

PREA AUDIT REPORT ☐ Interim ☒ Final
ADULT PRISONS & JAILS

Date of report: October 24, 2017

Auditor Information			
Auditor name: Kris Steece			
Address: Macomb Correctional Facility 34625 26 Mile Rd., New Haven, MI 48048			
Email: steecek@michigan.gov			
Telephone number: 586-612-1938			
Date of facility visit: February 27-March 2 2017			
Facility Information			
Facility name: Chesapeake Detention Center			
Facility physical address: 401 E. Madison St. Baltimore, Maryland 21202			
Facility mailing address: <i>(if different from above)</i> Click here to enter text.			
Facility telephone number: 410-539-5445			
The facility is:	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> State	<input type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
Facility type:	<input type="checkbox"/> Prison	<input checked="" type="checkbox"/> Jail	
Name of facility's Chief Executive Officer: Assistant Warden Gwendolyn Oliver (Warden position vacant)			
Number of staff assigned to the facility in the last 12 months: 225			
Designed facility capacity: 569			
Current population of facility: 469			
Facility security levels/inmate custody levels: Minimum-Medium-Maximum Custody			
Age range of the population: Adults 18-50			
Name of PREA Compliance Manager: April Burman		Title: Captain	
Email address: april.burman@maryland.gov		Telephone number: 410-625-5218	
Agency Information			
Name of agency: Maryland Department of Public Safety & Correctional Services			
Governing authority or parent agency: <i>(if applicable)</i> State of Maryland			
Physical address: 300 E. Joppa Road, Towson Maryland, 21286			
Mailing address: <i>(if different from above)</i>			
Telephone number: 410-339-5000			
Agency Chief Executive Officer			
Name: Steven Moyer		Title: Secretary	
Email address: steven.moyer@maryland.gov		Telephone number: 410-339-5005	
Agency-Wide PREA Coordinator			
Name: Dave Wolinski		Title: Agency PREA Coordinator	
Email address: dave.wolinski@maryland.gov		Telephone number: 410-339-5033	

AUDIT FINDINGS

NARRATIVE

A certified PREA audit was conducted at the Chesapeake Detention Center (CDF) located in Baltimore, Maryland. The audit team consisted of certified PREA auditors James Schiebner, Todd Butler and Kris Steece (author); all from the Michigan Department of Corrections. The audit began in late February with the delivery, via CD and emails, of the agency and facility documentation and the required Pre-Audit Questionnaire from the facility. The standards were divided among the auditors with each reviewing the documentation 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; however, during the visit I was notified that a letter had just been delivered to the posted address. The letter was forwarded to the audit team and the inmate was immediately interviewed and CDF began an investigation into his allegation.

DAY 1 OF ONSITE AUDIT:

The onsite facility audit and tour began Monday, February 27, 2017 with Jim and Kris at CDF, while Todd was visiting the Internal Investigative Division (IID) and the Training and Human Resources Departments, as they are off site. There was a facility greeting from Assistant Warden Gwendolyn Oliver (the Warden position at CDF is currently vacant) and Security Chief/PREA Compliance Manager Donna Hansen. 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 CDF began. Accompanying the audit team were Asst. Warden Oliver, Chief Hansen, Case Management Supervisor Anonye and two Custody Supervisors. We visited all housing units, including administrative segregation, disciplinary segregation, protection and the female quad, food service, medical and mental health, library, recreation yard, laundry, maintenance, visiting area, control center and intake. All of the areas visited were well staffed and staff were making rounds/tours and monitoring key areas. Doors were locked and off limits areas were maintained. No areas observed presented any sexual safety or security concerns. PREA information throughout the facility was clearly posted, both in English and Spanish. Posters listed the steps that could be taken to report sexual abuse or sexual harassment incidents, provided contact information for the prisoners to report these incidents and also cited Maryland DPSCS's zero tolerance policy related to sexual abuse and sexual harassment. In the units the PREA hotline number was also painted on the wall next to the phones. This PREA hotline is different than other facilities, as CDF houses federal inmates, so the number is a Federal DOJ complaint hotline and not the state agency PREA hotline. This is further addressed in response to standard 115.51. The number was checked from one unit and determined not to be working. A repair ticket was submitted and the number was fixed prior to the end of the onsite audit.

Privacy curtains were in place in all shower areas, toilets were in cells only, with no direct view into the cells. Privacy curtains were also installed in areas where strip searches were conducted and windows were tinted in the unit housing female inmates; thus giving inmate's ample privacy. Log books were reviewed and showed evidence of supervisory rounds on all three shifts. Staff and inmates both stated they were not made aware in advance when supervisors were making rounds. It was also evident that male staff were loudly announcing their presence prior to entering the female housing unit; however, it was also clear that female staff were not announcing their presence when entering male housing units.

INTERVIEWS:

During the interview phase of the audit the auditors randomly selected and spoke with a combined total of 27 inmates and 31 staff members. Both inmates and staff were asked specific PREA questions, derived from the PRC interview template. Everyone interviewed participated willingly and appeared to have a good understanding of the PREA standards or rights provided by them. Some of the interviews were conducted during the facility tour, while other random and specialized inmate (11 total) and staff (18 total) interviews were conducted in a selected single location. The random/specialized inmates and staff that were interviewed in this single location were selected by reviewing the facility inmate roster and staffing roster for that day. They were then chosen by ensuring that each area of the facility was represented by both inmates housed and staff working in those areas. Conducting the interviews in this manner ensured that the auditors were able to gather sufficient information throughout CDF to help make a definitive determination of each standard.

During the tour the auditors randomly selected inmates and staff to interview as they were walking around. These interviews were conducted in specific locations and both inmates and staff were asked the specific questions from the PRC template. Other interviews were conducted in an open and sometimes group setting. The majority of inmates interviewed indicated they had received some sort of PREA educational material, either a pamphlet or watched a video, and were aware of the information on the PREA posters that were throughout the facility. Some inmates initially reported knowing nothing about PREA or indicated they received no education. When the auditors probed further into this it was discovered that the inmates were aware of the postings and simply chose not to read them. It was also discovered they were aware of the PREA video played upon arrival at CDF and were provided with PREA material, but simply chose to disregard both. This was not a reflection on the facility's efforts to educate and provide inmates with PREA information. All inmates felt they had enough privacy to change and shower without being viewed by the opposite gender. All inmates indicated that female staff did not announce their presence when entering the unit. All inmates reported feeling safe from sexual abuse/harassment at CDF and knew how

to report abuse or harassment if needed. One of the inmates interviewed identified as transgender. This inmate reported feeling safe and being treated with respect. All staff interviewed were knowledgeable about PREA and the agency's zero tolerance policy. They knew how to appropriately respond to a sexual assault and their mandatory requirement to report all allegations, notifications or suspicions of abuse or harassment. All staff indicated they had been trained on PREA, which included cross-gender/transgender pat searches. Staff were able to cite specific steps that needed to be taken in the event they were first responders to a sexual abuse incident. All staff responded that they absolutely could not strip search a prisoner to verify sexual identification.

OFF SITE AUDIT TOUR:

Todd Butler was escorted by Maryland PREA Coordinator, David Wolinski, to the agency's Internal Investigative Division (IID) in order to review investigations conducted into allegations of sexual abuse and sexual harassment. Investigative detectives who are sworn peace officers staff the IID. Because they are peace officers, the IID detectives conduct both criminal and administrative investigations on behalf of the agency. An interview was conducted with a Detective Sergeant who indicated, among other things, that they had received appropriate training regarding investigating sexual abuse and sexual harassment, articulated Miranda, Garrity, and Preponderance of the Evidence sufficiently, and covered in detail the process of conducting investigations in sexual abuse and sexual harassment. The agency provided the audit team with all of the investigations conducted at CDF in the past 12 months, six total, regarding sexual abuse and sexual harassment; however, a total of seventeen investigations (the rest from other facilities) were reviewed to obtain a good understanding of how the IID completes investigations. With only a single exception, the investigations appear to be conducted thoroughly with appropriate outcomes. The only investigation in question appeared, by a reading of the investigative summary, to fit a finding of unsubstantiated. However the investigator indicated a finding of unfounded. Todd addressed this concern with the IID staff. Nonetheless, the agency is more than substantially compliant with its investigative process.

Following the IID visit, Mr. Wolinski took Todd to visit the agency's head Human Resources office. During the tour of HR, Todd was able to randomly select and review twenty-three employee personnel files in order to verify criminal background checks are being conducted prior to employing staff and the agency affirmatively asks applicants about sexual abuse and sexual harassment during their application process. The agency keeps documentation verifying this in each employee's personnel file; the files are well maintained. While in HR, Todd was able to conduct an interview with the senior HR employee present at this time. During the interview the agency's stance regarding hiring well-qualified staff as well as the agency's process for screening applicants was articulated. When asked questions regarding specific facility practices, it was indicated the local HR office assigned to each facility would be the appropriate area to answer those questions. Todd was unable to further discuss these issues because he was unable to meet with the facility's local HR staff despite repeated requests.

During the tour of the agency HR office, Todd also interviewed Martha Danner. Ms. Danner is the Administrative Assistant to the agency head, Deputy Secretary John Michael Zeigler. During Todd's interview with Ms. Danner, it was apparent the agency head is well aware of the agency's efforts toward zero tolerance of sexual abuse and sexual harassment. Ms. Danner was able to articulate the agency's efforts to mitigate abuse and harassment through its use of technology and the open layout of its facilities. She discussed in detail the efforts of the agency's IID to conduct thorough and comprehensive investigations of sexual abuse and sexual harassment allegations, the agency's newest facility scheduled to go online later this year, and how the agency conducts reviews of cases in order to determine if there are trends that need to be addressed across the agency. Following the HR visit, Todd was escorted by Mr. Wolinski to CDF with the plan to review employee, contractor and volunteer training records. However, once at CDF, it was apparent that some level of confusion between the agency's PREA Coordinator and the facility's administration existed.

DAY 2 OF ONSITE AUDIT:

On February 28, 2017 the entire audit team returned to the facility and began collecting and reviewing supportive documentation for each standard. This portion of the audit was a daunting task for several reasons. CDF failed to provide adequate supportive documentation and in a timely manner for the pre-audit. It was very difficult to support compliance with many standards based on the documentation received prior to the audit. This caused the auditors to basically have to review documentation for each section of each standard while onsite. At times the auditors were left unattended and had to track down key staff who would or should have direct knowledge of PREA procedures at CDF. Staff that were available and assisting us did their best to answer questions and obtain the documentation requested and required, even though they did not directly deal with PREA issues as part of their normal duties. Understandably, the facility must continue to operate while the audit is occurring and that these key staff have other responsibilities that must be tended to. However, as noted in response to standard 115.11, the facility PREA Compliance Manager clearly does not have the time and resources needed to effectively ensure that PREA standards are being met and inmate sexual safety is a priority. This is noticeably evident in the amount of standards found to be in non-compliance during this audit.

EXIT INTERVIEW:

The audit team returned to the facility on March 1, 2017 to conduct an exit interview. Present during the exit was Assistant Warden Oliver, Chief Hansen, Agency PREA Coordinator Wolinski and various other CDF staff. The overall audit process was explained and an overview of the auditor's findings was presented. An explanation of the preliminary findings of non-compliance with each standard was given with the recommended remedial action to correct. After the exit interview an apology was given to the audit team for their treatment while at CDF, which was much appreciated. The audit team remained in State until March 3, 2017 and collectively reviewed and shared notes, documentation, interview results and report templates from the CDF audit. Contact by phone and/or email with CDF staff and agency staff

was made to clarify a few questions and request a few additional pieces of documentation, all of which was answered and provided. The team returned to Michigan and individually concluded each of their assigned standards, which were then compiled into the final report.

