

# Prison Rape Elimination Act (PREA) Audit Report

## Adult Prisons & Jails

☐ Interim ☒ Final

**Date of Report** December 12, 2019

### Auditor Information

<b>Name:</b> Matthew A. Silsbury	<b>Email:</b> silsburym1@michigan.gov
<b>Company Name:</b> Michigan Department of Corrections	
<b>Mailing Address:</b> 206 E. Michigan Avenue	<b>City, State, Zip:</b> Lansing, Michigan 48933
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### Agency Information

<b>Name of Agency:</b> Maryland Department of Public Safety and Correctional Services		<b>Governing Authority or Parent Agency (If Applicable):</b> State of Maryland	
<b>Physical Address:</b> 300 E. Joppa Rd		<b>City, State, Zip:</b> Towson, Maryland, 21286	
<b>Mailing Address:</b>		<b>City, State, Zip:</b>	
<b>Telephone:</b> (410) 339-5000		<b>Is Agency accredited by any organization?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<b>The Agency Is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal

#### Agency mission:

The Department of Public Safety and Correctional Services protects the public, its employees, and detainees and offenders under its supervision.

**Agency Website with PREA Information:** <https://www.dpscs.state.md.us/prea/index.shtml>

### Agency Chief Executive Officer

<b>Name:</b> Robert L. Green	<b>Title:</b> Secretary
<b>Email:</b> robertl.green@maryland.gov	<b>Telephone:</b> (410) 339-5000

### Agency-Wide PREA Coordinator

<b>Name:</b> David Wolinski	<b>Title:</b> PREA Coordinator
<b>Email:</b> <a href="mailto:david.wolinski@maryland.gov">david.wolinski@maryland.gov</a>	<b>Telephone:</b> (410) 339-5033
<b>PREA Coordinator Reports to:</b>  Michael Zeigler	<b>Number of Compliance Managers who report to the PREA Coordinator:</b>  23

### Facility Information

<b>Name of Facility:</b> Dorsey Run Correctional Facility			
<b>Physical Address:</b> 2020 Toulson Road, Jessup, Maryland 201794			
<b>Mailing Address (if different than above):</b> 2020 Toulson Road, Jessup, Maryland 201794			
<b>Telephone Number:</b> (410) 379-6020			
<b>The Facility Is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Private not for profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
<b>Facility Type:</b>	<input type="checkbox"/> Jail	<input checked="" type="checkbox"/> Prison	
<b>Facility Mission:</b>  The Department of Public Safety and Correctional Services protects the public, its employees, and detainees and offenders under its supervision.			
<b>Facility Website with PREA Information:</b> <a href="https://www.dpscs.state.md.us/prea/index.shtml">https://www.dpscs.state.md.us/prea/index.shtml</a>			

### Warden/Superintendent

<b>Name:</b> Jama Acuff	<b>Title:</b> Warden
<b>Email:</b> <a href="mailto:jama.acuff@maryland.gov">jama.acuff@maryland.gov</a>	<b>Telephone:</b> (410) 379-6020

### Facility PREA Compliance Manager

<b>Name:</b> Kristin Silk	<b>Title:</b> Corrections Case Management Supervisor
<b>Email:</b> <a href="mailto:kristin.silk@maryland.gov">kristin.silk@maryland.gov</a>	<b>Telephone:</b> (410) 379-6250

### Facility Health Service Administrator

<b>Name:</b> Ronda E. Paschall-Williams	<b>Title:</b> Health Service Administrator
<b>Email:</b> <a href="mailto:ronda.paschall-williams@maryland.gov">ronda.paschall-williams@maryland.gov</a>	<b>Telephone:</b> (410) 379-6036

