this screening. In addition, interviews with staff support that only specifically classified staff are allowed to access inmate classification files. This was also confirmed due to the inmate files being maintained in the case managers' offices which are in a locked area outside of the housing unit.

Also, a review of their online Offender Management System (OMS) supports that only staff with the correct profile are allowed access to the classification information maintained in the system. Section .05, paragraph B(5) of the directive ensures that an inmate will not be disciplined for refusing to answer or not disclosing complete information in response to screening questions, as well as ensures appropriate controls are in place for managing and dissemination of information collected during the screening process.

### **Corrective Action Plan:**

For any inmates that have arrived at BCF within the last 30 days of the date of this report and throughout the 180 days of corrective action, the facility will need to provide the auditor with documentation of the inmate's arrival date at BCF, 72 hour risk assessment completion, as well as 30 day risk assessment completion. These documents will need to be provided to the auditor at the end of each month during the corrective action period.

### **Corrective Action:**



PCM Scramlin provided the auditor with copies of numerous screening forms throughout the corrective action period proving that the reassessments are taking place within 30 days of arrival. In every instance the document supports the facility is now completing the assessments and reassessments within the required time limits upon an inmate's arrival at BCF.

## **Standard 115.42: Use of screening information**

### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### **115.42 (a)**

- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Housing Assignments? ☒ Yes ☐ No
- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Bed assignments? ☒ Yes ☐ No
- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Work Assignments? ☒ Yes ☐ No
- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Education Assignments? ☒ Yes ☐ No
- Does the agency use information from the risk screening required by § 115.41, with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Program Assignments? ☒ Yes ☐ No

#### **115.42 (b)**

- Does the agency make individualized determinations about how to ensure the safety of each inmate? ☒ Yes ☐ No

#### **115.42 (c)**

- When deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems (NOTE: if an agency by policy or practice assigns inmates to a male or female facility on the basis of anatomy alone, that agency is not in compliance with this standard)? ☒ Yes ☐ No

- When making housing or other program assignments for transgender or intersex inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems?  
☒ Yes ☐ No

#### 115.42 (d)

- Are placement and programming assignments for each transgender or intersex inmate reassessed at least twice each year to review any threats to safety experienced by the inmate?  
☒ Yes ☐ No

#### 115.42 (e)

- Are each transgender or intersex inmate's own views with respect to his or her own safety given serious consideration when making facility and housing placement decisions and programming assignments? ☒ Yes ☐ No

#### 115.42 (f)

- Are transgender and intersex inmates given the opportunity to shower separately from other inmates? ☒ Yes ☐ No

#### 115.42 (g)

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: lesbian, gay, and bisexual inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? ☒ Yes ☐ No
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: transgender inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? ☒ Yes ☐ No
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? ☒ Yes ☐ No

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** *(Requires Corrective Action)*

### Instructions for Overall Compliance Determination Narrative

(a): During staff interviews, the Case Manager and Case Manager Supervisor indicated all incoming inmates are reviewed and assessed individually and the risk assessment information is being used to determine the appropriate bunk assignments. BCF is not using risk assessment information to determine proper placement for work, education and programming assignments. For example, auditors observed that BCF Prisoner Observation Aids (inmates that are providing direct observation of inmates that might be suicidal), who scored out as potential abusers, did have the potential to directly observe an inmate that might be a victim. While the inmate cannot physically touch the inmate they are observing, they do have the ability to interact with the inmate they are observing.

(b): Case Management staff indicated if an inmate comes in with obvious signs of vulnerability, staff will ensure the inmate is properly placed in order to ensure the inmate's safety from becoming a victim of sexual abuse. The facility is conducting individual risk assessments on all inmates at the facility and this information is being uploaded into OCMS which is used to determine proper bed placement for each inmate. However, BCF could not show on count sheets or any system prisoners were being separated based on their PREA score. Potential victims could be placed into housing units with potential aggressors. After the initial PREA screen is conducted, BCF does not maintain that score in a proper location for staff to determine proper placement to separate possible victims from the aggressor.

I reviewed Maryland DPSCS Executive Directive OSPS.200.0005 which establishes policy and assigns responsibilities for screening individuals housed in a correctional facility under the authority of the agency to assess the risk of the individual from being sexually abused or being sexually abusive towards other inmates. Section 05(C) of the agency's directive specifically states each of the elements of the standard, in order, correlating with sections a-g of 115.42.

(c, d, e): BCF reported having zero transgender inmates within the last 12 months. During interviews with staff, they did state they would consider where transgender and intersex inmates are assigned on a case by case basis, and they always take the inmate's health and safety into consideration when determining this placement. Provisions would be made to ensure that transgender and intersex inmates' views are taken into consideration, with the main goal of placing the inmate to ensure sexual safety, as well as to ensure placement does not present management or security problems. Auditors were able to confirm there is a process in place that would ensure proper placement and programming for transgender and intersex inmates is reassessed at least twice yearly if they did reside at BCF. BCF's facility's directive 124.0000, along with Case Manager and Case Manager Supervisor's interviews and documentation reviewed confirm the process would take place.

(f): As observed during the tour, ALL showers in BCF housing have group showers, which are secluded and out of normal staff viewing. The showers were walled up to shoulder length and provided the necessary privacy needed for inmates to shower, including Transgender, if they resided at BCF. The showers in Dorchester are private from any cross gender viewing, however it is set up so multiple people are showering at the same time, similar to what you would see in a locker room. All inmates interviewed stated that the showers available provided them with privacy, as was also witnessed by the auditor. In addition, the showers are placed in the housing unit so that staff cannot observe the inmate showering but can view the showers to ensure safety of all inmates.

(g): After reviewing documentation and conducting interviews with staff and inmates it was evident that inmates are not placed in specific facilities or units based solely on the identification of being lesbian, gay, bisexual, transgender, or intersex. Placement of inmates is assigned based on overall needs, and safety and security of the inmate using the standardized risk assessment screening.

**Corrective Action Plan:**

BCF will need to provide documentation demonstrating to the auditor that the facility uses the information produced from the screening tools to make work, education and program assignments. BCF will need to provide the auditor with documentation showing they use the screening tools to separate possible aggressors from possible victims.

**Corrective Action:**

BCF provided an updated directive, BCFID.020.0026.2, indicating that risk assessment information is entered in the base file and facility data system to inform housing, bed, work, education, and program assignments. Case management will use this information to assign inmates to housing, assignments and programming. They will also notify the assignment supervisor of any special PREA conditions. The initial screening is used for housing purposes and verified by case management after the Traffic Officer completes the initial screening. Prisoners are separated by housing units based on PREA scores and housed on different levels within the facility.

The facility provided a copy of a spreadsheet that is used to track the PREA scores for inmates for staff to use for programming and housing assignments.

## Standard 115.43: Protective Custody

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

### 115.43 (a)

- Does the facility always refrain from placing inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers? ☒ Yes ☐ No
- If a facility cannot conduct such an assessment immediately, does the facility hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment? ☒ Yes ☐ No

### 115.43 (b)

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible? ☒ Yes ☐ No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Privileges to the extent possible? ☒ Yes ☐ No

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Education to the extent possible? ☒ Yes ☐ No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible? ☒ Yes ☐ No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The opportunities that have been limited? ☒ Yes ☐ No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The duration of the limitation? ☒ Yes ☐ No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The reasons for such limitations? ☒ Yes ☐ No

#### 115.43 (c)

- Does the facility assign inmates at high risk of sexual victimization to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged? ☒ Yes ☐ No
- Does such an assignment not ordinarily exceed a period of 30 days? ☒ Yes ☐ No

#### 115.43 (d)

- If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, does the facility clearly document: The basis for the facility's concern for the inmate's safety? ☒ Yes ☐ No
- If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, does the facility clearly document: The reason why no alternative means of separation can be arranged? ☒ Yes ☐ No

#### 115.43 (e)

- In the case of each inmate who is placed in involuntary segregation because he/she is at high risk of sexual victimization, does the facility afford a review to determine whether there is a continuing need for separation from the general population EVERY 30 DAYS? ☒ Yes ☐ No

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

## Instructions for Overall Compliance Determination Narrative

DOC.100.0002 Case Management Manual states that protective custody housing is appropriate only when required for the protection of the inmate. Every effort shall be made by case management staff and the managing official to find suitable alternatives to protective custody.

In the last 12 months, there were not any inmates held in involuntary segregated housing according to BCF documentation reviewed during the onsite portion of the audit.

## REPORTING

### Standard 115.51: Inmate reporting

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.51 (a)

- Does the agency provide multiple internal ways for inmates to privately report: Sexual abuse and sexual harassment? ☒ Yes ☐ No
- Does the agency provide multiple internal ways for inmates to privately report: Retaliation by other inmates or staff for reporting sexual abuse and sexual harassment? ☒ Yes ☐ No
- Does the agency provide multiple internal ways for inmates to privately report: Staff neglect or violation of responsibilities that may have contributed to such incidents? ☒ Yes ☐ No

#### 115.51 (b)

- Does the agency also provide at least one way for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency? ☒ Yes ☐ No
- Is that private entity or office able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials? ☒ Yes ☐ No
- Does that private entity or office allow the inmate to remain anonymous upon request? ☒ Yes ☐ No
- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security? ☒ Yes ☐ No

#### 115.51 (c)

- Does staff accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties? ☒ Yes ☐ No

- Does staff promptly document any verbal reports of sexual abuse and sexual harassment?  
☒ Yes   ☐ No

#### 115.51 (d)

- Does the agency provide a method for staff to privately report sexual abuse and sexual harassment of inmates? ☒ Yes   ☐ No

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

(a) Maryland DPSCS Executive Directives OSPS.0510.0030, effective date June 26, 2015, section 5(E) and OSPS.200.0004, effective date November 13, 2015, section 5(E), state that a complaint may be submitted by the victim, an individual with knowledge of an incident of sexual misconduct, or a “third party” on behalf of the victim. The complaint may be submitted in writing or verbally and may remain anonymous. An individual may file a complaint of sexual misconduct, without the regard to chain of command with an employee; a supervisor manager, or shift commander; the head of a unit; the Intelligence and Investigative Unit (IID); the inmate grievance office. The MDPSCS Inmate Handbook (2007) informs inmates that they should report if they become a victim of sexual misconduct and instructs them that they can tell any correctional officer, case manager, Chaplin, medical practitioner, supervisor or any DPSCS employee. Facility Directive also indicates that any BCF employee may receive a report of sexual misconduct from many different sources, including outside persons or agencies and that inmates shall also have access to a toll free hotline number which will refer any reports back to the institution for investigation.

(b) MDPSCS Executive Directives OSPS.0510.0030, effective date June 26, 2015, section 5(E) and OSPS.200.0004, effective date November 13, 2015, section 5(E) allows for a complaint to be filed outside of the department with the Office of Attorney General or other private or public office able to receive and immediately forward the complaint of alleged sexual misconduct to the Department. The MDPSCS has established a PREA Hotline which is used to report incidents of inmate on inmate or staff on inmate sexual misconduct and harassment, related retaliation or staff neglect. The hotline is monitored through Life Crisis Center Inc., which is a vendor contracted with the MDPSCS. Procedures were established December 2, 2013 detailing how the hotline will be monitored and ensures that all PREA related calls are documented and information is forwarded to the Internal Investigation Unit. The hotline number and information is posted in both English and Spanish. The facility had “PREA HOTLINE 410-585-3177” painted in all areas throughout the facility as well as posters. The auditor attempted to call the number from an inmate phone and the number was functioning properly and was answered by the Life Crisis Center. During the interview with the facility PCM, he also confirmed the operation of the PREA Hotline and that the



information is reported back to the facility head and IID for investigation. She also indicated the information remains confidential and is contained to only the staff necessary to complete an investigation.