DESCRIPTION OF FACILITY CHARACTERISTICS

Chesapeake Detention Facility is located in the city of Baltimore and operated by the Maryland Department of Public Safety and Correctional Services. It was constructed in 1986 and opened in 1988. The facility was built as a super-maximum security prison to hold Maryland's most violent inmates along with inmates serving death sentences. In 2010, a historical event occurred with the signing of the official partnership with the United States Marshal's Service. Today CDF houses Federal male and female inmates in various stages of trial, ranging in age from 18-50; no youthful inmates are housed at CDF. The security levels for these inmates varies from minimum, medium and maximum. The designed capacity is 569 and had a current population of 469 inmates during the site tour. There are 36 cells designated as special and segregation and at the time of the audit CDF had a total of 21 inmates in either administrative or disciplinary segregation. CDF has a capacity to hold 22 female inmates; 18 females were being housed during the audit. The average length of stay for an inmate at CDF is about one year and all depends on their court case. In the past 12 month CDF admitted 1215 inmates into their facility.

CDF has six housing units named A through F. The six housing units are separated from the rest of the facility by a series of safety vestibules and security grills/doors. Each housing unit is contained in three columns; each column has two levels, four separate sections called quads with twelve cells each. Each housing unit has a control center in the center with large glass windows for constant observation. There are security corridors between the control centers and day room. All cells have double occupancy. Each cell has a sliding door with a window and a food slot and can be electronically operated from the control center. There is an intercom panel that allows correctional officers or treatment staff to communicate with the inmate individually or in a group. Each unit has a sergeant's office, a storage room and a security glass partitioned interview room for case management/disciplinary hearings and computer lab. There are two secure non-contact visiting rooms in each pod containing similar security features as the interview rooms. The exit doors at various locations in the quads lead to corridors that connect the different housing units. Each of the three columns has a fenced in roofed recreation/exercise yard, which is observed by the Inside Perimeter Security Officer manned post and security cameras. The rear of the facility is surrounded by a brick wall with razor ribbon wire. The grass and trees were removed from around the building and replaced with blacktop to provide additional parking for staff and to enhance the view of the surveillance system.

The lower level contains the intake/discharge area, medical intake area, holding cells with showers and toilets, a viewing area to watch the PREA video, inmate property storage area, satellite kitchen with a general storage area, refrigerator/freezer, lavatory for inmate workers, serving line for staff, storage area, Officer's Dining Room (ODR), supply and sanitation office, maintenance department, library, commissary, laundry, janitorial closets, and (A,B,C) housing units. Housing Unit B is designed as the special and segregation unit. The four pods of this unit are used to house the female inmates and protection, administrative and disciplinary inmates.

The second level contains the medical unit control post, four attorney visiting rooms, dental suite, psychology office, medication room, medical records office, and offices for nurse and a treatment/examination room. In addition, there are offices for the case management department, U.S. Marshal's representative office, offices for the captains and lieutenants, traffic office, and (D, E, F) housing units. Nine cells and a dayroom, originally designed as cadre housing, is now used to conduct various programs and as a holding area for inmates to be seen for medical appointments.

CDF has approximately 225 employees who may have contact with inmates. CDF reported that they currently have 3 supervisor and 16 officer vacancies. They reported having 52 volunteers and 21 individual contractors who also may have contact with inmates. Their staffing levels in all areas appeared appropriate for the amount of prisoners, programs and activities at the facility. Staff are assigned and deployed throughout the facility which allows CDF to ensure that all areas are effectively monitored and the observation, safety and security of inmates is effective. Although they have several vacancies, there was no evidence of staffing pressures affecting housing or programming decisions or having an impact on inmate sexual safety.

The facility has 114 video security cameras, capable of retaining video for 45 days. Cameras were visible in all areas, including stairwells and corridors, recreation yards and provided sufficient coverage of all areas. Camera footage is monitored by both female and male staff. Cameras were checked during the tour and no cameras were in observation cells, showers or areas where inmates may be in a state of undress and viewed by the opposite gender.

Through the utilization of community and in-house resources, CDF offers an assortment of programs addressing issues such as self-improvement, problem solving, social skill development, cognitive self-change, family reunification, victim awareness, and educational opportunities. Programs and services are well integrated into institutional operations. Programs offered includes Alcoholics Anonymous (AA), A Mothers Cry, Celebrate Recovery Inside (CRI), Creative Arts Group, English Is Easy Group, Essay Contests, Fathering Group, Life Skills, Narcotics Anonymous (NA), Yoga, Parent Bonding Program, Strengthening Ties/Baby Bonding sessions. Various religious services and GED classes are also offered.

CDF is accredited by the American Correctional Association (ACA). An ACA audit was last conducted on December 5-7, 2016. CDF received 100% compliant on mandatory standards and 98.6% on non-mandatory standards.

SUMMARY OF AUDIT FINDINGS

The interim audit determined that CDF and DPSCS were not in compliance with the following standards:

115.11: CDF PREA Compliance Manager does not have sufficient time to address PREA standards, which are not being met.

115.13: CDF's staffing plan does not incorporate all the elements required in this standard. There is no evidence that CDF conducts a staffing plan review with the agency PREA Coordinator.

115.15: Female staff at CDF are not announcing their presence when entering male inmate housing units.

115.21: CDF does not use contracted advocate services for victims of sexual abuse, although the agency is in contract with MCASA.

115.31: CDF houses female inmates and no staff have completed gender specific training – "Managing the Female Offender."

115.32: CDF or agency did not provide documentation that any Medical and Mental Health staff have completed PREA training.

115.35: CDF or agency did not provide documentation that any Medical and Mental Health staff have completed PREA training.

115.42: CDF is not ensuring inmates with opposing PREA assessments scores are not housed together in the same cell.

115.51: The PREA hotline used at CDF is to a federal agency. The agency/facility was unable to produce supporting documentation that would indicate whether the end user of the hotline is under any obligation to immediately forward the complaint to agency officials within the MDPSCS.

115.53: CDF did not provide documentation to show how inmates were provided with outside victim advocates, mailing address, phone numbers or contact information for any agency to provide these services.

115.63: Maryland DPSCS directive contradicts PREA standard. If an allegation is received about an incident that took place at a previous institution, the facility head makes notification to the IID who then notifies the other facility head or appropriate office where the alleged incident occurred. The standard requires the facility head to make the notification, not the IID.

115.64: Maryland DPSCS directives did not contain any verbiage related to all Staff First Responder Duties. The agency did not provide any documentation in reference to a non-security staff member and their responsibilities if they were to be the first responder.

115.67: CDF is not conducting retaliation monitoring of inmates who report allegations of sexual abuse.

115.71: Maryland DPSCS does not include the requirement to interview suspected perpetrators within appropriate agency directives.

115.78: Maryland DPSCS does not have a policy that addressed the discipline for inmates who engage in sexual contact with staff.

115.81 Maryland DPSCS policy complies with sections a-d of this standard. However, agency policy does not speak of informed consent, nor did the facility demonstrate compliance with section (e) of this standard.

115.86: CDF is not conducting Incident Reviews as required.

SUMMARY OF CORRECTIVE ACTION PERIOD

CDF and DPSCS were placed into a Corrective Action Period and provided with direction and recommendations in order to comply with each standard that was non-compliant. During the Corrective Action Period, the agency completed all the PREA Audit Report

required updates and changes to their policies and procedures and forwarded all supportive documentation to the audit team for review. During a statewide Warden's meeting, the agency PREA Coordinator presented a PREA overview and specifically addressed issues that arose during the CDF audit, including changes to policies. CDF made significant changes; the most notable was appointing a new PREA Compliance Manager and ensuring they have enough time dedicated to comply with all PREA standards. CDF submitted all requested documentation showing the actions they took to ensure the sexual safety of their inmates is maintained. Additional interviews with the new PREA Compliance Manager and the agency PREA Coordinator were also conducted. At this time, the Chesapeake Detention Center is in full compliance with all standards. Refer to each individual standard in this report for the details and specifics on how each standard was found to be compliant, including those initially under corrective action.

Number of standards exceeded: 0

Number of standards met: 43

Number of standards not met: 0

Number of standards not applicable: 0

Standard 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a) Maryland Department of Public Safety and Correctional Services (DPSCS) 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. Specifically, the directive states, 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, Maryland DPSCS 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.

The Chesapeake Detention Center (CDF) provided Facility Directive CDF.020.002 to support this standard. The directive clearly states that CDF has a zero tolerance for any acts of sexual abuse, assault, misconduct or harassment. The directive is well detailed and provides definitions of prohibited behaviors, requirements for training and education of staff and prisoners, as well as covers staffing plans, rounds, screening for risk, reporting and responding duties, discipline and treatment for victims.

(b) 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.

The Department provided the Maryland DPSCS organizational chart identifying David Wolinski as a Special Assistant to the Deputy Secretary for Operations for the Maryland DPSCS. Mr. Wolinski is the agency's PREA Coordinator. As an assistant to the number two position within the Maryland DPSCS, 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 is actively involved, along with a Major whose office is in close proximity to his, in the 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 22 PREA Compliance Managers within the DPSCS. He regularly interacts with them through email and telephone calls as well as during site visits to the facilities.

(c) 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.

CDF provided a flow chart indicating the Security Chief as the facility's PREA Compliance Manager. The Security Chief reports to the facility Associate Warden. Donna Hansen is the Security Chief for CDF. Chief Hansen indicated the position does not award her sufficient time and authority to fulfill her duties as the PREA Compliance Manager. Based upon the lack of the overall facility's readiness for the audit, it is clear that sufficient time to ensure PREA standards are being met is not provided. Several standards at CDF are not being met because of this and this surely has a direct effect on inmate sexual abuse prevention and response.

Corrective Action Plan: CDF will need to ensure sufficient time and resources are being afforded to the facility PREA Compliance Manager. CDF will need to document their efforts and any changes implemented to comply with this standard and provide this information to the audit team during the corrective action period. Correcting the several non-compliant standards will also show that CDF is making necessary changes to address this issue.

Corrective Action: CDF appointed a new facility PREA Compliance Manager (PCM). The new PCM is a Captain and has been given ample time to devote to addressing PREA standards. She is also being provided with additional training to guide her in this new assignment. An interview was conducted with her and it is apparent she is taking this new position and responsibility seriously and is already knowledgeable about PREA standards. In addition, CDF is now compliant with all standards which clearly shows that significant changes have been made.

Standard 115.12 Contracting with other entities for the confinement of inmates

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a) The Maryland DPSCS contracts with "Threshold, Inc." for its pre-release services. Maryland provided a July 2016 copy of the contract with "Threshold, Inc." as documentation of meeting the 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.

An interview with the contract administrator was conducted on March 1, 2017. 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, the agency PREA Coordinator, 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.

Additionally, Maryland DPSCS 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 Maryland DPSCS and complies with the requirements of the standard.

Standard 115.13 Supervision and monitoring

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a) Maryland Executive Directive OPS.115.0001, effective September 4, 2015 assigns responsibilities and authorizes a procedures manual for the DPSCS to manage security staffing and overtime at a correctional and detention facility.