### Facility Characteristics

<b>Designated Facility Capacity:</b> 1098	<b>Current Population of Facility:</b> 1006
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Number of inmates admitted to facility during the past 12 months		1590	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:		249	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:		56	
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:		0	
Age Range of Population:	Youthful Inmates Under 18: 0	Adults: 18+	
Are youthful inmates housed separately from the adult population?		<input type="checkbox"/> Yes	<input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Number of youthful inmates housed at this facility during the past 12 months:		0	
Average length of stay or time under supervision:		48.2 months	
Facility security level/inmate custody levels:		Minimum and Pre-Release	
Number of staff currently employed by the facility who may have contact with inmates:		228	
Number of staff hired by the facility during the past 12 months who may have contact with inmates:		8	
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:		1	
<b>Physical Plant</b>			
Number of Buildings: 4		Number of Single Cell Housing Units: 0	
Number of Multiple Occupancy Cell Housing Units:		0	
Number of Open Bay/Dorm Housing Units:		16	
Number of Segregation Cells (Administrative and Disciplinary):		0	
<b>Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):</b>  The facility reports 225 cameras with a retention of 45 days. A complete list of the cameras and camera locations was provided, reviewed, and retained for audit purposes. A control center area is located in the administrative building area on each side (east and west) of the facility.			
<b>Medical</b>			
Type of Medical Facility:		24 Hour Medical Facility	
Forensic sexual assault medical exams are conducted at:		Mercy Hospital	
<b>Other</b>			
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:		103	
Number of investigators the agency currently employs to investigate allegations of sexual abuse:		30	

# Audit Findings

## Audit Narrative

*The auditor's description of the audit methodology should include a detailed description of the following processes during the pre-onsite audit, onsite audit, and post-audit phases: documents and files reviewed, discussions and types of interviews conducted, number of days spent on-site, observations made during the site-review, and a detailed description of any follow-up work conducted during the post-audit phase. The narrative should describe the techniques the auditor used to sample documentation and select interviewees, and the auditor's process for the site review.*

### Introduction

We have audited Dorsey Run Correctional Facility (DRCF) in accordance with the *National Standards to Prevent, Detect, and Respond to Prison Rape Under the Prison Rape Elimination Act (PREA)* and a multi-state consortium agreement between the States of Michigan, Maryland, Pennsylvania, and State of Wisconsin (the consortium). The consortium agreement ensures that the audits are conducted in a manner that is independent, objective, credible and equitable.

The audit was conducted by Matthew A. Silsbury a U.S. Department of Justice Certified PREA auditor for adult facilities from the Michigan Department of Corrections. Pursuant to Standard 115.402 the auditor asserts that no conflict of interest exists with regard to Dorsey Run Correctional Facility the facility being audited or the Maryland Department of Public Safety and Correctional Services (DPSCS). Accompanying Mr. Silsbury were Craig Cummings, Chris Lamentola, and Dennis Cassel who served in a support capacity during the conduct of the audit.

The on-site audit of Dorsey Run Correctional Facility commenced on April 8, 2019 and concluded on April 9, 2019. DRCF is located at 2020 Toulson Road, Jessup, Maryland 20794. DRCF began operations in 2013 and is operated by the Maryland Department of Public Safety and Correctional Services. DRCF houses only male inmates and is designated as a pre-release through minimum security level facility.

### Pre-Onsite Audit

The audit commenced with the delivery of the audit notices and instructions for posting the audit notices to the DRCF PREA Coordinator on February 25, 2019. The notices were provided in both English and Spanish and included specific instructions for posting said notices. On March 1, 2019, DRCF provided photographs attached to an email dated February 26, 2019. The photographs depicted audit notices posted on colored paper in areas visible to staff, inmates, and the public.

An introductory conference call with DRCF PREA Compliance Manager Kristin Silk (Manager Silk) and DRCF Assistant Warden was held on February 26, 2019. Discussion included the delivery of the PAQ and relevant audit documentation. Other items discussed were the use of the Online Audit System (OAS), facility access, on-site audit logistics, and the development of a tentative on-site audit itinerary.

Discussion was had regarding the auditor's role throughout the audit process. The auditor provided the facility with an overview of the audit process. The facility was advised that PREA audits are practice based audits and do not rely solely on policies and procedures or past audit results. Rather, the audit utilizes a practice-based methodology to assess day-to-day practices used by facility staff. Furthermore, the facility was advised that the burden of demonstrating compliance lies with the facility. This included

expectations regarding privacy relative to interviews of employees, inmates, and other individuals. Discussion also included timeliness of information and documentation requests, corrective action (if any) and deadlines to be met.