(c) MDPSCS Executive Directives OSPS.0510.0030, effective date June 26, 2015, section 5(E) and OSPS.200.0004, effective date November 13, 2015, section 5(E) allows for staff to accept reports in writing, verbally and from third parties and requires that staff shall immediately report the complaint to a supervisor, manager, shift commander or head of a unit followed by submission of the appropriate written format used to document an inmate rule violation. The directive also requires that the information concerning the complaint is confidential and may only be available to individuals who have an established role in the reporting, processing, investigation and resolution of the alleged conduct.

(d) MDPSCS Executive Directives OSPS.0510.0030, effective date June 26, 2015, section 5(F) and OSPS.200.0004, effective date November 13, 2015, section 5(E) indicate staff have an obligation to immediately report the complaint to a supervisor, manager, shift commander or head of the facility. The same directive indicates the complaint filed is confidential and may be filed anonymously as well.

During interviews with staff it was indicated that they could privately report sexual abuse/harassment of an inmate by telling their supervisor, calling the PREA hotline, or telling someone from outside the facility of what occurred. They all felt they could report such issues confidentially. Staff reported that inmates could privately report sexual abuse/harassment by calling the posted PREA hotline, telling any staff member either in writing or verbally or tell a third party who could then report it. Staff indicated that if they received a report of sexual abuse/harassment they would immediately report and document it.

All inmates interviewed reported feeling safe from sexual abuse/harassment at BCF and knew how to report abuse or harassment if needed. Inmates indicated they could report sexual abuse/harassment by calling the PREA hotline that is posted by the telephones, they could tell a staff member or a family member and believed they could do so verbally or in writing. The PREA hotline number was painted above all the inmate phones and was in working order.

## **Standard 115.52: Exhaustion of administrative remedies**

### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### **115.52 (a)**

- Is the agency exempt from this standard? NOTE: The agency is exempt ONLY if it does not have administrative procedures to address inmate grievances regarding sexual abuse. This does not mean the agency is exempt simply because an inmate does not have to or is not ordinarily expected to submit a grievance to report sexual abuse. This means that as a matter of explicit policy, the agency does not have an administrative remedies process to address sexual abuse. ☒ Yes ☐ No ☐ NA

#### **115.52 (b)**

- Does the agency permit inmates to submit a grievance regarding an allegation of sexual abuse without any type of time limits? (The agency may apply otherwise-applicable time limits to any

portion of a grievance that does not allege an incident of sexual abuse.) (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

- Does the agency always refrain from requiring an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

#### 115.52 (c)

- Does the agency ensure that: An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA
- Does the agency ensure that: Such grievance is not referred to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

#### 115.52 (d)

- Does the agency issue 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? (Computation of the 90-day time period does not include time consumed by inmates in preparing any administrative appeal.) (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA
- If the agency claims the maximum allowable extension of time to respond of up to 70 days per 115.52(d)(3) when the normal time period for response is insufficient to make an appropriate decision, does the agency notify the inmate in writing of any such extension and provide a date by which a decision will be made? (N/A if agency is exempt from this standard.)  
☐ Yes ☐ No ☒ NA
- At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, may an inmate consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

#### 115.52 (e)

- Are third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse? (N/A if agency is exempt from this standard.)  
☐ Yes ☐ No ☒ NA
- Are those third parties also permitted to file such requests on behalf of inmates? (If a third-party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.) (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

- If the inmate declines to have the request processed on his or her behalf, does the agency document the inmate's decision? (N/A if agency is exempt from this standard.)  
☐ Yes ☐ No ☒ NA

#### 115.52 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA
- After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.)  
☐ Yes ☐ No ☒ NA
- After receiving an emergency grievance described above, does the agency provide an initial response within 48 hours? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA
- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)  
☐ Yes ☐ No ☒ NA
- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA
- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA
- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

#### 115.52 (g)

- If the agency disciplines an inmate for filing a grievance related to alleged sexual abuse, does it do so ONLY where the agency demonstrates that the inmate filed the grievance in bad faith? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

## Instructions for Overall Compliance Determination Narrative

The Maryland DPSCS does not have administrative procedures to address inmate grievances regarding sexual abuse and are therefore exempt from this standard.

MDPSCS Executive Directive OPS.185.002, effective date December 12, 2014, section 03-Policy C states that the Department does not permit the use of an informal resolution process or Administrative Remedy Procedure (ARP) to resolve complaints of rape, sexual assault, sexual harassment, sexual abuse sexual misconduct, inmate on inmate sexual conduct or other areas afforded protections by standards under the authority of the Prison Rape Elimination Act (PREA) and related Department procedures. Section 05-Responsibility/Procedures, (F) states that an inmate may not seek to resolve a complaint through the ARP for issues that include (#5) rape, sexual assault, sexual harassment, sexual abuse, sexual misconduct, inmate on inmate sexual conduct or other areas afforded protection by standards established under the authority of the Prison Rape Elimination Act (PREA) and related Department procedures, which shall be addressed according to Department procedures for reporting, investigating, resolving and documenting PREA related incidents.

## Standard 115.53: Inmate access to outside confidential support services

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

### 115.53 (a)

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations? ☒ Yes ☐ No
- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies? ☒ Yes ☐ No
- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible? ☒ Yes ☐ No

### 115.53 (b)

- Does the facility inform inmates, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws? ☒ Yes ☐ No

### 115.53 (c)

- Does the agency maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide inmates with confidential emotional support services related to sexual abuse? ☒ Yes ☐ No

- Does the agency maintain copies of agreements or documentation showing attempts to enter into such agreements? ☒ Yes ☐ No

### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

(a) Maryland DPSCS Executive Directive OSPS.0510.0030, effective date June 26, 2015, section 5-Responsibility/Procedures G(3)(b) states if requested by the victim and the services are reasonably available, have one of the following, for the purpose of support, for the victim through the forensic examination and investigation interviews: a qualified victim advocate; a department employee who is otherwise not involved in the incident and has received education and training concerning sexual assault and forensic examination issues and has been appropriately screened and determined to be competent to serve in this role; a non-department community-based organization representative who meets the criteria for a department employee established under section .05G(3)(b)(ii).

The facility PREA Manager, Jon Scramlin, indicated that the facility contracts with MCASA, which provides support services to the entire State of Maryland.

(b): The facility provides inmates with copies of the MCASA pamphlet upon arrival at the facility. The pamphlet has listed the reporting options for inmates as well as the contact information to make such reports. The pamphlet does indicate that inmates have the option of reporting anonymously. This pamphlet was also available in the library of the facility.

(c): The agency and facility provided the auditor with a copy of the current contract with MCASA. MCASA is a federally recognized state sexual assault coalition and its core members are the state's 17 rape crisis and recovery centers. MCASA provides policy advocacy, technical assistance, training outreach and prevention. The agency provided documentation showing an agreement with MCASA to provide support services. However, nothing was published at the facility and no contact information is provided to inmates on how to contact these agencies.

Interviews of staff and inmates all support that the facility has provided contact information for MCASA.

## Standard 115.54: Third-party reporting

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.54 (a)

- Has the agency established a method to receive third-party reports of sexual abuse and sexual harassment? ☒ Yes ☐ No
- Has the agency distributed publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate? ☒ Yes ☐ No

### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

(a) Maryland DPSCS Executive Directives OSPS.0510.0030, effective date June 26, 2015, section 5(E) and OSPS.200.0004, effective date November 13, 2015, section 5(E) state that a complaint may be submitted by a third party on behalf of the victim or other individual who has knowledge of the alleged sexual misconduct. The agency supplied a copy of the webpage from their agency website that had all the necessary PREA information as well as the agency PREA Coordinator contact information for reporting purposes. The auditor personally went to the department's webpage and was able to easily navigate to the necessary information on their website.

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

### Standard 115.61: Staff and agency reporting duties

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.61 (a)

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency? ☒ Yes ☐ No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding retaliation against inmates or staff who reported an incident of sexual abuse or sexual harassment? ☒ Yes ☐ No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding any staff neglect or violation of responsibilities



that may have contributed to an incident of sexual abuse or sexual harassment or retaliation?  
☒ Yes ☐ No

#### 115.61 (b)

- Apart from reporting to designated supervisors or officials, does staff always refrain from revealing 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? ☒ Yes ☐ No

#### 115.61 (c)

- Unless otherwise precluded by Federal, State, or local law, are medical and mental health practitioners required to report sexual abuse pursuant to paragraph (a) of this section? ☒ Yes ☐ No
- Are medical and mental health practitioners required to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services? ☒ Yes ☐ No

#### 115.61 (d)

- If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, does the agency report the allegation to the designated State or local services agency under applicable mandatory reporting laws? ☒ Yes ☐ No

#### 115.61 (e)

- Does the facility report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators? ☒ Yes ☐ No

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

(a)(c) Executive Directive OSPS.050.0030 under section .04, subsection 6(a) defines the term employee as to include paid staff, contractors, interns, and volunteers. Section .05, subsection E(5) states filing a complaint stipulates that employees receiving a complaint or otherwise has knowledge of alleged sexual misconduct shall immediately report the complaint to a supervisor or manager, shift commander or head of the unit, followed by the appropriate written format used to document misconduct. Section E(6) states that if a complaint of alleged sexual misconduct is received by a supervisor, manager, shift commander or head of the unit at a facility, other than the facility where the alleged sexual misconduct occurred, the head of the

unit responsible for the facility receiving the complaint shall immediately notify the Intelligence and Investigative Unit (IID).

Wexford Health Operations Guidelines, P-314: Procedure in the Event of Sexual Assault, states Wexford Health will ensure that victims of sexual assault receive prompt and appropriate medical intervention. The guideline goes on to state the facility has written policies and procedures regarding the detection, prevention, reduction, and punishment of rape consistent with federal law; a consent must be obtained for prior victimization/abuse not occurring in an institutional setting or for an occurrence that happened under the age of 18; all reports of sexual abuse/victimization occurring within the institution will be immediately reported to the DOC; Wexford Health requires that an employee with knowledge of an incident of inmate sexual abuse or sexual harassment shall report that knowledge according to DPSCS procedure.

The Executive Directive does indicate that information concerning a complaint of alleged inmate on inmate sexual conduct is confidential and may only be available to individuals who have an established role in the reporting, processing, investigation, and resolution of the alleged inmate on inmate sexual conduct and immediate and continued care of the victim.

Interviews with both medical and mental health staff both indicated that they do in fact go over informed consent with each inmate receiving treatment from either medical or mental health services. They provide the inmate with an informed consent form in which the information if provided and the inmate is requested to sign. Both were aware that they are required to report any knowledge, suspicion or information regarding an incident of sexual abuse or sexual harassment to the facility upon learning of it. Mental health staff indicated that they have not had an instance of such an event. Medical staff indicated they have had instances of abuse being reported and they reported the incident immediately to the appropriate staff to ensure an investigation was completed.