The policies provided do not specifically address items 1-11 of section (a) of this standard. The facility provided a staffing plan and it does incorporate some of the factors from this section but not all of them. CDF's PREA Compliance Manager and Assistant Warden articulated during interviews how the facility has requested certain information needs to be added to the local staffing plan since it is ten years old and that there have been talks about updating it. They indicated that all items listed in the standard are considered when making their staffing plan and that the plan is located in the Warden's office. Assistant Warden Oliver also indicated the facility checks for compliance with the staffing plan by reviewing the posted daily assignment sheets and checking staff time and attendance. However, the staffing plan and annual review documentation does not sufficiently address all 11 components outlined in the standard. It is uncertain at this point whether this is a specific issue to be corrected by the facility or if there is a need to implement agency wide changes to address this portion of the standard. In either case, the staffing plan provided by CDF does not meet compliance with this standard.

(b) Maryland DPSCS 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 will be designated on the Facility Staffing Plan as well as all shift Post Assignment Worksheets. Each OSL level has guidelines by which the managing officer must follow in order to collapse the post. OSL 1 posts may be collapsed for the duration of a shift while maintaining normal operations without interruption. OSL 2 may be collapsed during periods of diminished staffing levels by reducing operations while still maintaining institutional security. This limits some activities from continuing. OSL 3 are only collapsed in a complete institutional lock down. OSL 4 shall not be collapsed except in an emergency. These posts remain staffed during a lock down. Section VI-D mandates that posts shall be collapsed so as not to jeopardize the security, safety, and welfare of staff or inmates. Each warden shall establish institutional directives to implement and comply with this directive.

CDF 110.0029.1-Collapsible Posts details how assignments will be collapsed (closed). CDF reported in the PAQ that there were no deviations from the approved staffing plan; however, during the on-site audit documentation (daily schedules) were reviewed and revealed that assignments were being collapsed. The assignments noted as being collapsed were OSL 3 assignments, which according to their Directives, are only collapsed during complete institutional lockdown. The facility was not in lockdown when these assignments were collapsed. This was brought to the attention of CDF staff for clarification.

CDF indicated that they do collapse assignments when no staff are available to fill the position. This is done in emergency situations or unexpected outside medical coverage. They do make attempts to fill these positions with overtime or mandated staff if at all possible. CDF reported during interviews that collapsed positions are considered based on safety and security of the facility and inmates and they always ensure there are enough staff to cover essential areas where inmates are housed and active.

(c) 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, 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 provided their Staffing Analysis and Overtime Management Manual which echoed the requirements set forth in the executive directive listed above. 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.

CDF Facility Directive CDF.020.0026.1 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.

DPSCS directives do not require a review of a facility staffing plan be conducted with the agency PREA Coordinator. The PREA Coordinator, Mr. David Wolinski stated, when asked, that the Major assigned to assist each facility within the agency with the annual review of the facility's staffing plan has an office directly across the hall from his. He indicated he sits with the Major to discuss each of the facility staffing plans as they come in. He then sends an email to the facility indicating he has reviewed the staffing plan. The email for this facility has not been provided for this audit. CDF's PREA Compliance Manager indicated that she has had no contact with the agency PREA Coordinator in regards to the staffing plan.

(d) Maryland DPSCS, executive directive OSPA.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015 specifically states in section D-1 through 4, 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 stating 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.

CDF Facility Directive CDF.020.0026.1, section B(2)-Supervision and Monitoring, requires housing unit staff and supervisory staff conduct unannounced rounds to identify and deter staff sexual abuse and sexual harassment, requires unannounced rounds to be recorded in the post logbooks and must be conducted on all shifts and in all areas. The Directive also prohibits staff from alerting other staff that unannounced rounds are being conducted. During the audit tour, logbooks in all areas were reviewed and documented rounds were made by supervisors. These documented rounds were present on all shifts, including nights, and in all areas every day. Interviews with shift supervisors also confirmed that unannounced rounds are being made. Line staff and inmates interviewed also confirmed that they are not made aware ahead of time when supervisors are making rounds. During the tour it was clear that staff were present in the areas consistent with the shift schedule and provided sufficient coverage to detect, prevent and respond to sexual abuse/harassment.

Corrective Action Plan: CDF will need to review their current staffing plan and make changes to ensure they consider: (1) generally accepted detention and correctional practices; (2) any judicial findings of inadequacy; (3) any findings of

inadequacy from Federal investigative agencies; (4) any findings of inadequacy from internal or external oversight bodies; (5) all components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated); (6) The composition of the inmate population; (7) the number and placement of supervisory staff; (8) institution programs occurring on a particular shift; (9) any applicable State or local laws, regulations, or standards; (10) the prevalence of substantiated and unsubstantiated incidents of sexual abuse; and (11) any other relevant factors. The facility will need to ensure that review of the staffing plan is annually collaborated with the agency PREA Coordinator. CDF will need to ensure that they adhere to the staffing plan and directives that oversee how assignments are collapsed. The updated staffing plan will need to be submitted to the audit team for review, along with documentation showing that a review with the agency PREA Coordinator was done. CDF will also have to provide evidence that assignments are only being collapsed in accordance with the updating staffing plan and when assignments are collapsed justification for the collapse is documented.

Corrective Action: Executive Directive OPS.115.001 was submitted with updates that included all of the PREA factors to consider when determining adequate staffing levels. A staffing plan development checklist was also submitted, which contains all factors listed in this standard. The Executive Directive and checklist were disseminated to all DPSCS facilities. CDF updated their staffing plan to include the PREA factors and the staffing plan was reviewed by the agency PREA Coordinator. CDF submitted a memorandum indicating posts (assignments) dealing with the safety and security of prisoners are never collapsed. Facility schedules were submitted for various weeks during the Corrective Action Period. A close look at these schedules confirmed that posts are not collapsed that deal directly with safety and security; therefore, inmate sexual safety is not compromised.

Standard 115.14 Youthful inmates

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

CDF houses Federal male and female detainees in various stages of trial, ranging in age from 18-50; no youthful inmates are housed at CDF. This was confirmed during the onsite visit by interviewing the Assistant Warden and PREA Compliance Manager, who stated that no juvenile inmates were housed at CDF. This was also verified through general observation during the site tour, the inmate interviews (27 total) and inmate file review (20 total). The agency PREA Coordinator also confirmed that no juvenile inmates were housed at CDF.

Standard 115.15 Limits to cross-gender viewing and searches

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a) Maryland DPSCS, executive directive OPS.110.0047, Search Protocol-Inmates, effective April 15, 2015, 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.”

CDF Facility Directive CDF.020.0026.1, section C-Cross Gender/Transgender/Intersex Searches prohibits staff from searching or physically examining a transgender or intersex detainee for the sole purpose of determining the detainee’s genital status; it may be determined by conversation with the detainee, reviewing medical records or obtaining information from a medical examination conducted in private by a medical practitioner. The Directives indicates that cross-gender, transgender and intersex searches of detainees will be conducted in a professional and respectful manner consistent with security needs and the search shall be documented to include the detainee’s name and number, the name of officer conducting the search, and the reason for the search. CDF 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.

(b) Maryland DPSCS, executive directive OPS.110.0047, Search Protocol-Inmates, effective April 15, 2015, states in section E(3) a frisk search of a female inmate shall be conducted by female corrections officers, exempt a managing official or a designee may, based on exigent circumstances, authorize a male officer to conduct a frisk search on a female inmate provided the officer does not touch the breast or genital area of the inmate.

CDF Directive .020.0026.1 indicates that cross-gender, transgender and intersex searches of detainees will be conducted in a professional and respectful manner consistent with security needs and the search shall be documented to include the detainee’s name and number, the name of officer conducting the search, and the reason for the search. CDF reported they do not allow male staff to search female inmates. All staff interviewed also confirmed that this is not allowed, unless it was an emergency and they would document it. Female inmates interviewed stated they have never been searched by a male staff member and are never restricted from programming because there are always female officers around them. Staff interviewed confirmed that female staff are always present in the area where female prisoners are at, so they are always available to conduct searches if needed.

(c) Maryland DPSCS, executive directive OPS.110.0047, Search Protocol-Inmates, effective April 15, 2015, states in section E(4)(i) that staff are to document frisk searches in accordance with requirements under §§.05C(1)(b) and C(3) of the same directive.

§.05C(1)(b) and C(3) of this directive requires documenting any items recovered during inmate searches. Nothing was found in policy requiring staff to document in writing any instances of cross gender frisk searches as required in this section of the standard. Section F(6)(b) states correctional employees conducting strip searches shall log or report the search in accordance with established procedures. There were no instances cross-gender searches of female inmates reported, so no documentations were reviewed. CDF staff indicated it would be documented if it occurred.

(d) Maryland DPSCS, executive directive OSPS.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 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. Sexual misconduct does not include contact with an inmate made by an employee in the course of the proper performance of an official duty such as a medical examination or an authorized and properly conducted security-related pat down or strip search. The directive prohibits employees from committing, participating in, supporting, or otherwise condoning sexual misconduct. The directive also prohibits employees from retaliating, threatening to retaliate, or attempting to retaliate against an individual who files a complaint or participates in the investigation or resolution of an allegation of sexual misconduct.

During the audit tour it appeared that inmates had sufficient privacy to change clothes and shower without direct cross-gender viewing by staff. All inmates interviewed indicated they felt they had enough privacy to perform these acts as well.

Agency directive, OSPS.050.0030 Sexual Misconduct-Prohibited, effective June 26, 2015 states “Sexual Misconduct” is partially defined as “Cross gender viewing, if performed without warning by non-medical staff at times other than incidental to a routine cell check, supervisory rounds to prevent sexual abuse and harassment, or exigent circumstances.” Loosely interpreted, one could utilize this portion of the definition to indicate an agency requirement of all cross-gender staff to announce or “warn” of their presence in order to prevent cross-gender viewing. However, it was apparent during the facility tour and upon interviewing several staff and inmates that cross-gender announcements are not being made of female staff entering male housing units. Therefore, the language within OSPS.050.0030 provided by the agency as responsive to this portion of the standard is not sufficient to address the intent of the standard.

(e) Maryland DPSCS, executive directive OPS.110.0047, Search Protocol-Inmates, effective April 15, 2015, 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. CDF Facility Directive CDF.020.0026.1, section C-Cross Gender/Transgender/Intersex Searches prohibits staff from searching or physically examining a transgender or intersex detainee for the sole purpose of determining the detainee’s genital status; it may be determined by conversation with the detainee, reviewing medical records or obtaining information from a medical examination conducted in private by a medical practitioner. There is no indication these searches are occurring at CDF. All staff clearly indicated this is not allowed and did not occur. There was one inmate at CDF that identifies as a transgender and during an interview indicated they were not searched for this reason.

(f) Maryland Police and Correctional Training Commissions Lesson Plan for security custody and control, dated November 2, 2015 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 10-15 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. The training records were well organized on a computer database making it easy to determine what staff have had what training.

Corrective Action Plan: CDF will need to ensure that opposite gender staff announce their presence when entering an inmate housing unit. Although it is apparent that this is occurring in the female inmate unit, it is definitely not occurring in the male inmate units. CDF will need to train all of their staff on this standard requirement. It is recommended that permanent signs/placards are placed outside the entrance of each unit/pod, reminding staff that the opposite gender shall announce their presence before entering. Administrative staff will need to verify this is being completed when making rounds and document such. All documentation implementing these steps shall be forwarded to the audit team for review.