Manager Silk was asked to provide employee rosters, inmate rosters, and targeted inmate lists on the first day of the audit. Records of all sexual abuse and sexual harassment allegations, background check and training documents for the past 12 months were also requested. All documentation was requested to be available on the date of the on-site audit.

Initially the facility endeavored to use the OAS. However, due to time constraints audit documentation was ultimately delivered piecemeal via a combination of the OAS, emails from the PREA compliance manager, and emails from the agency PREA coordinator. Though not an ideal delivery method, the auditor was able to accumulate enough information to assess compliance.

### **Research**

On March 21, 2019, the auditor contacted Just Detention International pursuant to pg. 37 of the PREA Auditor Handbook regarding "Conducting Outreach to Advocacy Organizations." A response was received on March 21, 2019. As of March 21, 2019, Just Detention International did not receive any PREA-related information regarding DRCF.

An internet search of Dorsey Run Correctional Facility was conducted. The purpose of this search was to discover possible news items, legal issues, or other relevant information related to facility conditions. The search noted nothing of significance related to the conditions at the facility.

Maryland does have mandatory reporting laws for physical and sexual abuse of children and vulnerable adults. *Maryland Family Law Code Ann. § 5-704 (2014)* pertains to health practitioners, educators or human service workers, and police officers regarding reporting physical and sexual abuse of children and vulnerable adults. It should be noted that DRCF houses only male inmates over the age of 18.

The auditor did not receive any confidential correspondence from inmates or staff at Dorsey Run Correctional Facility.

### **On-Site**

The on-site facility audit began Monday, April 8, 2019. Upon arrival, the audit staff were cleared through security and provided the provided visitor identification. A brief introductory meeting between the audit staff and facility staff was held in the administration building conference room. In attendance were all four-audit staff and 14 DRCF/DPSCS staff. Amongst those in attendance for DRCF were the acting assistant warden, PREA compliance manager, case management staff, medical and mental health staff, physical plant maintenance, and security command staff. Those in attendance for the DPSCS administration were the agency head designee, agency PREA coordinator, MCASA advocate representative, and DPSCS training staff.

Discussion involved an overview of the activities to be performed while on-site. A tentative outline of audit activities was discussed. The rosters, lists, and other documentation requested prior to the on-site audit were delivered. Tour security escort assignments were determined. Mental health care staff were requested to be available should anyone (staff or inmate) become uncomfortable or upset during the interview process. An emphasis on documentation requests, having access to all areas of the facility, and interview privacy was also discussed. Facility staff advised that access to all areas of the facility

would not be an issue, documentation requests would be filled as requested, and measures had already been taken to ensure that offices would be available to conduct interviews.

Dorsey Run Correctional Facility is a campus style facility consisting of eight separate building structures. Additionally, there are two sides to the institution (east and west) that are identically constructed. The west side of the facility was opened in 2016. Buildings included the western building, eastern building, a strip search post, four housing units, and a yard shack.

Audit staff were split into two groups for the escorted tour. One group toured the east side of the facility; while the second group toured the west side of the facility. The site review was guided by the *PREA Compliance Audit Instrument – Instructions for PREA Audit Tour*. Points of emphasis while conducting the tour were the posting of audit notices, contact information specific to PREA, staffing levels, camera and security mirror placement, opposite gender announcements, availability of phones, access to the ARP process, opposite gender viewing issues, and blind spots or hidden areas.

The western building houses the traffic office, base file room, control center, a holding cell, a dining area, maintenance, and a library. The eastern building houses medical and mental health care, dental care, a GED classroom, property room, visiting room, and a dining area. A yard shack is located between the east and west side buildings and provides coverage of the foot traffic between the two sides of the facility and the sally port area. A strip search post is located in the sally port area, strip searches of outside work detail inmates are conducted in this area. All the above-mentioned buildings or areas were visited during the tour.

There are four stand-alone housing units. Housing units are two-story free-standing structures. Stairwells were observed to have camera coverage at both levels. Each floor has an officer station, classroom, and recreation/day room area. The recreation/day room area is flanked by dormitory style living quarters on either side. The recreation/day room was observed to have multiple telephones, showers, and restroom facilities. Audit staff noted audit notices, hotline contact information, third party contact, and advocacy support services information posted within all units. Curtains were observed to provide adequate privacy in both the shower and restroom areas. Classroom areas that adjoined the officer station were noted as having a large window from the officer station into the area. Camera coverage was also observed in the classroom area.