(b) MDPSCS Executive Directive OSPS.050.0030 section E(8) states information concerning a complaint of alleged sexual misconduct is confidential and may only be available to individuals who have an established role in the reporting, processing, investigating, and resolving the alleged sexual misconduct and immediate and continued care of the victim.

(d) Section .05 G(1) requires that IID investigators comply with all state laws when conducting investigations; Maryland Family Law 5-704 requires notification to social services by law enforcement agencies of any abuse or neglect. The law covers all applicable reporting requirements, including the mandatory reporting requirements of the individual is under the age of 18. The facility does not house youthful inmates, therefore the under the age of 18 requirement does not apply.

During the interview with the Warden he indicated that they do not house inmates under the age of 18 and if they had to report a vulnerable adult that they would report this to mental health and medical for necessary treatment, as well as complete an investigation of the allegations or ensure the appropriate authorities were made aware.

The agency PREA Coordinator indicated that they have never had an incident for this segment of their population.

(e) Section F(1) states that a complaint of alleged sexual misconduct received anonymously shall be accepted and processed the same as a complaint received from an identified source. Section E, subsection

1(c) states a third party on behalf of the victim or other individual who has knowledge of the alleged sexual misconduct.

The Warden indicated during his interview that all allegations of sexual abuse and sexual harassment are referred for investigation once received by the facility regardless of how they are reported.

The facility supplied supporting documents to include a full listing of all Maryland County Child Protective Services phone numbers and agency names. They also included a Limits of Confidentiality form that each inmate signs when receiving treatment from mental or medical health care. In this form it indicates that the treatment provider must report any information that presents a threat to the inmate, others in the facility, safety of the institution, and/or public safety. The following cannot be kept confidential, as one issue is related to sexual abuse within the correctional setting.

All staff interviewed through the random interview process indicated that they were fully aware of their requirements to report all instances of sexual abuse or harassment; this includes Wexford health care staff, who all indicated they were aware of their reporting requirements.

## Standard 115.62: Agency protection duties

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.62 (a)

- When the agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, does it take immediate action to protect the inmate? ☒ Yes ☐ No

### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

(a) Maryland DPSCS Executive Directive COS.200.0005, section C, subsection 1(a) states when making decisions related to housing, bed, work, education, and program assignments with the goal of separating inmates who are determined to be at high risk of being sexually victimized from inmates who are determined to be at high risk of being sexually abusive.

MDPSCS Case Management Manual – page 103 of 148 – Special Confinement Housing, page 108 of 148 specifically addresses Protective Custody in 1-8.

Executive Directive – Sexual Misconduct Prohibited OSPS.050.0030 – section B(3) states an individual (staff or inmate) reporting, participating in the investigation or resolution of, or who is a victim of alleged sexual misconduct is monitored for a minimum of 90 days from the date the incident was reported to detect actual, or feared, retaliation and if retaliation is identified or feared take action to stop the actual or feared retaliation that may include: a medical mental health counseling, change in assignment and staff work assignments and, continued monitoring as deemed appropriate. Section D, (1) thru (4) states a supervisor, manager, or shift commander shall: (1) Take reasonable actions to eliminate circumstances that may result in or contribute to an incident of sexual misconduct that include conducting and documenting security rounds to identify and deter staff sexual abuse and harassment that are performed: randomly on all shifts, prevention of cross gender viewing, at a frequency established by the managing official. (2) If aware of an act of alleged sexual misconduct, ensure that a complaint is immediately filed according to established procedures for reporting misconduct; (3) If applicable, ensure that appropriately trained employees take action to preserve the scene and any evidence related to an alleged incident of sexual misconduct; and (4) Ensure the safety of a victim of sexual misconduct, through a coordinated response to a complaint of sexual misconduct that includes: (a) Immediately stopping an incident in progress; (b) If applicable, immediate medical attention; (c) Appropriate action to provide immediate and continued personal protection; (d) Referral for medical and mental health care follow-up; and (e) Non-medical or mental health related counseling and support services.

Executive Directive Inmate on Inmate Sexual Conduct – Prohibited OSPS.200.0004 – Section B(3) The head of a unit, or a designee, is responsible for ensuring that: An individual (staff or inmate) reporting, participating in the investigation or resolution of, or who is a victim of alleged inmate on inmate sexual conduct is monitored for a minimum of 90 days from the date the incident was reported to detect actual, or feared, retaliation and if retaliation is identified or feared take action to stop the actual or feared retaliation that may include: (a) Provision of available medical or mental health services or counseling; (b) Changes to inmate housing assignments and staff work assignments; and (c) Continued monitoring as deemed appropriate. Section D states a supervisor, manager, or shift commander shall: (1) Take reasonable actions to eliminate circumstances that may result in or contribute to an incident of inmate on inmate sexual conduct; (4) Ensure the safety of a victim of inmate on inmate sexual conduct, through a coordinated response to a complaint of inmate on inmate sexual conduct that includes: (a) Immediately stopping an incident in progress; (b) If applicable, immediate medical attention; (c) Appropriate action to provide immediate and continued personal protection; (d) Referral for medical and mental health care follow up; and (e) Non-medical or mental health related counseling and support services. Section F states, processing a complaint (3)a(ii) A supervisor, manager, shift commander, or unit head receiving a complaint under §.05E or .05F(2) of this directive shall immediately: (ii) Safeguard the victim from further harm.

Executive Directive Assessment for Risk of Sexual Victimization and Abusiveness OSPS.200.0005 – under inmates protected as a result of screening, Section C(1)a, when making decisions related to housing, bed, work, education, and program assignments with the goal of separating inmates who are determined to be at high risk of being sexually victimized from inmates who are determined to be at high risk of being sexually abusive. (b) When making individualized determinations as how to ensure the safety of each inmate. (c) When deciding to assign a transgender or intersex inmate to a facility for male or female inmates and in other housing and programming assignments and, on a case by case basis, determining if the placement or assignment: (i) Ensures the inmate's health and safety; and (ii) Presents management or security problems. (2) Placement and programming assignments for each transgender or intersex inmate

shall be re-assessed at least twice each year to review threats to safety experienced by the inmate. (3) A transgender or intersex inmate's own views with respect to personal safety shall be seriously considered.

The facility supplied the PREA Intake Screening questions 1-18 as well as the instructions for PREA Intake Screening Instrument.

Interviews with the Warden, Agency Head, and random staff all indicate that any time a staff member becomes aware that an inmate is at risk of imminent sexual abuse they will remove the inmate from the situation and protect them by following all the applicable procedures.

The facility reported zero instances of situations related to this standard during the last 12 months.

## Standard 115.63: Reporting to other confinement facilities

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.63 (a)

- Upon receiving an allegation that an inmate was sexually abused while confined at another facility, does the head of the facility that received the allegation notify the head of the facility or appropriate office of the agency where the alleged abuse occurred? ☒ Yes ☐ No

#### 115.63 (b)

- Is such notification provided as soon as possible, but no later than 72 hours after receiving the allegation? ☒ Yes ☐ No

#### 115.63 (c)

- Does the agency document that it has provided such notification? ☒ Yes ☐ No

#### 115.63 (d)

- Does the facility head or agency office that receives such notification ensure that the allegation is investigated in accordance with these standards? ☒ Yes ☐ No

### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

(a) Maryland DPSCS Executive Directives OSPS.0510.0030, effective date June 26, 2015, section 5(E)(6) and OSPS.200.0004, effective date November 13, 2015, section 5(E)(6) states, if a complaint of alleged sexual misconduct is received by a supervisor, manager, shift commander, or head of the unit at a facility other than the facility where the alleged sexual misconduct occurred, the facility head is required to make notification to the head of the facility where the abuse occurred. A Notice of Incident form is used to document the notification. DPSCS and BCF reported no instances that required facility head notification. If the facility where the alleged sexual misconduct occurred is not a Department facility, the facility head will notify the official responsible for the facility where the alleged misconduct occurred and document the notification

Executive Directive indicates that the Warden is responsible for ensuring that a reported allegation which occurred at another facility is reported to the head or appropriate office of the agency where the alleged abuse occurred and that the notification must occur no later than 72 hours after receiving the allegation and must be documented.

(b) The same section of the directive indicates the notification will be made immediately upon receiving the complaint. Immediately does not indicate it will be done within 72 hours. Immediately would be by definition sooner than 72 hours. The facility has had no instances of reports being made about allegations at another facility. By the definition this provision of this standard is met, short of having documentation to indicate that notice was not made within 72 hours.

(c) Section 7(a) and (b) both indicate that the facility will make the notification and document the notification.

(d) Executive Directive OSPS.050.0030, section .05G Investigating, Documenting, and Resolving a Complaint states in subsection (1) An IID investigator, or an investigator designated by the IID, shall conduct a prompt, thorough and objective investigation of every complaint of alleged sexual misconduct according to applicable statutory, regulatory, case law, contract, Department procedures, or other reasonably accepted standards related to: (a) Collecting and preserving evidence; (b) Interviewing victims and witnesses; (c) Conducting and using polygraph examinations; (d) Identifying suspects; (e) Preserving an individual's personal dignity and legal rights; and (f) Maintaining confidentiality of the investigation.

## **Standard 115.64: Staff first responder duties**

### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### **115.64 (a)**

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Separate the alleged victim and abuser?  
☒ Yes ☐ No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence? ☒ Yes ☐ No

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: 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, if the abuse occurred within a time period that still allows for the collection of physical evidence? ☒ Yes ☐ No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: 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 abuse occurred within a time period that still allows for the collection of physical evidence? ☒ Yes ☐ No

#### 115.64 (b)

- If the first staff responder is not a security staff member, is the responder required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff? ☒ Yes ☐ No

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

(a)(b) Maryland DPSCS Executive Directive OPS.050.0001 and OPS.200.0005 specifically indicate what first responder duties are, which includes non-security staff. Directive OPS.050.0001 states the first correctional officer responding to an incident of sexual misconduct shall: (a) Ensure the safety of a victim of sexual misconduct by: (i) immediately stopping an incident in progress, if necessary arranging for separation of the victim from the abuser; and (ii) if applicable, immediately, if qualified, providing medical attention or arranging for appropriate medical attention. (b) if the circumstances are such that there is evidence to preserve: (i) Preserve the scene of the incident; (ii) ensure the victim is advised not to do anything that would contaminate or destroy physical evidence such as, bathing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating; and (iii) ensure the alleged abuser does not do anything that would contaminate or destroy physical evidence such as, bathing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating. The Directive also includes language for non-security staff, which states: If the first employee responding to an incident of sexual misconduct is not a correctional officer, that employee shall: (a) immediately request that a correctional officer respond to the scene; and (b) perform duties identified under §§.05D (2) (a) and (b) of this directive for which the employee is officially qualified or authorized to perform. The PREA In-Service training module for staff, also submitted, coincides with these updates.