Corrective Action: - CDF submitted a roll call announcement memorandum reminding staff to announce their presence when entering units housing the opposite gender along with a memo to supervisors to ensure these announcements are being made when making rounds. Photographs of signs that have been posted in all units reminding staff to announce their presence were also submitted. In addition, CDF submitted Post Orders which state, “Upon entering quads, female staff shall announce that they are on male tiers and male officers shall announce themselves when they are on female tiers.” Post Order Review signature sheets were submitted as well, which verified that all staff have read this Post Order.

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

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific

corrective actions taken by the facility.

(a)-(b) Maryland DPSCS, 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.

Executive directive OEO.020.0032, Limited English Proficiency (LEP) Policy states 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.

CDF Facility Directive CDF.100.0001.1 requires that prior to being placed in the general population, each detainee is provided with an orientation to the facility. Detainees will be provided a copy of the inmate handbook in English or Spanish (whichever applies) for information and orientation purposes. The handbook includes information on 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/her base file. CDF reported no instances of interpreters being utilized in the last 12 months.

Twenty inmate files were randomly selected and reviewed and signed acknowledgements were present. During the tour an inmate working in the kitchen who spoke Spanish and very little English was interviewed. There was a language barrier, but he did understand that we were asking about PREA and was able to show us PREA information that was posted in Spanish. He also indicated that he watched a movie on sexual abuse upon arriving to the facility.

(c) Executive directive OSPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015 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, executive directive OSPS.200.0004, Inmate on Inmate Sexual conduct-Prohibited, effective November 13, 2015, 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.

The department provided various tools, such as I Speak Cards, facilities use to assist with determining the appropriate interpreter service needed to communicate with inmates. Additionally, brochures and posters are printed in both English and Spanish. Statewide language interpretation services contracts have been awarded to Telephonic Language Interpretation, Vital Written Documents Translation, and Onsite Language Interpretation, all of which are currently in effect.

Interviews with various facility staff confirmed that inmates would not be used as interpreters for normal incidents and that interpreter services were available. Contact information for these services was reviewed with CDF staff.

Standard 115.17 Hiring and promotion decisions

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance

determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a) Maryland DPSCS 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, promotes 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.

Upon interviewing the Human Resources Officer 3, she indicated every new employee, contractor or volunteer undergoes a criminal background check before being allowed access to DPSCS facilities or contact with inmates. Furthermore, the application for employees, contractors and volunteers asks the applicant directly whether they have been involved with past sexual abuse or sexual harassment. Additionally, a review of twenty-three applications for newly employed staff from the past 12 months confirms the practice is implemented as the Human Resources Officer indicated.

(b) Executive directive DPSCS.020.0026, Prison Rape Elimination Act-Federal Standards Compliance, effective August 7, 2015 states in section F(2) that the HRSD 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.

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 past. During the interview with the Human Resources Officer, she verified this information is considered when determining whether or not to hire or promote anyone who may have contact with inmates.

(c) 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.

The DPSCS conducts initial background checks of every applicant before offering a position within the agency. 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. During the interview with the HRO, she 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. A total of 23 randomly selected new employee files were reviewed verifying that criminal background checks are being conducted by the agency prior to hiring.

(d) Executive directive DPSCS.020.0026, Prison Rape Elimination Act-Federal Standards Compliance, effective August 7, 2015 states, 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) Executive directive DPSCS.020.0026, Prison Rape Elimination Act-Federal Standards Compliance, effective August 7, 2015 states, in section F(3)(d) the HRSD shall conduct criminal records background checks every five years on employees or a contractor's services provider who may have contact with an inmate. 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.

(f) 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.

The Department 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.

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

(h) During the pre and onsite audit the agency did not supply the auditors with anything indicating they have a requirement for facilities to 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. After the onsite audit the agency provided a document that shows that Maryland law does not permit the release of personnel information, essentially making them except from this section of the standard. However, there is an allowable exception and that occurs when the subject of the record provides a waiver. The agency provided verification that release of personnel information is against the law, document that indicates an employee can designate a recipient of his/her information and an example of the agency's attempt to provide the information to a background investigator (unfortunately they could not identify the employee). All of this was also confirmed during the interview with the agency PREA Coordinator.

Standard 115.18 Upgrades to facilities and technologies

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

The agency provided no documentation in response to this standard for the pre-audit. The Agency Head interview conducted with the special assistant to Deputy Secretary John Michael Ziegler, Ms. Martha Danner indicated there have been no new facilities or substantial expansions or modifications of existing facilities, with the exception of a new juvenile facility under construction on behalf of the Maryland DPSCS. The agency had not provided any documentation verifying inmate sexual safety has been considered in the design or development of the new facility. This was discussed during the exit interview and the agency PREA coordinator indicated there was documentation that would be provided indicating inmate sexual abuse was considered in the design.

After the audit DPSCS 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;
- separation of male and female housing; all cells are single occupancy – no double celling;
- glazed doors and walls where visibility and control is critical;
- shower stalls have partial height partitions to permit visual supervision without violating privacy;
- access to proper safe and behavior management cells;
- strategically located supervision control and nursing stations;
- provision of normalized environment through effective and extensive daylighting and proper material and color choices.

CDF reported there have been no substantial expansions or modifications since 2012; this was also apparent during the audit tour. CDF has installed/upgraded their video monitoring systems; however, no documentation (meeting minutes, physical plant changes, etc.) was provided to determine if/how this would enhance their ability to protect against sexual abuse. Assistant Warden Oliver stated CDF installed new cameras to blind spots and corridors to monitor inmates when staff could not. Assistant Warden Oliver indicated that these upgrades were done after their previous PREA audit (2014) and that they were in fact installed for improving sexual safety of inmates. During the audit tour these upgrades were pointed out and were found to be in areas such as stairways and corridors where staff presence was limited or obstructed. It was apparent the placement of these cameras did greatly improve staff observation of inmates and eliminated blind spots where sexual abuse could occur.

Although not documented, site evidence indicates that the facility did consider how such technology may enhance the agency's ability to protect inmates from sexual abuse.

Standard 115.21 Evidence protocol and forensic medical examinations

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These

recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a) 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. Maryland DPSCS utilizes a specialized unit within its Department to conduct such investigations. Staff assigned to the Internal Investigative Division (IID), or temporarily assigned to assist the IID, are tasked with conducting investigations into allegations of sexual abuse and sexual harassment.

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: Investigations to accomplish this task. 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. 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.

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 investigation 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.

CDF Facility Directive CDF.020.0026.1, section K requires immediate action to be taken once staff have been made aware of an incident of sexual assault, abuse or misconduct to ensure physical evidence is not destroyed. The directive provides steps that shall be taken to ensure that evidence is preserved and the victim protected. The PREA in-service training curriculum trains staff on responding responsibilities, which includes preserving and protecting a crime scene until appropriate steps can be taken to collect any evidence. Interviews with CDF staff indicate they are aware of evidence preservation and all stated in some fashion that they would secure the crime scene, involve supervisors, medical and mental health staff, ensure forensic exams are completed by SANE/SAFE staff and refer the incident to IID for investigation.

(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) 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 a SAFE, SANE, or if documented attempts to obtain the services of a SAFE or SANE are unsuccessful, a licensed health care professional who has been trained to perform medical forensic examinations of sexual abuse victims.

CDF Facility Directive CDF.020.0026.1 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) at Mercy Medical Center. 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. CDF indicated on the PAQ that there were no instance of forensic medical exams in the past 12

months. This was confirmed after reviewing investigation files and interviews with CDF staff. The SANE/SAFE Administrator at Mercy Medical Center was contacted and indicated that they conduct SANE/SAFE forensic examinations on inmates for CDF and that a SANE/SAFE is always on duty or on call to respond if needed. The hospital also provides an advocate if requested.

(d)/(e) 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. 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.

CDF Facility Directive CDF.020.0026.1 indicates the facility will 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. CDF provided no information on a rape crisis center they would contact to provide a victim advocate and where unaware of the services contracted through MCASA. 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 and mailing addresses and telephone numbers of victim advocates shall be made available to detainees and enable confidentiality in as much as security dictates. CDF's PREA Compliance Manager indicated that their Chaplin (now retired) has been designated as the Victim Advocate Designee. CDF attempted to contact the Chaplin for an interview; however, he was out of state. CDF could not provide any other contacts if an advocate was needed; therefore, they would not be able to provide this service to a victim of sexual assault.

(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 agency investigations, both administrative and criminal.

(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 agency investigations, both administrative and criminal.

(h) CDF has indicated they would utilize a retired Chaplin who previously worked at the facility as the advocate if necessary. However, the facility Chief of Security was unable to sufficiently respond, when asked, regarding this portion of the standard regarding the Chaplin's appropriateness and education received to perform such duties. The Chief indicated the fact that the Chaplin is a priest should sufficiently qualify him to counsel inmates if needed. When the auditor discussed the need for an appropriate advocate to be familiar with sexual assaults and the forensic exam process, the Chief responded, "I'm relatively certain he's capable of handling these types of issues." The auditor indicated that "relatively certain" is not sufficient to convince the audit team of the chaplain's appropriateness.

Corrective Action Plan: As CDF is not aware of contracted advocate services with MCASA they will need to be provided with contact information and ensure that staff are aware of the services so victims of sexual abuse are provided with an advocate during forensic examinations. CDF will have to submit to the audit team supportive documentation verifying that this information is readily available and all staff and inmates have been made aware of these services. They will need to provide confirmation during the corrective action period that these services were used for each forensic examination as required.

Corrective Action: CDF submitted documentation showing that information regarding MCASA has been added to the inmate handbook and provided samples of inmate signature sheets showing acknowledgment of PREA and MCASA. CDF submitted documentation indicating they have not had any instances since the audit that have required the use of an advocate and MCASA. CDF's PREA Compliance Manager also confirmed, during the interview, that staff have been made aware of MCASA and that they have not had an incident which required MCASA since the audit.

Standard 115.22 Policies to ensure referrals of allegations for investigations

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a) 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 or 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.

CDF Facility Directive CDF.020.0026.1 requires all allegations of staff sexual misconduct or detainee on detainee sexual abuse investigations or any PREA related criminal and administrative investigations will be conducted by the Internal Investigation Division (IID). The directive also requires the perpetrator suspected of committing a sexual crime shall be managed in accordance with established policy and procedures pending a complete investigation and disciplinary process, inclusive of criminal charges, if applicable. CDF reported six allegations of sexual abuse/sexual harassment were received and indicated all six were investigated. IID investigation logs were reviewed and verified that CDF submitted six allegations for investigations, which were completed.

Todd Butler conducted the agency head interview with Martha Danner, Special Assistant to the Deputy Secretary, John Michael on February 27, 2017. Regarding allegations referred for investigation, the agency head stated that absolutely all allegations are investigated for administrative violations and criminal acts as appropriate. She 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.

(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 Division (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. During the interview with the IID Detective, she indicated that facilities refer all investigations to the IID unit and they will conduct all criminal investigations.

(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.

Standard 115.31 Employee training

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a) Maryland DPSCS Facility Directive DPDS-030-001 establishes procedures to ensure compliance with the established training requirements for the Division of Pretrial Detention and Services Personnel. The directive is applicable to both Correctional and Civilian employees of the DPSCS. 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 OSPS.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 OSPS.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”.

All staff interviewed were knowledgeable about PREA and the agency’s zero tolerance policy. They knew how to appropriately respond to a sexual assault and their mandatory requirement to report all allegations, notifications or suspicions of abuse or harassment. All staff indicated they had been trained on PREA, which included cross-gender/transgender pat searches. Staff were able to cite specific steps that needed to be taken in the event they were first responders to a sexual abuse incident. All staff responded that they absolutely could not strip search a prisoner to verify sexual identification.

(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. CDF Facility Directive CDF.020.0026.1, section F-Training and Education indicates training is tailored to the gender of the detainees housed at the facility, reassigned employees from other facilities housing the opposite gender are given additional training and custody staff will receive training on conducting cross-gender pat-down searches and searches of transgender and intersex detainees. CDF houses both men and women inmates. There are no training records that could be provided that show any CDF staff have completed “Managing the Female Offender” training course.

(c) 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 31st of each calendar year.

(d) Documentation provided for the pre-audit showed a sampling of 11 staff from the Chesapeake Detention Facility completed the mandatory in-service training for PREA and Sexual Harassment as indicated by their personal signatures. During the on-site audit 10 staff 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.

Corrective Action Plan: CDF will need to train all of their staff on “Managing the Female Offender”. They will need to provide the audit team with documentation in the form of signed training sheets verifying that each staff has completed this training. In addition, CDF shall ensure that all new staff to the facility, thereafter, completes this training. Training records for any new staff within the corrective action period will also need to be provided to the audit team.

Corrective Action: DPSCS provided the Academy Trainee Mastery as documentation verifying that the Managing Female Offenders lesson is a required course that all employees receive during the Pre-Service Academy; this was not provided during the on-site. Due to some staff having completed the academy many years ago, CDF conducted this training again with their staff to further ensure compliance with this standard.

Standard 115.32 Volunteer and contractor training

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance

determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a) 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 "Means an individual assigned to or employed 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."

The directive mandates that the head of a unit is responsible for ensuring that each supervisor, manager, shift commander, and contractor who has contact with an inmate under the authority of the head of the unit is familiar with Department policy prohibiting sexual misconduct. This directive continues on to explain the requirements of each employee as it relates to PREA.

Medical and Mental Health staff at CDF are full-time contractual staff. No training records could be provided by the agency or the facility confirming that these staff have completed any type of PREA related training. Medical and Mental Health staff interviewed all indicated they complete computer based PREA training annually; however, they submit their documentation directly to their employer, Wexford Health.

A Food Service contractor was interviewed during the tour and reported that she has been trained on PREA detection, prevention and reporting and understands the agency's zero-tolerance on sexual abuse/harassment.

(b) Maryland Police and Correctional Training Commission Lesson Plan, Lesson Title "Non-Academy Pre-Service Orientation", Lesson Title "Prison Rape Elimination Act." The department provided a copy of the brochure titled "Sexual Assault Prevention and Reporting, Staff Information Brochure" that is provided to all volunteers and contractors that outlines their requirements and knowledge they need 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.

CDF indicated that they have 52 volunteers/contractors that are cleared to provide service inside CDF. Training records for these volunteers/contractors are maintained at the facility and were reviewed during the audit. The facility maintains a volunteer/contractor PREA acknowledgement log indicated the date PREA training/information was provided. Each volunteer/contractor signs a PREA acknowledgments form indicated they have received training/information on the agency's policy on sexual abuse/harassment.

Corrective Action Plan: CDF will need to submit training records to the audit team for all their Medical and Mental Health staff to verify that they have all had the required PREA training.

Corrective Action: CDF submitted training records for all Medical and Mental Health staff proving that PREA training has been completed.

Standard 115.33 Inmate education

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

☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a) Maryland DPSCS Facility Directive DCD 200-1 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 detainees. The directive establishes responsibility for the orientation of detainees, 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.

Directive DPDS.200.0002 establishes procedures ensuring that upon request persons who qualify under the ADA are afforded reasonable accommodations while in the custody of the division.

Maryland DPSCS Executive Directive OSPS.050.0030 "Sexual Misconduct-Prohibited" covers the applicable definitions and elements as covered in standard 115.33. Section 05, paragraph C of 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 .05B of this directive, shall ensure that, among other requirements, department and agency policy prohibiting sexual misconduct, procedures for filing a complaint, and inmate rights related to sexual misconduct are effectively communicated to an inmate as part of inmate orientation, orientation paperwork and the facilities handbook.

Maryland DPDS Executive Directive OSPS.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 C of the directive indicates that the head of a unit, or designee, responsible for the custody and security of an inmate, in addition to responsibilities under section .05B of the directive shall ensure that department and unit policy prohibiting inmate on inmate sexual conduct, procedures for filing a complaint, and inmate rights related to inmate on inmate sexual conduct are effectively communicated to each inmate as part of inmate orientation, through inmate orientation paperwork and the facilities inmate handbook.

CDF Facility Directive CDF.100.0001.1, section 5(C) requires that during intake, prior to being placed in population, inmates will be provided a copy of the detainee handbook in English or Spanish (whichever applies) for information and orientation purposes. CDF inmate handbook, dated May 2016, clearly states that CDF has a zero tolerance for sexual abuse, sexual misconduct or sexual harassment. The handbook also informs the inmate on how to report.

During the audit tour the Intake area was observed. PREA education material was readily available, including an educational video in English and Spanish. Inmates interviewed indicated they received sexual abuse education material, including watching the video, when they first arrived; some indicated they didn't read it but have it. Twenty inmate files were randomly selected and reviewed and all contained prisoner signed forms indicating they had received PREA education.

(b) CDF Facility Directive CDF.020.0026.1, section F(3) indicates at intake inmates will view the PREA video and sign off on the PREA Acknowledgment Form, which will be placed in the inmates base file. Additionally, each inmate will be given a handbook which includes information about sexual abuse/assault which includes: prevention, intervention, self-protection, reporting and treatment and counseling. Intake staff were interviewed and reported that each inmate received at CDF is provided with an inmate handbook and shown the PREA video before leaving the intake area. The inmate handbook was reviewed and covers PREA education as indicated. The video was also viewed while in this area. Before leaving the intake area inmates sign an acknowledgement form indicating they have received information on PREA.

Inmates interviewed indicated they received their PREA education immediately upon arriving at CDF. They also indicated the material contained information about their right not to be sexually abused/harassed, how to report abuse or harassment and their right not to be punished for making reports of sexual abuse or harassment.

(c) During the tour the auditors reviewed twenty, randomly selected, inmate files. All files contained PREA education/training acknowledgements forms. All prisoners interviewed reported they received some sort of PREA information when they arrived at CDF.

(d) CDF Facility Directive CDF.100.0001.1, section 5(C) requires that if the detainee declares illiteracy, the inmate handbook will be read to the detainee, or as appropriate, other orientation tools may include the showing of videos (in English and Spanish as required). Non-English speaking detainees will be provided with interpretive services. A signed acknowledgement form is to be obtained from the detainee(s) and forwarded to case management for inclusion in his/her base file. The DPSCS has contracted with Ad Astra, a language services company to provide interpreter services for inmates with limited English proficiency, which is utilized by CDF. Staff interviewed were aware of interpreter services provided for inmates at CDF. CDF reported no instances where these services were needed in the past 12 months.

(e) CDF Facility Directive CDF.100.0001.1 and CDF Facility Directive CDF.020.0026.1 both require that PREA education/training acknowledgements forms are placed in the inmates base file. All files reviewed while onsite contained these forms.

(f) The agency's inmate handbook provides the information as required indicating that all inmates have a right to be free from sexual abuse and harassment as well as the department's zero tolerance policy as it relates to sexual abuse and harassment. The Chesapeake Detention Facility handbook provided also has the same information available within it. Posters/signs in both English and Spanish indicating the agency's zero tolerance policy were displaced throughout the facility, including the visitor and intake area, food service, medical and all housing units.

Standard 115.34 Specialized training: Investigations

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a)(b) 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.

A formal interview was conducted with a Detective Sergeant of the IID unit. The following information was gathered during this interview. It should be noted that the Detective Sergeant was the only investigative staff available during the auditor’s visit. When asked if IID staff receive training specific to conducting sexual abuse allegations, the Detective stated that every investigator hired into the IID has a past history of conducting investigations and that most of the staff in the IID are former police officers with investigative backgrounds. In addition to investigative experience, all IID staff attend the department’s training when the first begin employment with the IID. The Detective also stated that there are annual classes available to IID and facility staff. The Detective covered in detail the training including specifics such as not doubting the inmate’s story if it changes throughout the investigation or if there are holes in the timelines as this may be common in sexual abuse cases, that investigators must go where the evidence takes them and cannot rely solely on testimony of staff over inmates due to their employment status, and as the Detective he articulated well the appropriate use of Miranda and Garrity. The Detective further stated that every investigator is trained on how to collect physical evidence during an investigation and that IID staff routinely train facility staff on this as well to ensure that physical evidence is not contaminated before IID staff arrive on a scene.

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 unit has 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 the IID Detective, she indicated she not only received the training as required by DPSCS policy, she also trains facility staff on how to assist with investigations. The Detective indicated the specialized training she received regarding investigating sexual abuse and sexual harassment was in addition to the general PREA training all staff received.

the Detective was able to articulate a clear understanding of how preponderance of the evidence is used to determine the outcome of an investigation. There was some confusion initially regarding whether the agency utilizes an evidentiary standard of “preponderance of the evidence” or “beyond a reasonable doubt” when conducting criminal investigations. However, this was later clarified by an IID Captain who assured all investigations conducted by the IID utilize “preponderance of the evidence” to determine the outcome of their investigations and that “beyond a reasonable doubt” comes into play only if the case goes to trial.

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

(d) The department 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, Fraternalism 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

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a)/(c)/(d) Executive Directive DPSCS.020.0026 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.

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 "Means an individual assigned to or employed 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.

Maryland receives services from Wexford Health Sources Incorporated and the contract policy with them covers the required elements of PREA training that is required to be given to each employee prior to working with inmates. Training documentation was reviewed and covers 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 at CDF are full-time contractual employees. No training records could be provided by the agency or the facility confirming that these staff have completed any type of PREA related training. Medical and Mental Health staff interviewed all indicated they complete computer based PREA training annually; however, they submit their documentation directly to their employer, Wexford Health. They indicated their training covers how to report sexual abuse/harassment, how to detect and assess signs of sexual abuse/harassment and how to respond professionally to victims. During the interviews staff gave further examples of what they would do and how they would react to victims of sexual abuse. This was a clear indication that Medical and Mental Health staff had a good understanding of their role in dealing with sexual abuse.

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

Corrective Action Plan: CDF will need to submit training records to the audit team for all their Medical and Mental Health staff to verify that they have all had the required PREA training.

Corrective Action: CDF submitted training records for all Medical and Mental Health staff proving that PREA training has been completed.

Standard 115.41 Screening for risk of victimization and abusiveness

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a) 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 DPSCS 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. This was confirmed through the interview process with staff as well as during a random review of approximately 20 inmate files that showed all assessments are done within 72 hours of arrival. The random files were reviewed in the classification office and selected by pulling a variety of files from the storage cabinet. All 10 random inmate interviews also indicated that they were seen within two business days of arrival, most the very next day, and assessed by classification. During the tour there were approximately 20 inmates interviewed and all were aware of PREA and indicated that they were asked questions related to PREA during intake.

(b)(f)(g) Section .05, paragraph B of the directive ensures that the screening instrument be utilized to assess each inmate within 72 hours of arrival at a facility and again within 30 days of the inmates 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. All but one of the 20 randomly reviewed inmate files had the portion filled out indicating that a review was done within 30 days of arrival. The classification personnel indicated the review was done but they had forgotten to sign and date the form indicating so. All others had the appropriate documentation to show substantial compliance with this provision. Interviews with staff and inmates support that the assessments and reviews are done within the required time limits as mandated by their directives and PREA standards.