The agency also provided the *Wexford Health P-314 Procedure in the Event of Sexual Assault*. This document outlines the procedure that will be taken by Wexford in the event of treating a victim of sexual assault. Even though the standard does not require a policy be developed, all staff interviewed showed proficiency of this standard as demonstrated through their answers to the questions of being a first responder. All were able to articulate what they would do as a first responder and followed the requirements of the standard.

## Standard 115.65: Coordinated response

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.65 (a)

- Has the facility developed a written institutional plan to coordinate actions among staff first responders, medical and mental health practitioners, investigators, and facility leadership taken in response to an incident of sexual abuse? ☒ Yes ☐ No

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

The agency provided Executive Directive – Sexual Misconduct – Prohibited OSPS.050.0030 and, Executive Directive - Inmate on Inmate Sexual Conduct – Prohibited OSPS.200.0004. Both explain the process of processing a complaint, investigating a complaint, providing medical and mental health care as well as what facility and agency leadership's roles are in the process. These procedures are an institutional plan that supports compliance with this standard.

As supporting documentation, the agency submitted an Inmate Sexual Assault Allegation Decision Tree for Medical Decisions. This decision tree shows the steps taken by medical staff when receiving and allegation of sexual assault.

The Warden indicated during his interview that BCF staff are trained on how to initially respond to incidents of sexual abuse/harassment and will take appropriate actions. He also indicated that staff all have PREA cards that they carry and are part of their uniform inspection. These PREA cards have a list of first responder duties as they relate to sexual abuse incidents.

## Standard 115.66: Preservation of ability to protect inmates from contact with abusers

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

### 115.66 (a)

- Are both the agency and any other governmental entities responsible for collective bargaining on the agency's behalf prohibited from entering into or renewing any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted? ☒ Yes ☐ No

### 115.66 (b)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

(a)(b) The Agency provided AFSCME Teamsters MOU Unit H Page 3, Article 3 - Management Rights which shows confirmation of management rights within the labor agreement and stipulates that the Employer possesses all other power, duty and right to operate and manage its departments, agencies and programs and carry out constitutional, statutory and administrative policy mandates and goals.

Also submitted was Maryland State Personnel and Pension 3-302 Management Rights -stipulating management's rights as provided by law. 1 through 8 of this document specifically states that the Agency has the ability to manage their staff in the event that an issue was to occur related to many different issues, of which (3) states, hire, direct, supervise, and assign employees, and (4) states, promote, demote, discipline, discharge, retain, and lay off employees.

During the interview with Agency Head, it was indicated that Maryland law requires that management retain all basic rights and that it would not be legal to bargain such responsibilities away. This is outlined in Maryland law (COMAR: Code of Maryland).

Nothing in either of the provided documents conflict with standards 115.72 or 115.76.

## Standard 115.67: Agency protection against retaliation

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

**115.67 (a)**

- Has the agency established a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff? ☒ Yes ☐ No
- Has the agency designated which staff members or departments are charged with monitoring retaliation? ☒ Yes ☐ No

**115.67 (b)**

- Does the agency employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations? ☒ Yes ☐ No

**115.67 (c)**

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of residents or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff? ☒ Yes ☐ No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff? ☒ Yes ☐ No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation? ☒ Yes ☐ No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any inmate disciplinary reports? ☒ Yes ☐ No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate housing changes? ☒ Yes ☐ No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes? ☒ Yes ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff? ☒ Yes ☐ No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff? ☒ Yes ☐ No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need? ☒ Yes ☐ No

#### 115.67 (d)

- In the case of inmates, does such monitoring also include periodic status checks? ☒ Yes ☐ No

#### 115.67 (e)

- If any other individual who cooperates with an investigation expresses a fear of retaliation, does the agency take appropriate measures to protect that individual against retaliation? ☒ Yes ☐ No

#### 115.67 (f)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☐ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☒ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

The Agency provided IIU.110.0011 Investigating Sex Related Offenses, Executive Directive – Sexual Misconduct- Prohibited OSPA.050.0030

(a) IIU.110.0011 Investigating Sex Related Offenses page 2 under Definitions, (6) Retaliation - defines what retaliation means and also offers other scenarios that could be perceived as retaliation. Executive Directive – Sexual Misconduct- Prohibited OSPA.050.0030 page 3, (9) under .04 Definitions also defines what retaliation is and offers other scenarios that could be perceived as retaliation. Executive Directive – Sexual Misconduct- Prohibited OSPA.050.0030 page 6 helps support sections A, C and E of this standard. All of the above referenced directives indicate that it is either the agency head or the investigator to ensure that retaliation does not take place and is monitored.

(b) Executive Directive IIU.110.0011 Investigating Sex Related Offenses, section .05H(1)(c) and .05H(5)(g) specifically prohibits retaliation against victims or other individuals related to an incident of sexual abuse after determining if an individual has been the target of retaliation. During the interview with Martha Danner, Special Assistant to Deputy Secretary, John Michael Zeigler, she indicated those making allegations are separated from the alleged abuser. The Warden or Security Chief are charged with ensuring that retaliation does not occur. When interviewing the Warden, he indicated that staff have their PREA cards and know their duties as well as other staff.

(c)(e) Executive Directive – Sexual Misconduct- Prohibited OSPS.050.0030 section .05B(3)(a-b) indicates that an individual, staff or inmate, reporting, participating in the investigation or resolution of, or who is the victim of alleged sexual misconduct is monitored for 90 days against retaliation and if retaliation is detected will take action which may include, application of available medical or mental health services or counseling; changes to inmate housing assignments and staff work assignments; and continued monitoring as deemed appropriate. Both the agency head and facility head, during their respective interviews, indicated that they would reassign, transfer or move the individual and start an investigation. The agency uses a Retaliation Monitoring form that covers all the elements of what is required to be monitored.

(d) Executive Directive – Sexual Misconduct- Prohibited OSPS.050.0030 section .05B(3)(c) does address continued monitoring as deemed appropriate, however it does not state that the agency will conduct periodic status checks.

(f) No documentation provided indicated that the agency shall terminate monitoring if the agency determines that the allegation is unfounded.

In the PAQ, the facility reported zero instances of retaliation in the past 12 months. When the facility PREA Compliance Manager was asked who he would assign to conduct the monitoring at the facility, he indicated he is currently conducting the retaliation monitoring. Mr. Scamlin also reported, upon taking over the PCM position, he learned the 90-day monitoring had not been completed previously and he had recently started the retaliation monitoring process. A review of the files confirmed Mr. Scramlin's information as incomplete retaliation monitoring's were observed. Documentation was reviewed to also confirm that Mr. Scramlin has initiated the 90-day monitoring process.

#### **Corrective Action Plan:**

BCF will need to provide the audit team with a plan indicating who will provide the retaliation monitoring when it is necessary, and that staff have been trained. They will also provide the audit team with any monitoring documentation that occurs during the corrective action period, using the agency Retaliation Monitoring form as well as an investigation log, to support which new allegations require monitoring. This documentation will need to be supplied monthly for the duration of the corrective action period.

#### **Corrective Action:**

BCF has made it the responsibility of the facility PCM to ensure retaliation monitoring is completed for each required case. The facility provided me all retaliation monitoring forms for each case as well as copies of their log of PREA cases to ensure that all required monitoring was in fact started and completed. All provided examples were in compliance with standard 115.67.

## Standard 115.68: Post-allegation protective custody

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

### 115.68 (a)

- Is any and all use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse subject to the requirements of § 115.43? ☒ Yes ☐ No

### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

Maryland DPSCS Case Management Manual DOC.100.0002, Section 18 “Special Confinement Housing” Section E(1) indicates that Protective custody housing is appropriate only when required for the protection of the inmate. Every effort shall be made by case management staff and the managing official to find suitable alternatives to protective custody housing. Alternatives may include, but are not limited to:

- (a) Transfer of the inmate to a different housing unit within the facility;
- (b) A lateral transfer of the inmate to another facility of the same security level;
- (c) Transfer of the inmate’s documented enemy or enemies to another facility;
- (d) Transfer of the inmate to another state under the provisions of the Interstate Corrections Compact (ICC);
- (e) Transfer to MCAC (in exceptional circumstances only); or
- (f) Assignment to home detention (if eligible).

If protective custody housing is utilized or recommended by the case management team the supporting rationale shall be documented on a Case Management Assignment Sheet. The inmate shall be initially reviewed upon arrival at the protective custody facility.

As with standard 115.43 where inmates who are at high risk for sexual victimization, inmates who have allegedly suffered sexual abuse fall under the same provisions as does 115.43. The agency’s processes and documentation support compliance with this standard as it did for 115.43.

The interview with the Warden indicated that they would separate the victim from the perpetrator and that they have multiple options for separation. He indicated segregation would be a last resort but that they

would still receive as much privileges as possible while temporarily housed in segregation. He indicated that they have not had any instances of this within the last 12 months. This was supported by the PAQ for this audit.

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### 115.71 (a)

- When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, does it do so promptly, thoroughly, and objectively? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA
- Does the agency conduct such investigations for all allegations, including third party and anonymous reports? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA

#### 115.71 (b)

- Where sexual abuse is alleged, does the agency use investigators who have received specialized training in sexual abuse investigations as required by 115.34? ☒ Yes ☐ No

#### 115.71 (c)

- Do investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data? ☒ Yes ☐ No
- Do investigators interview alleged victims, suspected perpetrators, and witnesses?  
☒ Yes ☐ No
- Do investigators review prior reports and complaints of sexual abuse involving the suspected perpetrator? ☒ Yes ☐ No

#### 115.71 (d)

- When the quality of evidence appears to support criminal prosecution, does the agency conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution? ☒ Yes ☐ No

#### 115.71 (e)



- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as inmate or staff? ☒ Yes ☐ No
- Does the agency investigate allegations of sexual abuse without requiring an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding? ☒ Yes ☐ No

#### 115.71 (f)

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse? ☒ Yes ☐ No
- Are administrative investigations documented in written reports that include a description of the physical evidence and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings? ☒ Yes ☐ No

#### 115.71 (g)

- Are criminal investigations documented in a written report that contains a thorough description of the physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible? ☒ Yes ☐ No

#### 115.71 (h)

- Are all substantiated allegations of conduct that appears to be criminal referred for prosecution? ☒ Yes ☐ No

#### 115.71 (i)

- Does the agency retain all written reports referenced in 115.71(f) and (g) for as long as the alleged abuser is incarcerated or employed by the agency, plus five years? ☒ Yes ☐ No

#### 115.71 (j)

- Does the agency ensure that the departure of an alleged abuser or victim from the employment or control of the agency does not provide a basis for terminating an investigation? ☒ Yes ☐ No

#### 115.71 (k)

- Auditor is not required to audit this provision.

#### 115.71 (l)

- When an outside entity investigates sexual abuse, does the facility cooperate with outside investigators and endeavor to remain informed about the progress of the investigation? (N/A if an outside agency does not conduct administrative or criminal sexual abuse investigations. See 115.21(a).) ☐ Yes ☐ No ☒ NA

## Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

(a) Maryland DPSCS Directive IIU.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, specifically states this directive applies to personnel assigned to conduct an investigation of an allegation of misconduct that involves a sex related offense. Section .03(A) states, in part, the Department shall promptly, thoroughly and objectively investigate each allegation of employee or inmate misconduct involving a sex related offense.

Upon interviewing IID Detective Anne Nicodemus, she indicated once an allegation is received at IID it is documented in a log and a case number is issued. It is then reviewed and assigned by the Lieutenant. The investigator will immediately begin the investigation within a couple of days unless it is an emergent allegation report and the investigator reports to the hospital. An additional investigation with IID Detective Junior Nwanja was conducted and the same time frames were provided by him for investigation initiation.

Agency OSPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015, section(1)(c) states a complaint of alleged sexual misconduct may be submitted by a third-party on behalf of the victim or other individual who has knowledge of the alleged sexual misconduct. A third-party as well as anonymous report investigation regarding sexual abuse was reviewed for BCF.

(b) Maryland DPSCS directive IIU.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, section .03(B) specifically states Department personnel assigned to conduct an investigation of alleged employee or inmate misconduct involving a sex related offense shall be trained in techniques related to conducting investigations of sex related offenses in the correctional setting.

David Wolinski, PREA Coordinator, provided a printout of all the IID investigative detectives who have completed the required investigative training regarding allegations of sexual abuse and sexual harassment. The documentation verified that all IID investigative detectives have completed the training. The investigators interviewed stated, per the training commission standards, they continuously have training on PREA and responding to sexual abuse incidents. The training covers policy, compliance with the complaints, initial response, interviewing and professionally dealing with the victims, evidence collection, witness and offender interviews and referrals for prosecution. All sexual abuse and sexual harassment investigations at BCF were assigned to the IID Unit.

(c) Maryland DPSCS Directive IIU.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, states throughout the directive that, if the incident is reported in a time frame that supports it, investigators shall ensure that the scene is protected to preserve evidence and the victim is advised against actions that would destroy evidence that may be present on the victim's body or clothing. Furthermore, in section .05(D)(2)-(4) states, in part, the investigator shall recover physical evidence from the victim or coordinate with appropriate Department facility staff to arrange for the victim to undergo a forensic

medical exam performed by a SAFE or SANE, which includes the collection of DNA, if present. Subsection (7) requires the investigator to thoroughly describe physical, testimonial, and documentary evidence surrounding the case.

This directive specifically addresses the credibility of a victim, witness, and suspect. However, the remainder of the section regarding interviews speaks directly about the requirement of the investigator to conduct interviews and follow-up interviews of the victim only. Agency directive OSPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015, states An IID investigator, or an investigator designated by the IID, shall conduct a prompt, thorough and objective investigation of every complaint of alleged sexual misconduct according to applicable statutory, regulatory, case law, contract, Department procedures, or other reasonably accepted standards related to interviewing victims and witnesses. Additionally, agency directive OSPS.200.0004, Inmate on Inmate Sexual Conduct-Prohibited, effective November 13, 2015, states an investigator, or designee, shall conduct a prompt, thorough, and objective investigation of every complaint of alleged inmate on inmate sexual conduct according to applicable statutory, regulatory, case law, contract, Department or agency procedures, or other reasonable accepted standards related to interviewing victims and witnesses. Although agency investigations demonstrate a practice of interviewing the suspected perpetrators during an investigation, nothing in agency directive requires an interview with suspected perpetrators.

Facility staff are trained to secure the area an alleged assault occurred until IID staff arrive to process the area as a crime scene. During this time, access to the scene is limited and documented who entered and why. Detective Nicodemus stated IID staff will process the area for any physical evidence, including DNA as trained. They will review reports and begin conducting interviews with the victims(s), perpetrator(s) and any witness, as well as collect any other evidence (videos, photographs, medical records, prior records of inmates involved) to ensure a thorough investigation is completed. Additionally, DPSCS policy requires alleged victims to be sent to a nearby hospital for a forensic exam to be conducted by SANE/SAFE certified staff.

(d) Under the follow-up activities section of this directive, the investigator is required to work with the prosecutor to develop a case for criminal prosecution. IID staff indicated during interviews, that whenever a complaint contains potentially criminal allegations, Miranda and Garrity are implemented appropriately in order to ensure the information gathered during the investigation does not jeopardize a criminal investigation. They also have a good working relationship with the prosecutor's office and regularly have conversations regarding current cases as they are progressing along.

(e) Maryland DPSCS Directive IIU.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, section .05(E)(1) states the credibility of a victim, witness, or suspect shall be determined on an individual basis, regardless of the individual's status, for example employee or inmate. Subsection (2) of this same direction states a victim may not be required to take a polygraph or other truth telling test to determine to proceed with an investigation of an incident involving a sex related offense.

IID staff indicated during interviews that the credibility of all involved in an investigation is based upon the facts of the investigation and not upon the status of the individual as an inmate or employee. IID Detective Nicodemus further stated credibility is equal among all parties involved in the investigation in the beginning. It is not until the evidence proves otherwise is credibility diminished on any party involved.

(f)(1) Maryland DPSCS Directive IIU.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, requires investigators to conduct post-incident actions including determining if employee action or lack of action contributed to the occurrence.

(f)(2) Subsection .05(D)(7) states the investigator shall document all aspects of the investigation in a comprehensive investigative report that thoroughly describes physical, testimonial, and documentary evidence and that explains the reasoning behind credibility assessments and includes facts and findings.

IID Detective Nicodemus relayed through her interview that all aspects of an allegation are considered and documented during an investigation. This includes whether or not staff actions or inactions were the possible cause of an incident or may have helped attribute to the incident. The reports reviewed during the audit include complete descriptions of any physical evidence (when applicable) as well as testimonial evidence relied upon when making a final determination as to the merits of the investigation. There were twelve allegations of sexual abuse/harassment within the past 12 months at BCF. Six completed and six still awaiting completion investigations were reviewed.

(g) The DPSCS conducts both administrative and criminal investigations. Therefore, the requirements outlined above in section (f) of this standard apply here as well.

(h) Maryland DPSCS Directive IIU.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, section .05(H)(6) states that follow-up investigative activities include, if appropriate, the IID will work with the prosecutor to develop the case for criminal prosecution. Upon interview with IID investigative Detectives, it is clear that every potentially criminal allegation is investigated by sworn police officers with the authority to conduct criminal investigations. Those investigations containing sufficient evidence to merit prosecution are referred to the prosecuting attorney's office for prosecution.

IID staff conduct criminal investigations of any allegation that appears to be criminal. Any criminal allegation that is substantiated is then referred for prosecution. This was verified during the previous various conversations held with different IID staff as well as during the formal interview with IID Detectives Nicodemus and Nwanja.

(i) Section .05(D)(7)(e) states the investigation is maintained according to an established retention schedule, which requires that the report is maintained as long as the employee is employed by the Department or the inmate is under the authority of the Department plus five years. All investigative reports are retained electronically within the IID. Historical reports were made available and reviewed during the audit.

(j) Subsection (F) of this same directive states an investigation under this directive may not be terminated based on victim or suspect departure from Department employment or custody. During the interview with IID Detective Nicodemus, she indicated an investigation, once initiated, will be continued until completed regardless of the status of an employee or inmate within the DPSCS. Detective Nicodemus also went on to say if the inmate involved in the investigation transfers to another facility, they would simply travel to and interview the inmate at the new facility.

(k) This state agency has addressed the requirements as outlined in this report.

(l) No outside agencies conduct investigations on behalf of the agency. Therefore, this portion of the standard is not applicable.

## **Standard 115.72: Evidentiary standard for administrative investigations**

### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

### 115.72 (a)

- Is it true that the agency does not impose a standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated? ☒ Yes ☐ No

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

Maryland DPSCS directive IIU.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, specifically states, in part, upon concluding an investigation involving an inmate as a victim of a sex related offense, the investigative detective shall make their determination regarding substantiating the allegation based upon a preponderance of the evidence.

Title 12 Department of Public Safety and Correctional Services, subtitle 11 Office of the Secretary, states under Decisions and Orders that the presiding officer shall use a preponderance of evidence as the standard of proof, unless the standard of clear and convincing evidence is required by regulation or statute.

Although the agency conducts primarily criminal investigations into allegations of sexual abuse, it has demonstrated through employee interviews, provided investigative reports, and within agency policy that it utilizes the standard of preponderance of the evidence in making determinations about investigative outcomes.

### Standard 115.73: Reporting to inmates

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

### 115.73 (a)

- Following an investigation into an inmate's allegation that he or she suffered sexual abuse in an agency facility, does the agency inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded? ☒ Yes ☐ No

### 115.73 (b)

- If the agency did not conduct the investigation into an inmate's allegation of sexual abuse in an agency facility, does the agency request the relevant information from the investigative agency in order to inform the inmate? (N/A if the agency/facility is responsible for conducting administrative and criminal investigations.) ☐ Yes ☐ No ☒ NA

#### 115.73 (c)

- Following an inmate's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The staff member is no longer posted within the inmate's unit? ☒ Yes ☐ No
- Following an inmate's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The staff member is no longer employed at the facility? ☒ Yes ☐ No
- Following an inmate's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The agency learns that the staff member has been indicted on a charge related to sexual abuse in the facility? ☒ Yes ☐ No
- Following an inmate's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility? ☒ Yes ☐ No

#### 115.73 (d)

- Following an inmate's allegation that he or she has been sexually abused by another inmate, does the agency subsequently inform the alleged victim whenever: The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility?  
☒ Yes ☐ No
- Following an inmate's allegation that he or she has been sexually abused by another inmate, does the agency subsequently inform the alleged victim whenever: The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility?  
☒ Yes ☐ No

#### 115.73 (e)

- Does the agency document all such notifications or attempted notifications? ☒ Yes ☐ No

#### 115.73 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)

☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### **Instructions for Overall Compliance Determination Narrative**

(a): Maryland DPSCS directive IIU.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, specifically states upon concluding an investigation involving an inmate as a victim of a sex related offense and based on a preponderance of evidence, the investigator shall advise the victim inmate if the investigation resulted in the incident being determined to be substantiated, unsubstantiated, or unfounded.

When reviewing the investigation conducted within the 12 months prior to this audit, the IID investigator indicated in some of the reports that the victim was notified of the outcome of the investigation, however, how the inmate was notified was not indicated. In addition, it was documented in one of the investigative reports the inmate was notified of the original unfounded finding, however the finding was changed to unsubstantiated after further review and additional interviews were conducted. It was not documented in the report the inmate was notified of the change in finding. The auditor was not provided with any documentation to verify the inmate was actually notified. When asked to demonstrate how they are notified they could not. This does not discredit the integrity of the investigators, but simply makes it difficult as an auditor to confirm compliance.

(b): The agency conducts its own investigations; therefore, this section of the standard does not apply.

(c): This directive continues to require the investigator to ensure, if the incident involved an employee committing a sex related offense on an inmate and the incident was substantiated or unsubstantiated, arrange for the inmate to be advised all the requirements outlined in this section of the standard.

(d): Subsection .05(H)(5)(d) of this same directive states if the incident involved an inmate committing a sex related offense on another inmate arrange for the victim inmate to be advised of the requirement regarding the perpetrator outlined in this portion of the standard.

The agency has indicated there were no instances of (c) and (d) occurring within the last 12 months requiring such notification. When asked to demonstrate how the notification would be made and or documented the facility was unable to.