(c)(d)(e) Section .05 also indicates it is the responsibility of the PREA Coordinator to ensure that the screening instrument is used to assess inmates. The assessment screening tool used at CDF is named "PREA Intake Screening" and does include screening for victimization and abusiveness. For victimization, the screening tool considers the presence of a mental, physical, or developmental disability, the age of the inmate, physical build, previous incarceration, history of violence, prior sex offenses, the inmate's perception of being LBGTI, history of sexual victimization, and his/her own perception of vulnerability. The screening tool does not consider if the inmate is detained solely for civil immigration purposes because the facility does not house inmates for the sole purpose of civil immigration issues. For abusiveness, the screening tool considers previous acts of sexual abuse, prior convictions for violence or sexual abuse and history of institutional violence or sexual abuse.

(h) Section .05, paragraph B(5) of the directive ensures that an inmate not be disciplined for refusing to answer or not disclosing complete information in response to screening questions. Staff and inmate interviews support that compliance with this standard is being met. Nothing found during the audit would indicate that an inmate would be disciplined for refusing to answer or disclose information related to this screening.

(i) Section .05, paragraph B(5) ensures appropriate controls are in place for managing dissemination of information collected during the screening process. Interviews with staff support that only necessary staff are allowed to access to inmate classification files. A review of their online Offender Management System (OMS) supports that only staff with the correct profile are allowed access to the classification information contained in the system.

Overall, a review of the department's screening tools, staff interviews, agency directives and documentation covers all elements as required in standard 115.41. The screening tool is in both English and Spanish and also contains detailed instructions to staff on how to complete the screening tool.

The PAQ and CDF Classification indicated that no incidents of reassessment have been necessary as they have not received any reports or incidents that would require a reassessment.

Standard 115.42 Use of screening information

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a)-(g) 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 DPSCS to assess the risk of the individual from being sexually abused or being sexually abusive towards other inmates.

Section .05(C) covers all of the elements of standard 115.42 as bullet pointed in the directive to correlate with the standard elements a-g. Each element is nearly verbatim from the PREA standard.

The agency's and facility's directives meet and comply with the standard. However, the practical application of said standard does not comply as indicated in their directives.

The facility was unable to produce any documentation or process to ensure that an inmate that scores out on their PREA Screening Tool of being potentially victimized and one with a score of potentially being abusive toward other inmates will not be housed in the same cell at the facility. The facility is not effectively using the screening tool information when considering housing and bed assignments. This is supported by the interview of the classification staff who conducts the screening, as the screening results are not shared with custody staff as it relates to housing and bed assignments. He specifically indicated that it is possible for inmates with opposite scores (potential victim and potential abuser) to be housed in the same cell which would put the safety of the inmates at risk of possibly being sexually abused. The interview with the facility PREA Manager also indicated that she is unaware of how this information is used by custody staff to make cell assignments which support the information given by the classification department. It should also be noted that the facility does use the Offender Management System (OMS) which has the capabilities to flag inmates with opposing scores from being assigned the same cells. It does not appear however that this portion of the system is activated for CDF.

The facility indicated in the PAQ that it does not have any documented transgender inmates. However, while at the facility for the onsite tour, staff indicated there was one inmate who believes he is transgender and is housed in their protective housing unit. This inmate was interviewed and indicated he believes he is transgender based on his own beliefs and history. He agreed and indicated that he feels he has been housed safely with his personal views in mind. The facility meets this portion of the standard as they have no documented transgender inmates and the one individual who identifies himself as a transgender indicated that he has been housed correctly and the facility considered his viewpoints when making that assignment. It should be noted that the facility's mental health staff have thoroughly reviewed this inmate and through their determination and assessment, including taking into account the inmates personal views, that he does not qualify for a diagnosis as gender dysphoric due to many other psychological issues that compound the situation. They also agreed that his housing needs are met as he has requested placement in the protective housing unit for his own safety.

Corrective Action Plan: CDF will need to demonstrate to the audit team that the facility uses the information produced from the screening tool to ensure that inmates with opposing scores are not housed together in the same cell. This must be supported with documentation and written procedure of how this information is relayed to those that make housing and cell placement decisions, whether via a computerized process that will not allow potential victims and potential abusers to be placed in the same cell or through a definitive documentation process that clearly shows the scores of inmates on the bunk roster. CDF will have to provide documentation that all housing assignments have been reviewed and no inmates with opposing scores are housed in the same cell.

Corrective Action: CDF submitted a Publication Receipt for PREA Codes in OCMS for Housing. OCMS is a computerized databased used for inmate management, including PREA risk assessments. The receipt was signed by Traffic, Receiving and Unit Mangers and was for OSPA.200.0005 Assessment for Risk of Sexual Victimization and Abusiveness. This policy indicates that in order to deter prison rapes, only inmates with PREA compatible types should be housed in the same cell. When assigning an inmate to housing the Traffic Officer shall ensure that the cellmate and inmate are PREA type compatible. The policy lists PREA compatibility rules and shows a PREA type compatibility chart. An example of how the PREA alerts show in the OCMS was also provided. CDF submitted the PREA Intake Screening Log from Traffic which verified that all inmates at CDF with assessments score of potential victims are not housed with inmates with opposing assessment scores.

Standard 115.43 Protective custody

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a)(d) 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.

MDPSCS Case Management Manual DOC.100.0002, Section 18 "Special Confinement Housing", paragraph B(2)(a) indicates that staff shall provide the inmate a copy of the Notice of Assignment to Administrative Segregation, Appendix 1 to CMM-18, within 24 hours after the inmates placement in administrative segregation. This would indicate a review of placement is done within the required time frames prior to completing further assessment of alternative housing, such as protective housing or transfer to alternate housing or another facility.

The form provided in the supporting documentation has a section to indicate the reason for placement and two of the options are for pending investigation and that they are being considered for placement on voluntary or involuntary protective custody. This demonstrates that the review is completed and further assessments are made after the initial placement. The facility indicated that they have had zero instances of this taking place in the last 12 months.

(b) MDPSCS Case Management Manual DOC.100.0002, Section 18 "Special Confinement Housing" Section F indicates what conditions of confinement are for an inmate placed in segregation. The manual covers supervision, housing, movement, PREA Audit Report

hygiene, property, out of cell activity, health care, case management, education, library, legal, religion, food, mail commissary and segregation status. Staff shall use the Notice of Assignment to Administrative Segregation, Appendix 1 to CMM-18 when considering an inmate for placement on protective custody. The case management team documents the placement on the form.

(c) MDPSCS Case Management Manual DOC.100.0002, Section 18 “Special Confinement Housing”, paragraph B(2)(c)(i) mandates that an inmate be reviewed at least once every 30 days once placed in segregation.

CDF has reported zero instances of victims being placed in segregation for the time frame of the audit period. The one instance of the inmate who believes he is transgender had voluntarily placed himself in protective housing, not due to being at high risk of being sexually victimized, but because he requested said placement in the absence of any complaints or issues with other inmates.

During the interview with Assistant Warden Oliver, she stated that Agency and CDF Directives do not allow inmates at high risk of sexual victimization to be placed in involuntary segregation, unless there are no other alternatives. Inmates will be moved out of segregation as soon as possible once alternate placement has been found or separation from the abusers can be obtained. Assistant Warden Oliver stated they try to get inmates back to general population as soon as possible.

Two Sergeants who supervise inmates in segregation were interviewed and both stated that inmates placed in segregation have access to the law and general library, as well as other opportunities as general population prisoners. One Sergeant stated that the reason they can allow these privileges is because this unit is separated from the rest of the population. All information regarding the placement and privileges of these inmates is documented on the confinement form. The Sergeants indicated that inmates are only placed in segregation until alternate placement can be found. They also stated that the Chief of Security, Case Management Supervisor and Segregation Sergeant meet weekly, during which time all inmates in segregation are reviewed for placement back in general population or other alternatives.

It should also be noted that protective housing at CDF is no different than any general population housing unit other than the special requirements and reviews utilized in order to place an inmate in that setting. Protective housing inmates receive all the same privileges as any general population inmate.

Standard 115.51 Inmate reporting

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(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 Division (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, Chaplain, medical practitioner, supervisor or any DPSCS employee.

(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 1-800-869-4499" painted above all of the inmate phones in the facility. The auditor attempted to call the number from an inmate phone and the number did not work. A facility staff member attempted to call the number from another inmate phone and the number did not work. PREA Manager Hansen indicated that the number worked from her office phone and that she has submitted a work order to the phone company to address the issue; the issue was corrected before the completion of the onsite audit and the number now working. However, the supporting documentation all indicates that the PREA Hotline for the agency is in fact 410-585-3177 and is contracted through Life Crisis Center Inc. The auditor called both the number posted and the number provided in the documentation by the agency and the posted number goes to a Department of Justice complaint line. The PREA Hotline to Life Crisis Center Inc indicates that it is in fact a PREA hotline. The agency PREA Coordinator indicated that the rest of the department uses the contracted PREA hotline through the Life Crisis Center Inc. The facility PREA Compliance Manager indicated that CDF is a detention facility that houses federal detainees and that the 1-800 number has always been the complaint line as mandated by the Department of Justice for federal inmates to contact the federal complaint line. However, in addition to the number not functioning, the facility was unable to produce any supporting documentation that would indicate this federal mandate or whether the end user of the hotline is under any obligation to immediately forward the complaint to agency officials within the MDPSCS. Therefore, at the time of the audit it is established that the facility has the incorrect number posted for inmates to call as required by 115.51(b).

(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 inmates 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 CDF 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. Postings were prevalent throughout the facility with reporting options as well as in the prisoner handbook and intake processing paperwork. In addition to the posting, the PREA hotline number was painted above all the inmate phones, even though it was an inoperable and incorrect number.

Corrective Action Plan: The agency will need to provide documentation from the Federal agency obligating them to report all calls to the posted DOJ complaint line from CDF are immediately forwarded to agency officials within the MDPSCS for investigation. An alternative resolution would be to replace with or add the current agency PREA hotline to CDF so inmates may call that number to report allegations of sexual abuse or harassment. Proof of this update in the form of documentation and photos of the newly posted hotline number will need to be provided to the auditor within the remedial action plan period

Corrective Action: CDF Submitted a photograph showing the agency PREA Hotline has been posted. The picture shows these signs in both English and Spanish.

Standard 115.52 Exhaustion of administrative remedies

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

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 letter 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, letter 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

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(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 agency/facility did not provide documentation to show how inmates were provided with outside victim advocates, mailing address, phone numbers or contact information for any agency to provide these services. The facility PREA Manager, Chief Hansen, indicated that she believed central office was working on contracting with an agency, but in the absence of this

they use their facility chaplain, Father Charles Canterna, who she also indicated is now retired. Chief Hansen stated the Chaplin continues to volunteer at the facility and is available for this role if needed. However, the facility could not provide documentation that the facility has exhausted their attempts at contracting with an outside agency prior to using facility staff. In addition, the facility could not provide documentation indicating that Father Canterna 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. Chief Hansen also indicated in his absence the new Chaplin would be called to be the victims advocate. However, the same issues apply to the new Chaplin as well. Chief Hansen indicated that Father Canterna would be at the facility on the second day of the audit, but when she called him to ask about his qualification he indicated he was in Florida and would not be at the facility as she indicated he would be. It is clear the facility has made no attempt to comply with this specific standard.

(b): The facility provided no documentation to demonstrate compliance with this provision of the standard.

(c): The agency provided several emails showing contact and attempt to enter into an agreement with the Maryland Coalition Against Sexual Assault (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 not provided any contact information for any type of victim's advocacy group and none of them had knowledge that the department had any type of agreement with MCASA.

Corrective Action Plan: The facility will need to provide the audit team with documented proof that the facility has provided the inmate population with information on how to contact MCASA and what services MCASA provides. Otherwise, the facility will need to provide the auditor with documentation that they have entered into an agreement with a local victim advocacy agency to provide services for CDF as well as demonstrate that the inmate population has been provided with the necessary information to support compliance with this standard. Given the fact that CDF was not aware of the contract with MCASA it is recommended that the Maryland DPSCS confirm that all facilities it oversees are aware of this contract and provided with contact information for their inmates.

Corrective Action: CDF submitted an inmate handbook as documentation showing that information regarding MCASA has been added to the handbook and provided samples of inmate signature sheets showing acknowledgment of PREA and MCASA. Information regarding MCASA was also provided and discussed at a statewide Warden's meeting in April 2017.

Standard 115.54 Third-party reporting

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(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.

Standard 115.61 Staff and agency reporting duties

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(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 Division (IID). However, the Wexford Health Sources Incorporated "P-314 Procedure in the Event of Sexual Assault" requires their employees, which are contracted health care employees with the agency, receive informed consent from the inmate prior to reporting abuse allegations up the chain of command. If they are unable to receive informed consent they are not allowed to report the name of the suspected victim to the agency. This is not in compliance with the standard as the agency's directive indicates that an "employee" is also contracted employees. The agency's directives are in compliance with the standards but the contracted employee's policies are in direct contradiction of the agency's directives and this standard, causing them to be non-compliant.

The issue with Wexford procedures was discussed during the onsite audit. The agency immediately contacted Wexford to address this discrepancy and began working on correcting the issue. After the onsite audit the audit team was provided with documentation to confirm that Wexford had made changes to their procedures to address the issue of reporting sexual abuse/harassment.

Wexford Health Operations Guidelines, P-314: Procedure in the Event of Sexual Assault, now 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.

Wexford Health Operations/Quality Specialist, Thomas P. Hassen CCHP, sent the revision to policy-314 Procedure in Event of Sexual Assault to its Maryland DPSCS staff, instructing them to print the revised policy and replace the current and ensure the revised policy is shared with site management so they may educate staff on the revision.

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.

(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.

(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 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, to which one is issues 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.

Based on the change made by Wexford, the agency and facility are compliant with this standard.

Standard 115.62 Agency protection duties

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(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 of 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 to 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's designee, 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

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(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 head of the unit responsible for the facility receiving the complaint shall immediately notify the Intelligence and Investigative Division (IID) of the complaint. Section (7) states, an IID representative notified under .05E(6) of this directive shall immediately, if the facility where the alleged sexual misconduct occurred is not a Department facility, notify the official responsible for the facility where the alleged misconduct occurred and document the notification. If the facility where the alleged sexual misconduct occurred is a Department facility, notify the appropriate Department official with responsibility for the facility where the alleged sexual misconduct occurred...

The agency is not compliant with this section of the standard due to the contradiction of the agency directive to the PREA standard. If a complaint was received at a facility, the department head would be obligated by the standard to report the allegation to the facility head or appropriate office of the agency where the alleged incident occurred. If IID is making the notification to another agency on behalf of the facility head, this would not be in compliance with the standard. The agency PREA Coordinator indicated that he felt the agency exceeds the standard due to the agency requirement to immediately notify the other facilities while dealing with the ambiguities of the standard. The agency argued that facility heads cannot be solely responsible since they go on vacations, take long weekends or are just very busy. By delegating the responsibility they have removed any doubt of responsibility and reduced the required time limit. The standard does not allow for deviation from the facility head to make the report.

(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.

Corrective Action Plan: The agency will need to provide the audit team with an updated Executive Directive that mandates that upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. The agency will need to remove the IID or any third party from the reporting process. The agency will need to provide evidence that this change has been disseminated to all facility heads, as well as the IID, and forward any examples of this occurring during the corrective action period.

Corrective Action: The agency updated and submitted Executive Directive OPS.050.001 and OPS.200.0005 as evidence that appropriate changes have been made requiring the facility head to make notification to the head of the facility where the abuse occurred. A Notice of Incident form was also created and submitted. This form is used to document the notification. Information regarding this change was provided and discussed at a statewide Warden's meeting in April 2017. DPSCS and CDF reported no instances since the audit that required facility head notification. An updated investigation log was submitted which showed all new allegations originated and occurred at CDF.

Standard 115.64 Staff first responder duties

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a) Maryland DPSCS Executive Directives OSPS.0510.0030, effective date June 26, 2015, section .05D(4) and OSPS.200.0004, effective date November 13, 2015, section .05D(4) states that a supervisor, manager, or shift commander shall: (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.

Section (F)3 states, a supervisor, manager, shift commander, or head of the unit receiving a complaint under §.05E or. 05F(2) of this directive shall immediately: (a) If sexual misconduct is actively taking place, dispatch staff: (i) To stop the alleged incident; (ii) Safeguard the victim from further harm; (iii) If applicable arrange for emergency medical services; (iv) Detain the alleged perpetrator; and (v) Preserve evidence and the scene of the alleged incident; (b) If the inmate on inmate sexual conduct is not actively occurring, but the timeframe is such that there may be physical evidence at the scene or available from the victim or alleged perpetrator, dispatch staff to: (i) Preserve evidence at the scene; (ii) Detain the alleged perpetrator and prevent destruction of physical evidence; (iii) Contact the victim and instruct the victim on the need to protect against the destruction of physical evidence; and (iv) Refer the victim for appropriate medical and mental health follow up services.

The agency directives did not contain any verbiage related to all Staff First Responder Duties. The documentation provided only indicates what first responder steps a supervisor, manager, shift commander or head of the unit receiving a complaint will take, however does not mention staff in general, only that they will report it immediately. The policy directive is confusing and inadequate to support compliance based on the lack of instruction to the first responder custody staff unless they are a supervisor, manager or shift commander. However, all custody staff interviewed was able to articulate their responsibilities as they relate to properly managing an incident of sexual abuse as directed by the standard.

(b) The agency did not provide any documentation in reference to a non-security staff member and their responsibilities if they were to be the first responder. The agency supplied some supporting documentation, one of which was the *Sexual Assault Treatment Policy* showing that if Medical staff were the first responder they are to notify custody, however nothing in this document talks about the steps that Medical Staff need to take as listed in this standard.

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.

Corrective Action Plan: The agency will need to provide the audit team with an updated Executive Directive that indicates what all Security Staff First Responder duties will be, not just the supervisors, managers, shift commanders or heads of the units. The agency will also need to supply the audit team with documentation indicating what the duties of a non-security staff member first responder is responsible for. The agency/facility will need to provide documentation that staff have been trained on the new changes and the changes are being followed.

Corrective Action: The agency updated and submitted Executive Directive OPS.050.0001 and OPS.200.0005 as evidence as they now specifically indicate what first responder duties are, which includes non-security staff. Directive OPS.050.0001now 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 now 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.

Standard 115.65 Coordinated response

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

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.

Assistant Warden Oliver indicated during her interview that CDF staff are trained on how to initially respond to incidents of sexual abuse/harassment and will take appropriate actions. CDF will ensure that Medical and Mental Health staff are informed and respond and that the allegation is immediately forwarded to the IID to begin a formal investigation. Assistant Warden Oliver stated this information would also be forwarded up the chain of command.

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

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(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 were 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 Martha Danner, Special Assistant to Deputy Secretary, John Michael Zeigler, she indicated the current agreements are active from January 2015 to December 2017. She also indicated management can re-assign staff at any time or place the staff member on leave pending investigation. 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

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

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 Assistant Warden Oliver, she indicated that they would transfer the inmate or move them while keeping the information confidential.

(c)(e) Executive Directive – Sexual Misconduct- Prohibited OSPA.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.

(d) Executive Directive – Sexual Misconduct- Prohibited OSPA.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 PREA Audit Report

allegation is unfounded.

The agency issues were discussed during the onsite audit. After the onsite audit the agency completed a “Retaliation Monitoring” form and supplied it to the audit team as evidence of how they will document the monitoring of inmates who report sexual abuse. The new form was sent to all facility PREA Compliance Managers with directions that it must be used for documenting retaliation monitoring. A reminder was also given to ensure that monitoring begins at the time a report is made and must continue for ninety days, unless the event is determined to be unfounded and to ensure to include in institutional directives the unit or position who is assigned to perform this monitoring task.

In the PAQ, the facility reported zero instances of retaliation in the past 12 months. The facility was asked to provide the method in which they would document the retaliation monitoring if any had been reported and they could not produce or explain how they would document it. When the facility PREA Compliance Manager was asked who she would assign to conduct the monitoring at the facility, she indicated she was not sure who she would choose for that task. After reviewing the reported allegations from CDF, it was noted that CDF did in fact have instances in which retaliation monitoring should have occurred within the past 12 months.

Corrective Action Plan: CDF 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 new agency Retaliation Monitoring form.

Corrective Action: CDF submitted Facility Directive 020.0026.1 which indicates that the facility PREA Compliance Manager is responsible for monitoring any retaliation that may happen as a result of reported incident. During the follow-up interview with the new Compliance Manager she indicated she is aware of her responsibility to ensure retaliation monitoring is completed as required. The new agency Retaliation Monitoring form was disseminated to all facilities, including CDF. CDF submitted 3 examples using the new form and conducting retaliation monitoring. An updated allegation/investigation log was received and reviewed, which verified that all required monitoring is being completed at this time.

Standard 115.68 Post-allegation protective custody

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

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.

Standard 115.71 Criminal and administrative agency investigations

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a) Maryland DPSCS directive IID.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, specifically states this directive applies to personnel assigned to conduct an investigation of all 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 an IID Detective Sergeant, she indicated an investigation is generally initiated within 24 hours of receiving the allegation. In rare circumstances, an investigation may be delayed to day two or three if a detective is not readily available. However, she stated there is always an IID detective on call, 24/7 so there is rarely a time when a detective wouldn't be readily available.

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. The agency indicated there have been no allegations received from a third-party regarding sexual abuse or sexual harassment. However, the auditor was able to review investigations the agency has conducted that did not relate to sexual abuse that were initiated by third-party reports. Based upon this review, the agency policy allowing it, and the interview conducted with the investigative division, the agency is in compliance with this portion of the standard.

(b) Maryland DPSCS directive IID.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.

During the facility visit, the IID division secretary provided a printout of all the IID investigative detectives who have completed the required investigative training regarding allegations of sexual abuse and sexual harassment. All thirty IID investigative detectives have completed the training.

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 has 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 the IID Detective, she indicated she not only received the training as required by DPSCS policy, she also trains facility staff on how to assist with investigations. The Detective indicated the specialized training she

received regarding investigation sexual abuse and sexual harassment was in addition to the general PREA training all staff received.

(c) Maryland DPSCS directive IID.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.

Upon interviewing an IID Detective, she stated 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. IID staff process the area for any physical evidence including DNA. 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.

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 statute, 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.

(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.

(e) Maryland DPSCS directive IID.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.

The IID Detective indicated during her interview 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. The Detective further stated this is one of the benefits of the agency hiring former police officers to work as IID detectives, because they don't have the history with correctional staff within the facility. She added, this means they are better equipped to be objective in our investigations.

(f)(1) Maryland DPSCS directive IID.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.