(e): Subsection (e) of this portion of this directive states written confirmation is received from the managing official, or a designee, and maintained in the investigative file that documents notifications made under this section have been made and include the date and time of the notification, the name and signature of the inmate notified, and the name and signature of the individual making the notification.

(f): This directive specifically states the victim reporting requirements under this directive shall terminate at the time the victim is released from Department custody.

### **Corrective Action Plan:**

BCF will need to ensure they are notifying all inmate victims of the investigation finding when the investigation is completed. BCF will also need to ensure they are notifying all inmate victims of the other



notification requirements listed in the above standard. BCF and the agency will need to demonstrate how and when the inmates are notified and provide documentation proving compliance over the next 180 days by providing copies of all notification forms along with a copy of the investigation log to cross reference to completed investigations.

**Corrective Action:**

PCM Scramlin adopted a PREA Outcome Notification Form that he is utilizing to ensure that all inmates are notified of the outcome of the PREA investigation. The form has a spot to indicate who notified the inmate of the outcome and a spot for both the inmate and staff person to sign. The facility provided numerous examples during the corrective action period showing all notifications were made and signed for by the inmate and staff.

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### 115.76 (a)

- Are staff subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies? ☒ Yes ☐ No

#### 115.76 (b)

- Is termination the presumptive disciplinary sanction for staff who have engaged in sexual abuse? ☒ Yes ☐ No

#### 115.76 (c)

- Are disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) 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? ☒ Yes ☐ No

#### 115.76 (d)

- Are 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, reported to: Law enforcement agencies (unless the activity was clearly not criminal)? ☒ Yes ☐ No
- Are 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, reported to: Relevant licensing bodies? ☒ Yes ☐ No

## Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

(a): Maryland DPSCS Directive OSPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015, outlines an employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to a penalty under the Standards of Conduct, up to and including termination of employment with the Department, criminal prosecution, and if applicable, notification of a relevant licensing authority.

(b): Agency documentation titled "Standards of Conduct & Internal Administrative Disciplinary Process" states, Third Category Infractions are the most serious and include, among other things, unprofessional personal relationship or contacts with inmate, offender or client. Third category infractions shall result in termination from State service. The agency had no instances of termination for this reason in the last 12 months.

(c): Maryland DPSCS Directive OSPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015, outlines an employee who was determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to a penalty under the Standards of Conduct, up to and including termination of employment with the Department. The agency directive does not specifically state the discipline shall "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." However, the detail of the directive adheres to the overall intent of the standard in the way the agency enforces rules and regulations and administers discipline.

(d): Maryland DPSCS Directive OSPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015, outlines an employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to a penalty under the Standards of Conduct, up to and including termination of employment with the Department, criminal prosecution, and if applicable, notification of a relevant licensing authority.

The agency indicated there were no instances of employee terminations in past 12 months. The agency did provide the most recent investigation available (2013) demonstrating compliance with the standard.

## Standard 115.77: Corrective action for contractors and volunteers

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.77 (a)

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with inmates? ☒ Yes ☐ No
- Is any contractor or volunteer who engages in sexual abuse reported to: Law enforcement agencies (unless the activity was clearly not criminal)? ☒ Yes ☐ No
- Is any contractor or volunteer who engages in sexual abuse reported to: Relevant licensing bodies? ☒ Yes ☐ No

#### 115.77 (b)

- In the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, does the facility take appropriate remedial measures, and consider whether to prohibit further contact with inmates? ☒ Yes ☐ No

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

(a) Maryland DPSCS Directive OSPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015, state a contractor determined to have committed sexual misconduct is considered to be in violation of terms or conditions of a contract or other agreement establishing the relationship between the contractor and the Department or agency, subject to sanctions according to provisions of the contract or agreement, is subject to criminal prosecution, and if applicable, notification of relevant licensing authority.

(b) The Code Of Maryland (COMAR), section 21.07.01.11 Contracting Termination, section .11 states “if the contractor fails to fulfill its obligation under this contract properly and on time, or otherwise violates any provision of the contract, the State may terminate the contract by written notice to the contractor. Section .22, regarding mandatory provision for all contracts, subsection ‘C’ states it shall comply with all federal, State, and local laws, regulations, and ordinances applicable to its activities and obligations under this contract.

BCF reported no instances of contractors or volunteers being reported to law enforcement for engaging in sexual abuse of inmates. During the interview with Major Mitchell, he indicated that any contractor/volunteer found to be in violation of the agency’s sexual abuse or sexual harassment policies would immediately be prohibited from further contact with any inmates and an investigation would be launched. Major Mitchell indicated that volunteers/contractors are subject to the same measures as an BCF employee up to being stopped from coming in to the facility all the way up to potential prosecution.

## Standard 115.78: Disciplinary sanctions for inmates

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

### 115.78 (a)

- Following an administrative finding that an inmate engaged in inmate-on-inmate sexual abuse, or following a criminal finding of guilt for inmate-on-inmate sexual abuse, are inmates subject to disciplinary sanctions pursuant to a formal disciplinary process? ☒ Yes ☐ No

### 115.78 (b)

- Are sanctions commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories? ☒ Yes ☐ No

### 115.78 (c)

- When determining what types of sanction, if any, should be imposed, does the disciplinary process consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior? ☒ Yes ☐ No

### 115.78 (d)

- If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, does the facility consider whether to require the offending inmate to participate in such interventions as a condition of access to programming and other benefits? ☒ Yes ☐ No

### 115.78 (e)

- Does the agency discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact? ☒ Yes ☐ No

### 115.78 (f)

- For the purpose of disciplinary action does a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred NOT constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation? ☒ Yes ☐ No

### 115.78 (g)

- Does the agency always refrain from considering non-coercive sexual activity between inmates to be sexual abuse? (N/A if the agency does not prohibit all sexual activity between inmates.)  
☒ Yes ☐ No ☐ NA

## Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

## Instructions for Overall Compliance Determination Narrative

(a) Maryland DPSCS Directive OSPS.200.0004, Inmate on Inmate Sexual Conduct-Prohibited, effective November 13, 2015, states that an inmate may not commit, participate in, support, or otherwise condone sexual conduct. DPSCS Title 12, Chapter 27 details how inmate discipline is handled, including inmate sexual abuse.

BCF reported on the PAQ that there were no instances of administrative or criminal findings in the past 12 months of inmate on inmate sexual abuse.

(b) The Agency Directive does not specifically state the discipline shall be “commensurate with the nature and circumstances of the abuse committed, the inmate’s disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.” However, the detail of the directive appears to adhere to the overall intent of the standard in the way the agency enforces rules and regulations and administers discipline.

(c) Title 12 Department of Public Safety and Correctional Services, chapter 27 Inmate Discipline, subsection .18(B)(6) Prehearing and Hearing Procedures section states, if the hearing officer, at a hearing finds the inmate guilty of the rule violation charged, the hearing officer may consider the inmate’s competency at the time of the rule violation as a mitigating circumstance when determining the sanction.

(d) BCF indicated on the PAQ they do not require the offending inmate to participate in such interventions as a condition of access to programming or other benefits. Mental Health staff interviewed indicated they do determine what type of follow up service may be needed, if any, and see that perpetrators are made aware of these programs. Staff indicated they do not require participation, but they do encourage.

(e) Executive Directive OPS.050.0001 and COMAR 12.03.01 Operation Inmate Discipline were provided as evidence to address the discipline of inmates who engage in sexual contact with staff. The Directive states an inmate may not be found guilty of committing a sexual act under the inmate disciplinary process if the involved staff member consented to the sexual act or conduct. The COMAR states if the hearing officer finds the staff member did consent to the sexual act or conduct the inmate may not be found guilty. BCF reported no misconducts were written at in the past 12 months for any allegations investigated under PREA or against any inmate or sexual conduct with staff.

(f) Maryland DPSCS Directive OSPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015, states a complaint of alleged sexual misconduct made in good faith based upon a reasonable belief that the alleged sexual misconduct occurred may not be considered a false report or lying, even if the required investigation does not establish sufficient evidence to substantiate the allegation.

(g) Maryland DPSCS Directive OSPS.200.0004, Inmate on Inmate Sexual Conduct-Prohibited, effective November 13, 2015, states that an inmate may not commit, participate in, support, or otherwise condone sexual conduct. BCF staff indicated that there were no instances of inmate on inmate consensual sexual conduct in the past 12 months. Staff reported that they would definitely respond to all instances as required under PREA standards and further investigate to determine if in fact it was consensual or sexual abuse.

## MEDICAL AND MENTAL CARE

### Standard 115.81: Medical and mental health screenings; history of sexual abuse

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

##### 115.81 (a)

- If the screening pursuant to § 115.41 indicates that a prison inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening? (N/A if the facility is not a prison.)  
☒ Yes ☐ No ☐ NA

##### 115.81 (b)

- If the screening pursuant to § 115.41 indicates that a prison inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening? (N/A if the facility is not a prison.) ☒ Yes ☐ No ☐ NA

##### 115.81 (c)

- If the screening pursuant to § 115.41 indicates that a jail inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening? ☒ Yes ☐ No

##### 115.81 (d)

- Is any information related to sexual victimization or abusiveness that occurred in an institutional setting strictly limited to medical and mental health practitioners and other staff as necessary to inform treatment plans and security management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law?  
☒ Yes ☐ No

##### 115.81 (e)

- Do medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18? ☒ Yes ☐ No

### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

(a-c): Upon interviewing Intake and Case Management staff, it was stated that during the screening process, if an inmate discloses that he has ever experienced sexual victimization, or ever been the perpetrator of sexual victimization, he is automatically referred to either Medical or Mental Health immediately upon disclosure, and if the inmate agrees to see Medical or Mental Health, then he is seen generally within a day of the report. During the interview with intake staff, the intake sergeant stated that intake staff screens all intake assessments and specifically looks for any sexual abuse victimization or perpetration. The intake screens are sent to the Case Manager for placement and Medical/Mental health for referral, if necessary. The Case Manager provided multiple referrals to show that this process is in fact taking place at BCF. In further support of this standard, MDPSCS Executive Directive, COS.200.0005, was reviewed. The directive states that if screening indicates that an inmate has experienced prior sexual victimization, whether it occurred in a facility or in the community, the inmate is offered a follow-up with a medical or mental health practitioner within 14 days of the intake screening. Documentation provided and observation during tour showed that initial interviews are not taking place upon inmate's arrival to the facility. Inmates are issued a questionnaire to answer instead of a personal interview being conducted. Documentation provided also showed that prisoners who have disclosed prior sexual victimization are not evaluated within 14 days of arrival to facility.

(b): MDPSCS Medical Intake, Chapter 1, section A, II, states that all new intakes will be screened for history of sexual assault as a victim or perpetrator, either in the community or during incarceration, and will be referred for further evaluation with Medical/Mental Health within 14 days of intake. Agency Executive Directive COS.200.0005 does not address that the "perpetrator" will be offered a follow-up with medical or mental health practitioner within 14 days of the intake screening. However, the screening form is very clear that whenever an inmate discloses that he was either a victim or perpetrator that a referral will be made.