The IID Detective articulated during 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. 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. In all there were six allegations of sexual abuse/harassment within the past 12 months at CDF. All six 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 IID.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, section .05(H)(6) states follow-up investigative activities include, if appropriate, the IID will work with the prosecutor to develop the case for criminal prosecution. The interview with an IID investigative Detective and Captain, showed 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.

(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 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 the IID Detective Sergeant, she indicated an investigation, once initiated, will be continued until completed regardless of the status of an employee or inmate within the DPSCS. There was one criminal investigation that was provided that demonstrated an instance where the agency's investigation continued after the employee (alleged aggressor) resigned from the agency. This particular investigation was later referred for prosecution. The former employee was prosecuted.

(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.

Corrective Action Plan: The agency will need to include the requirement to interview suspected perpetrators within appropriate agency directives and verify that investigators have been trained on this requirement and in fact ensuring suspected perpetrators are being interviewed.

Corrective Action: The agency updated and submitted Executive Directive OPS.050.001 and OPS.200.0005 as evidence that the requirement to interview suspected perpetrators has been added. Investigations show that all suspects are being interviewed.

Standard 115.72 Evidentiary standard for administrative investigations

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

Maryland DPSCS directive IID.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.

There was some confusion initially regarding whether the agency utilizes an evidentiary standard of “preponderance of the evidence” or “beyond a reasonable doubt” when conducting criminal investigations. However, this was clarified by the IID Captain who assured all investigations conducted by the IID utilize “preponderance of the evidence” to determine the outcome of their investigations and that “beyond a reasonable doubt” comes in to play only if the case goes to trial. A review of all investigations conducted at CDF, six total, in the past 12 months showed that a “preponderance of evidence” was in the fact the standard being utilized and investigations appeared to have appropriate findings.

Standard 115.73 Reporting to inmates

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a) Maryland DPSCS directive IID.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 investigations conducted within the 12 months prior to this audit, the investigator indicated how and when the inmate was notified of the outcome of the investigation. Additionally, the auditor was provided written verification of the notification for all investigations reviewed.

(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.

The agency has indicated there were no instances occurring within the last 12 months requiring such notification. However, agency directive mandates such notifications and conversations with staff have demonstrated an understanding of this requirement. Therefore, the agency appears to be compliant with this portion 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.

(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.

Standard 115.76 Disciplinary sanctions for staff

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(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 be "commensurate with the nature and circumstances of the acts committed, the staff members 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

- ☐ Exceeds Standard (substantially exceeds requirement of standard)

- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(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.

CDF Facility Directive CDF.020.0026.1 states all employees, contractors, and volunteers are expected to have a clear understanding that the CDF strictly prohibits any type of sexual relationship with an individual under Department supervision, and considers such a relationship a serious breach of the standards of employee conduct, and these relationships will not be tolerated. Engaging in a romantic and/or sexual relationship may result in employment termination and/or termination of the contractual or volunteer status, or imposition of criminal charges. All terminations for violations of agency sexual abuse policy, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal.

CDF reported no instances of contractors or volunteers being reported to law enforcement for engaging in sexual abuse of inmates. During the interview with the Assistant Warden, she indicated that any contractor/volunteer found to be in violation of the agency's sexual abuse or sexual harassment policies would immediately be removed from the facility and not allowed back in; an investigation would be initiated and CDF would notify the agency, up the chain, so other facilities would be aware of the contractor or volunteer so he/she would be prohibited elsewhere.

Standard 115.78 Disciplinary sanctions for inmates

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(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.

CDF Facility Directive CDF.020.0026.1 indicates the facility prohibits all sexual activity between inmates, inmates and staff, inmates and volunteers, inmates and contractors, inmates and volunteers and inmates and interns. The directive also indicates inmates are subject to formal disciplinary action following an administrative and/or a criminal finding that the inmate engaged in inmate-on-inmate coerced sexual abuse and/or non-consensual sexual conduct with staff. CDF 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 office, at a hearing finds the inmate guilty of the rule violation charged, the hearing office may consider the inmate’s competency at the time of the rule violation as a mitigating circumstance when determining the sanction.

During the onsite interview with the Assistant Warden Oliver she stated that disciplinary sanctions imposed on inmates who engaged in sexual abuse would include issuing them a misconduct with sanctions imposed by the Hearings Officer, which could include detention time in segregation. Assistant Warden Oliver also indicated the sanctions would be proportionate to the nature and circumstances of the abuses committed, the inmates’ disciplinary histories, and the sanctions imposed for similar offenses by other inmates with similar histories. Mental Health issues would also be considered if they were aware of such issues.

(d) CDF Facility Directive CDF.020.0026.1 states the facility shall offer therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for abuse. The facility shall consider whether to require the offending detainee to participate in such interventions as a condition of access to programming or other benefits. During the interviews with Mental Health staff it was reported that at CDF they offer cognitive behavioral based program, but do not participation as a condition of access to programming or other benefits.

(e) DPSCS did not provide any documentation to support that the agency may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact. CDF Facility Directive CDF.020.0026.1 states inmates are subject to formal disciplinary action following an administrative and/or a criminal finding that the inmate engaged in inmate-on-inmate coerced sexual abuse and/or non-consensual sexual conduct with staff. No misconducts were written at CDF 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.

CDF Facility Directive CDF.020.0026.1 indicates the facility prohibits disciplinary action for a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred, even if an investigation does not establish sufficient evidence to substantiate the allegation. No misconducts were written at CDF in the past 12 months for any allegations investigated under PREA.

(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. CDF Facility Directive CDF.020.0026.1 indicates the facility prohibits all sexual activity between inmates. CDF 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.

Corrective Action Plan: The agency is not in compliance with section (e) of this standard. The agency indicated they would update their policy to address the discipline for inmates who engage in sexual contact with staff. The agency will need to

show evidence that discipline is being administered only upon finding that the staff member did not consent. Once this is complete and submitted for review the agency will be in compliance with this standard.

Corrective Action: The agency updated and submitted Executive Directive OPS.050.0001 and COMAR 12.03.01 Operation Inmate Discipline 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.

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

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a)(c) Maryland DPSCS Executive Directive, COS.200.0005, states in section .05E(1)(c), 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 medical or mental health practitioner within 14 days of the intake screening. The interview with screening staff did indicate that they would offer up the follow up and would do so the same day of the screening.

(b) MDPSCS Medical Intake, Chapter 1, section A, II. Procedures, paragraph B (2.b.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.

(d) Information related to sexual victimization or abusiveness being strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, is met agency wide as indicated by Executive Directive 200.0005.05 Responsibility, section .05E(1)(d) and in Executive Directive- Sexual Misconduct-Prohibited (effective June 26, 2015) OSPS.050.0030, section .05E(8). 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 when the Classification employee was interviewed and he stated that only individuals necessary are provided with the information.

(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 by signing the form that they cannot keep confidential issues related to sexual abuse within the correctional setting. It does not address sexual abuse outside of the correctional setting. The interview with medical and mental health staff both supported that they were unsure and would not receive informed consent prior to reporting.

The agency did not provide any documentation supporting that there is a requirement to receive informed consent.

Examples of the confidentiality form were reviewed and showed that the facility is informing inmates of their confidentiality policies. An interview with medical and mental health staff both indicated that they were not aware of the requirement to

receive informed consent to report incidents of sexual abuse outside of the correctional setting and did not have a formal process to receive this consent.

Corrective Action Plan: The agency will provide the auditor with executive directives, documentation and any forms utilized to prove 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.

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

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a) Executive Directive, OSPS.050.0030-Sexual Misconduct-Prohibited (effective June 26, 2015), section .05D(4)(b-e), 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.

(c)(d) MDPSCS Office of Clinical Services/Inmate Health, Medical Evaluations Manual, Chapter 13-Sexual Assault on an Inmate, 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 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 and pregnancy (females). With regard to section (d) of this standard, Executive Directive, OSPS.050.0030, requires that the victim shall be offered medical treatment at no cost.

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. Follow up medical treatment will be provided as necessary as a result of any incidents, also at no cost to the inmates. There was no indication that inmates would be charged for these services.

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

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the

relevant review period)

☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(a)(b)(c)(d)(e)(f)(g) Maryland DPSCS Office of Clinical Services/Inmate Health, Medical Evaluations Manual, Chapter 13- Sexual Assault on an Inmate, 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, pregnancy, HBV, 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 and pregnancy. This manual also addresses timely and comprehensive information which will be offered to the inmate if pregnancy results from the sexual abuse, which includes referral to mental health/social work. DPSCS also has a Clinical Service Pregnancy Management Manual which outlines all pregnancy related medical services, including the termination of pregnancy. Also stated in this manual in section O, both the victim and 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.

Interviews were conducted with medical and mental health staff all supported the elements of this standard. Staff indicated that services offered are consistent with community care and that treatment entails checking for wounds/injuries, protecting any evidence that could be useful, sending the victim to an outside medical facility for further assessment if warranted and following up with any medical or mental health needs. Mental Health staff indicated an evaluation of known inmate-on-inmate abusers is always attempted, but the inmate usually refuses to participate. The evaluation will be immediately conducted upon a finding of abuse history.

Standard 115.86 Sexual abuse incident reviews

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(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 investigations 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.

CDF facility directive .0200.0026.1 states the facility conducts a sexual abuse incident review at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. The review will be conducted within 30 days of concluding the investigation and will be comprised of administration staff as determined by the Warden and the PREA Compliance Manager and allows input from line supervisors, investigators, and medical or mental health staff. The review team shall determine if a change in policy or procedure is needed to help prevent, detect and respond to sexual abuse and will consider if the incident was motivated by race, ethnicity, gender identity, and gang affiliation. The committee will examine the location where the incident allegedly occurred to determine if there are physical plant issues that may have contributed to the incident and assess staffing levels and the need for monitoring technology to augment or supplement staffing these areas. A report of findings from sexual abuse incident reviews will be prepared and include any recommendations for improvement and corrective action, and identify any problem areas and submit the report to the Warden and PREA Compliance Manager. The Warden shall ensure the facility ensures reporting requirements are performed, implements the recommendations for improvement or documents its reasons for not doing so and, in conjunction with the PREA Compliance Manager and the PREA Committee, communicate PREA compliance and related issues necessary for the Department's PREA reporting requirements.

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.

CDF indicated on the PAQ and confirmed during the onsite audit that they have not conducted any Incident Reviews in the past twelve months, as there has been no instance that required a review. During staff interviews, the Assistant Warden indicated that she has not seen a review conducted and has never been part of one. The CDF PREA Compliance Manager also indicated during her interview that they have not had any incidents requiring review. However, a review of investigations conducted at CDF shows that sexual abuse allegations have been made and investigated, which have concluded in unsubstantiated findings; thus requiring an Incident Review. CDF is not conducting reviews as they should be and this could have a severe effect on survivors and protection from further abuse.

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

Corrective Action Plan: CDF will have to conduct proper sexual abuse incident reviews on prior allegations of sexual abuse (unless unfounded) and provide documentation when complete. CDF 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 during the Corrective Action Period. 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. CDF submitted several examples of completed Incident Reviews, including from prior allegations. CDF submitted an investigation log which verified that all incidents requiring a review since the audit have been conducted.

Standard 115.87 Data collection

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(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, the agency shall 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:

- (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, section B of this directive 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

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(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

- ☐ Exceeds Standard (substantially exceeds requirement of standard)
- ☒ Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- ☐ Does Not Meet Standard (requires corrective action)

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

(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://dpacs.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.

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.

Kris Steece

October 24, 2017

Auditor Signature

Date