(d): This portion of the standard is met agency wide as indicated by Executive Directive 200.0005.05 Responsibility, and in Executive Directive-Sexual Misconduct-Prohibited effective June 26, 2015, and OSPA.050.0030. In addition, the Instructions of the PREA Intake Screening Instrument were reviewed and indicate that the responses to the questions asked on the screening instrument are to be kept confidential and disseminated only to those individuals with a need to know. This was also supported in the interview with the Case Manager, who stated that this information is provided only to individuals for



whom it is necessary for medical and mental health evaluation and treatment, and those staff for whom it is necessary to make security and management decisions.

(e): The Limits of Confidentiality form is utilized by Medical and Mental Health practitioners in an effort to obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting. Review of this form does not support that inmates' informed consent is obtained by Medical/Mental Health staff. The form does support that they inform inmates that by signing the form they cannot keep confidential issues related to sexual abuse within the correctional setting; however, it does not address sexual abuse outside of the correctional setting.

The agency did not provide any documentation supporting that there is a requirement to receive informed consent for inmates who report sexual victimization that did not occur in the institutional setting. An interview with BCF's Medical Head indicated that they would obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting; however, the consent form being used does not address informed consent for reports of sexual victimization which did not occur in the institutional setting. In addition, BCF does not house inmates under the age of 18.

#### **Corrective Action Plan:**

The agency will need to provide the auditor with executive directives, documentation and any forms utilized to support that medical and mental health will receive informed consent prior to them reporting any incidents of sexual abuse that took place outside an institutional setting. The agency will also provide the auditor with proof of agency wide dissemination which shows enforcement of these changes. The facility will need to show the auditors proof that staff at the facility are aware of the change and how they were made aware. Documentation will also need to be provided to support that prisoners are evaluated within 14 days by mental health staff after disclosing prior sexual victimization.

#### **Corrective Action:**

The agency provided Wexford Health's Procedure in the Event of Sexual Assault, a Mental Health Informed Consent form and the Department of Public Safety and Correctional Services Office of Clinical Services/Inmate Health Medical Records Manual, Chapter 1 – Consent to Treatment, as evidence to address the informed consent issue. The documentation requires that consent must be obtained for prior victimization/abuse not occurring in an institutional setting.

## **Standard 115.82: Access to emergency medical and mental health services**

### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### **115.82 (a)**

- Do inmate 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?  
☒ Yes   ☐ No

#### **115.82 (b)**

- If no qualified medical or mental health practitioners are on duty at the time a report of recent sexual abuse is made, do security staff first responders take preliminary steps to protect the victim pursuant to § 115.62? ☒ Yes ☐ No
- Do security staff first responders immediately notify the appropriate medical and mental health practitioners? ☒ Yes ☐ No

#### 115.82 (c)

- Are inmate victims of sexual abuse 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? ☒ Yes ☐ No

#### 115.82 (d)

- Are treatment services 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? ☒ Yes ☐ No

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

(a): An interview with medical staff indicated that follow-up treatment for alleged victims and perpetrators will be administered immediately and at no cost to the inmate. Timely and unimpeded access to medical treatment will be provided as necessary, as a result of any incidents, at no cost to inmate victims of sexual assault. The agency and BCF has met all requirements of this standard. To further support this standard, Executive Directive, OSPS.050.0030-Sexual Misconduct-Prohibited (effective June 26, 2015) was reviewed and indicates that facility staff shall ensure the safety of the victim of sexual misconduct, through a coordinated response to a complaint of sexual misconduct that includes immediate medical attention and continued personal protection, referral for medical and mental health care follow-up and non-medical or mental health related counseling and support services. In addition, section F (3)(a)(iii), states that staff shall immediately arrange for emergency medical services.

(b): MDPSCS Executive Directive- Sexual Misconduct-Prohibited (effective June 26, 2015) OSPS.050.0030, section .05F(3), states that while processing a complaint of alleged sexual misconduct, a supervisor, manager, shift commander or head of the unit, shall immediately protect the victim from further harm and arrange for emergency medical services; in addition, staff shall refer the victim for appropriate medical/mental health follow-up services. Interviews with staff first responders did show that BCF staff were well informed with what steps they are to take in the event that there are

no available mental health or medical staff on duty at the time of a report of sexual abuse. Staff stated they would separate the victim and ensure that the on call medical or mental health staff was contacted.

(c-d): Security staff and non-security staff interviews indicate medical and mental health services are provided to victims at no cost to the victim. In further support of this standard, MDPSCS Office of Clinical Services/Inmate Health, Medical Evaluations Manual, Chapter 13-Sexual Assault on an Inmate, was reviewed and states that all follow-up testing related to Sexually Transmitted Infections, pregnancy, HBV, and RPR shall be reviewed with the inmate and any additional testing or treatment is required within 5 business days.

All PREA related post assault follow-up clinical activities for medical and mental health must be completed, including testing and prophylactic treatment for STD's. With regard to section (d) of this standard, the Executive Directive OSPS.200.0004, Inmate Sexual Misconduct, as well as, the Medical Evaluations Manual, Chapter 13, requires that the victim shall be offered medical treatment at no financial cost regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

## **Standard 115.83: Ongoing medical and mental health care for sexual abuse victims and abusers**

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

### **115.83 (a)**

- Does the facility offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility? ☒ Yes ☐ No

### **115.83 (b)**

- Does 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? ☒ Yes ☐ No

### **115.83 (c)**

- Does the facility provide such victims with medical and mental health services consistent with the community level of care? ☒ Yes ☐ No

### **115.83 (d)**

- Are inmate victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if all-male facility.) ☐ Yes ☐ No ☒ NA

### **115.83 (e)**

- If pregnancy results from the conduct described in paragraph § 115.83(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if all-male facility.) ☐ Yes ☐ No ☒ NA

#### 115.83 (f)

- Are inmate victims of sexual abuse while incarcerated offered tests for sexually transmitted infections as medically appropriate? ☒ Yes ☐ No

#### 115.83 (g)

- Are treatment services 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? ☒ Yes ☐ No

#### 115.83 (h)

- If the facility is a prison, does it attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners? (NA if the facility is a jail.) ☒ Yes ☐ No ☐ NA

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

(a-g): Interviews with medical and mental health staff supported that all treatment services as required by this standard are taking place and are consistent with community level care, if not better due to the immediate availability of clinicians. Staff indicated in the event that an inmate suffered any sexual abuse, follow-up services and further treatment is available, including any tests for sexually transmitted infections. This is also supported by agency directives and the medical manual/processes are provided to inmate victims of sexual abuse without financial cost. Staff interviews indicated that inmates are immediately offered mental health services upon learning that the inmate is a known abuser and treatment is offered when deemed appropriate. All requirements of this standard have been met.

In further support of this standard, Maryland DPSCS Office of Clinical Services/Inmate Health, Medical Evaluations Manual, Chapter 13-Sexual Assault on an Inmate, was reviewed and requires that inmates reporting to have been sexually assaulted shall be provided with a medical evaluation and subsequent intervention focused solely upon the injury or trauma sustained during the assault. All inmates shall be seen for medical follow-up within the first 24 hours following the initial off-site medical visit and all

follow-up testing related to STD, HBV, and RPR shall be reviewed with the inmate and the inmate will be offered additional testing and treatment within 5 business days. Additionally, post assault follow-up clinical treatment for medical and mental health must be completed, including further testing and prophylactic treatment for STD's. Also stated in the Medical Evaluations Manual in section O, both the victim and the alleged abuser shall be provided treatment services without financial cost, which exceeds the requirements of this standard.

(h): The Medical Evaluations Manual, Chapter 13, section K, requires that the alleged abuser shall be offered a mental health evaluation within 30-60 days of the alleged assault or abuse. Staff interviews with the Case Manager and Medical Head confirmed that the alleged abuser would be offered a mental health evaluation within 30-60 days of the alleged assault or abuse.

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### 115.86 (a)

- Does the facility conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded? ☒ Yes ☐ No

#### 115.86 (b)

- Does such review ordinarily occur within 30 days of the conclusion of the investigation? ☒ Yes ☐ No

#### 115.86 (c)

- Does the review team include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners? ☒ Yes ☐ No

#### 115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse? ☒ Yes ☐ No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility? ☒ Yes ☐ No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse? ☒ Yes ☐ No

- Does the review team: Assess the adequacy of staffing levels in that area during different shifts? ☒ Yes ☐ No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff? ☒ Yes ☐ No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager? ☒ Yes ☐ No

#### 115.86 (e)

- Does the facility implement the recommendations for improvement, or document its reasons for not doing so? ☒ Yes ☐ No

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

(a)(b)(c) Executive Directive COS.020.0027-PREA Investigations-Tracking and Review (effective March 20, 2014), section .05- Responsibility, requires that a review team, consisting of upper level facility management, shall review all sex related offenses that are investigated, unless determined to be unfounded, within 30 days after the investigation is concluded. The review team shall have input from line supervisors, investigators and medical and mental health practitioners concerning the incident. In addition, the agency's policy requires the review shall consider if the incident or allegation indicates a need for a change in policy or procedure to better prevent, detect, or respond to sexual abuse and the specific reasons by which the incident was motivated. In accordance with the agency's Directive, the review team shall also examine the location of the incident to evaluate any physical plant issues and assess staffing levels and the need for monitoring technology to determine if there are other issues that may have contributed to the incident. Section E(6) of this directive addresses the requirements for preparing a report of the findings for the Managing Official and PREA Compliance Manager which must include any identified problem areas, corrective action and recommendations. Section F of this Directive addresses the requirement for implementing the review team's recommendations or the documentation of the reasons for not adopting recommendations.

Agency Directive DCD 110-22 Reduction in Violence indicates the Division of Correction has a zero tolerance of acts or threats of violence in its facilities. This zero tolerance policy means each and every act or threat of violence, regardless of the people involved and/or circumstances will bring forth a prompt investigation and an appropriate response to those findings. While certain behavior may lead to

disciplinary sanctions, emphasis is on providing a safe and secure environment for both staff and inmates. Acts of violence will be vigorously prosecuted both administratively and criminally. The Directive states each Warden shall establish a Reduction in Violence committee for the purpose of reviewing and identifying strategies and initiatives to reduce levels of violence in the institution. The committee shall minimally be comprised of the following members: security chief, major, intelligence officer, training coordinator, case management, social worker, psychology, sergeant, CO II and chair of Incident Assessment Team. The Warden shall review and approve any recommended actions or strategies and report monthly to the Assistant Commissioner – Security Operations via the Regional Commissioner. Facilities may conduct PREA Incident Reviews during these Reductions in Violence meetings.

BCF indicated on the PAQ and confirmed during the site audit that they have not conducted any Incident Reviews in the past twelve months for any allegations, although they have had at least one allegation that would require a review. In speaking with the PREA Compliance Manager, he had recently become aware of the incident review to be conducted within 30 days and provided a blank Sexual Abuse Incident Review form to be used during the review. The blank Sexual Abuse Incident Review form contained areas to cover all provisions of the standard. The PREA Compliance Manager stated with the recent switch in the PCM's and him taking over, he was unaware of a couple of items such as the sexual abuse incident review and retaliation monitoring, but he now is aware of them and will be having them completed timely and appropriately.

(e) No incident reviews were conducted at BCF, therefore no recommendations for improvement have been made either.

#### **Corrective Action Plan:**

BCF will have to conduct proper incident reviews on all prior allegations of sexual abuse (unless unfounded) and provide documentation when complete. The Facility will also have to conduct incident reviews on all future allegations of sexual abuse as required by this standard and/or Agency policy and provide verification that they are being completed for the next 180 days. An investigation log will also need to be provided as reference for allegations being reported.

#### **Corrective Action:**

The agency created and submitted a new Sexual Abuse Incident Review form which was disseminated to all facilities. BCF reviewed their investigation logs for 2017 and 2018 noting that all cases of sexual abuse have been determined to be "unfounded". They indicated that upon closing a case for anything other than unfounded that the proper incident review will be conducted with the required 30 days. To this date they have not had a substantiated sexual abuse case.

## **Standard 115.87: Data collection**

### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### **115.87 (a)**



- Does the agency collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions? ☒ Yes ☐ No

#### 115.87 (b)

- Does the agency aggregate the incident-based sexual abuse data at least annually? ☒ Yes ☐ No

#### 115.87 (c)

- Does the incident-based data 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? ☒ Yes ☐ No

#### 115.87 (d)

- Does the agency maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews? ☒ Yes ☐ No

#### 115.87 (e)

- Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates? (N/A if agency does not contract for the confinement of its inmates.) ☒ Yes ☐ No ☐ NA

#### 115.87 (f)

- Does the agency, upon request, provide all such data from the previous calendar year to the Department of Justice no later than June 30? (N/A if DOJ has not requested agency data.) ☒ Yes ☐ No ☐ NA

### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

(a) Agency Directive OSPS.020.0027, PREA Investigations-Tracking and Review, effective November 13, 2015 identifies (.05-A) the department's IID as the primary investigative body for all PREA related allegations and shall collect and maintain data regarding PREA related criminal and administrative investigations, which are required to be reported to IID.

(b), (c), (f) Subsection B of the above listed Directive states the IID shall uniformly collect and maintain data for each reported allegation of sexual abuse at correctional facility under the authority of the Department

that, at a minimum, is necessary to respond to data reporting required by the Survey of Sexual Violence conducted by the Department of Justice. Subsection B-4 states by June 30 of each calendar year, report sexual violence data from the previous calendar year to the Department of Justice.

(d) Subsection C states the PREA Coordinator, or designee shall complete the following: The PREA Coordinator or a designee shall:

(1) Aggregate the incident-based sexual abuse data annually.

(2) Maintain, review, and collect data as needed from all available incident-based documents, including reports, investigative files, and sexual abuse incident reviews.

(e) Section .03-B of this same Directive states the Department shall uniformly collect accurate data from every allegation of sexual abuse from each correctional facility under the authority of the Department to assess and improve effectiveness of sexual abuse prevention, detection and responsiveness.

(f) Executive Directive COS.020.0027-PREA Investigations-Tracking and Review (effective November 13, 2015), section .03-Policy, states that the Department shall uniformly collect accurate data for every allegation of sexual abuse from each correctional facility under the authority of the Department. With regard to section (a) of this standard which requires that a standardized instrument must be used to collect data for every allegation of sexual abuse, the agency's policy (section B), indicates that the IID shall develop the forms to be used for the collection of data for allegations of sexual abuse at the DPSCS correctional facilities. Section C, requires that the PREA Coordinator shall aggregate the incident-based sexual abuse data annually. The DPSCS's PREA Reporting Incident-Based Data Collection requires that data collected shall be sufficient to answer all of the questions from the Bureau of Justice Statistics Survey on Sexual Violence; this document specifically lists the details of the data to be collected. Section C, also requires that the PREA Coordinator shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigative files and sexual abuse incident reviews.

The DPSCS's 2015 Survey of Sexual Victimization was reviewed and the survey supports that the agency has collected and aggregated the data as required by this standard and has submitted this information to the United States Department of Justice/Bureau of Justice Statistics by June 30 as required. The DPSCS PREA Annual Report has also been reviewed, which supports that the agency obtains incident-based and aggregated data from all DPSCS facilities to include Threshold which is a private Pre-Release facility contracted by DPSCS. All sections of this standard (a-f) have been met.

Annual reports for 2013, 2014 and 2015 were available and reviewed on the agency website.

## **Standard 115.88: Data review for corrective action**

### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### **115.88 (a)**

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas? ☒ Yes ☐ No

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis?  
☒ Yes ☐ No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole? ☒ Yes ☐ No

#### 115.88 (b)

- Does the agency's annual report include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse ☒ Yes ☐ No

#### 115.88 (c)

- Is the agency's annual report approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means? ☒ Yes ☐ No

#### 115.88 (d)

- Does the agency indicate the nature of the material redacted where it redacts specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility? ☒ Yes ☐ No

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

#### Instructions for Overall Compliance Determination Narrative

(a)-(b) Agency Directive DPSCS.020.0026, Prison Rape Elimination Act-Federal Standards Compliance, effective September 1, 2012, states in section .05-B(2) the PREA Coordinator shall, on PREA related matters, have the authority of the Secretary and at a minimum, is responsible for data collection and review.

Agency Directive OSPS.020.0027, PREA Investigations-Tracking and Review, effective November 13, 2015, states in section .05-C(1), states the PREA Coordinator, or designee shall aggregate the incident-based sexual abuse data annually. Section (3)(b)-(d) requires the report to include identification of problem areas or problems within specific correctional facilities, used to facilitate corrective action, and compare the current year's data and activities with that available from previous years.

A review of the agency's most recent report revealed that several steps have been taken to comply with PREA in general. This included updates to policy, the establishment of facility PREA Compliance Managers at every facility, renovations of facilities, and entrance into a MOU for certified PREA audits.

(c) The agency's annual report is approved by the agency head. This was verified through an interview with the agency head and the agency head's signature on the report itself.

(d) There is no information contained within the agency's report that would require redacting.

Executive Directive COS.020.0027-PREA Investigations-Tracking and Review (effective November 13, 2015), section .05-Responsibilities, requires that the data collected and aggregated is compiled into an annual report, as well as assessed by the Department to improve the effectiveness of its sexual abuse prevention, detection, and response, policies, practices and training to include identifying Department-wide problems, and facilitating corrective action. In addition, as required by section (b-d) of this standard, the above listed Executive Directive also states the annual report shall compare the current calendar year's data and activities with that available from previous years and shall be approved by the Secretary and made available to the public through the Department's public website.

This is also evidenced by review of the DPSCS PREA Annual Report, which was signed and approved by Stephen T. Moyer, Secretary of the DPSCS and was able to be found on the Department's website: (<http://dpscs.maryland.gov/prea/docs/PREA-Report-2015.pdf>).

Also, indicated in the directive listed above in section 3(f), the Department shall redact information that would present a clear and specific threat to the safety and security of a correctional facility, while indicating the nature of the redacted information.

## **Standard 115.89: Data storage, publication, and destruction**

### **All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**

#### **115.89 (a)**

- Does the agency ensure that data collected pursuant to § 115.87 are securely retained?  
☒ Yes   ☐ No

#### **115.89 (b)**

- Does the agency make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means? ☒ Yes   ☐ No

#### **115.89 (c)**

- Does the agency remove all personal identifiers before making aggregated sexual abuse data publicly available? ☒ Yes   ☐ No

#### **115.89 (d)**

- Does the agency maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise? ☒ Yes ☐ No

### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

### Instructions for Overall Compliance Determination Narrative

(a)/(b)/(c)/(d) Executive Directive COS.020.0027-PREA Investigations-Tracking and Review (effective November 13, 2015), .05-Responsibilities, section C, requires that the Department PREA Coordinator/Designee shall securely maintain incident-based and aggregated data ensuring only authorized personnel have access to the information. In addition, the sexual abuse data must be maintained for at least 10 years from the date received.

The agency IID conducts, collects and securely retains all data related to allegations of sexual abuse and sexual harassment occurring within the agency. The availability of the data is limited to IID staff and the agency's leadership/administration. The agency PREA Coordinator develops an annual report utilizing this data and posts it on the agency's website.

As required by the agency's Directive in section C, the collected and aggregated data must be made available to the public annually through the Department's website after redacting any information which would present a clear and specific threat to the safety and security of a correctional facility and related personal identifiers. Review of the Department's website (<http://dpdcs.maryland.gov/prea/index.shtml>) supports that the DPSCS PREA Annual Reports are made available to the public. No personal identifiers are utilized in the report; therefore, there is no need for redaction.

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

#### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.401 (a)

- During the prior three-year audit period, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (*Note:*

*The response here is purely informational. A "no" response does not impact overall compliance with this standard.)* ☐ Yes ☒ No

#### 115.401 (b)

- Is this the first year of the current audit cycle? (*Note: a "no" response does not impact overall compliance with this standard.*) ☐ Yes ☒ No
- If this is the second year of the current audit cycle, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited during the first year of the current audit cycle? (N/A if this is **not** the *second* year of the current audit cycle.) ☒ Yes ☐ No ☐ NA
- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? (N/A if this is **not** the *third* year of the current audit cycle.) ☐ Yes ☐ No ☒ NA

#### 115.401 (h)

- Did the auditor have access to, and the ability to observe, all areas of the audited facility?  
☒ Yes ☐ No

#### 115.401 (i)

- Was the auditor permitted to request and receive copies of any relevant documents (including electronically stored information)? ☒ Yes ☐ No

#### 115.401 (m)

- Was the auditor permitted to conduct private interviews with inmates, residents, and detainees?  
☒ Yes ☐ No

#### 115.401 (n)

- Were inmates permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel? ☒ Yes ☐ No

#### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

## Instructions for Overall Compliance Determination Narrative

The auditor was able to tour all areas of the facility as well as interview inmates privately. The auditor was able to observe all electronic and paper documents upon request. Copies of documentation were provided to the auditor upon request. A private setting was provided for all staff and inmate interviews. The audit is conducted under a consortium agreement where the auditing agency conducts all audits within the audited agency. A third of the audited facilities have been audited thus far.

## Standard 115.403: Audit contents and findings

### All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

#### 115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. In the case of single facility agencies, the auditor shall ensure that the facility's last audit report was published. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.) ☒ Yes ☐ No ☐ NA

### Auditor Overall Compliance Determination

- ☐ **Exceeds Standard** (*Substantially exceeds requirement of standards*)
- ☒ **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- ☐ **Does Not Meet Standard** (*Requires Corrective Action*)

## Instructions for Overall Compliance Determination Narrative

The auditor viewed the agency website where the final reports by this auditor as well as other auditors within the consortium were observed for the second audit cycle. Final reports were also listed on the website from the first audit cycle.



## 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 agency under review, and
- ☒ I have not included in the final report any personally identifiable information (PII) about any inmate or staff member, except where the names of administrative personnel are specifically requested in the report template.

### Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.<sup>1</sup> Auditors are not permitted to submit audit reports that have been scanned.<sup>2</sup> See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

James Schiebner

January 15, 2019

**Auditor Signature**

**Date**

<sup>1</sup> See additional instructions here: <https://support.office.com/en-us/article/Save-or-convert-to-PDF-d85416c5-7d77-4fd6-a216-6f4bf7c7c110>.

<sup>2</sup> See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.