Housing units are separated by a basketball/courtyard area with a fence dividing the east side from the west side of the institution. A fence controls foot traffic between the east side and west side of the facility. The basketball/courtyard area has camera coverage from multiple angles. Multiple security staff were also noted as being present in the yard area.

Overall the physical plant is designed in such a way that any blind spots/hidden areas are limited. Any blind spots/hidden areas were noted were mitigated by direct staff observation, fencing that restricts access to these areas and/or camera placement. DRCF reported that 225 cameras and 228 staff placed throughout the institution. Camera placement, staff presence, and facility layout has mitigated most blind spots/hidden areas.

Audit staff directly observed the intake, screening, and maintenance of confidential screening records processes. The auditor also observed the comprehensive education process and video of the strip search process conducted in the sally port strip search area.

Staff and inmates conversed informally with the audit team. Generally, inmates and staff were aware of the audit and its purpose via the audit notices. Furthermore, inmates were able to articulate knowledge

and awareness of the PREA information posted throughout the institution. Many inmates were quick to point out that the department's PREA hotline information was painted on unit walls and other areas within the institution. Likewise, most inmates remembered receiving PREA information within days of arriving at the facility.

## **Interviews**

**The following interview guides were utilized during the conduct of interviews:**

- *Interview Guide for Agency Head (or Designee)*
- *Interview Guide for Inmates*
- *Interview Guide for PREA Compliance Managers and PREA Coordinators*
- *Interview Guide for a Random Sample of Staff*
- *Interview Guide for Specialized Staff*
- *Interview Guide for Warden (or Designee)*
- *Interview Guide for Inmates*
- *Supplementary Questionnaire on Community Advocate Engagement*

Staff and inmate interviews were conducted on 04/08/2019 through 04/09/2019. All employees, contract workers, administrators, and inmates selected for interviews were selected at random by the lead auditor. Offices were provided for purpose of conducting interviews. Offices were located in areas that considered both the privacy necessary to conduct the interview and the safety and security needs of the institution.

The total number of employees reported in the PAQ was 228. A total of 13 random employees were selected by the auditor from rosters provided by the facility. Selections were made at random with the intent to capture a representative sample of employees across all levels of employment and work shifts. At least one employee was interviewed from each shift. Random employee interviews were comprised of four employees from first shift (0600-1400 hours), six employees from second shift (1400-2200 hours) and three employees from third shift (2200-0600 hours).

Nineteen specialized interviews were conducted. This total includes interviews of SAFE/SANE staff from a local hospital and a representative from the Maryland Coalition Against Sexual Assault whose organization provides advocacy and emotional support services. The individuals selected for specialized interviews were selected based on how their day-to-day job duties best fit the interview protocol. There were no volunteers available during the audit; therefore, volunteer interviews were not conducted. The only contract employees available are medical employees. Audit staff also conducted interviews of the agency head designee, facility head designee, PREA compliance manager, PREA coordinator, agency contract administrator, victim advocacy and outside support services, SAFE/SANE, intermediate/higher-level staff, medical, human resources/administration, facility investigator, agency investigator, staff who perform risk screening, incident review team staff, retaliation monitoring staff, first responder, case management, and intake staff.

The auditor followed the *PREA Auditor Handbook* guidance regarding the number and composition of inmate interviews to be conducted. The total inmate population on the first day of the audit was 998. Pursuant to the *PREA Auditor Handbook* a total of 30 inmate interviews (15 random and 15 targeted) was required to be completed. A total of 40 interviews (32 random and 8 targeted) were completed during the audit. At the time of the onsite audit, the facility reported they had no inmates in the following targeted categories: youthful, transgender, intersex, lesbian, segregated for risk of sexual victimization, or inmates

who reported sexual abuse. Additional interviews in the random category were conducted to make up for the lack of specialized interviews.

Eight targeted interviews were conducted. Multiple inmates from the disabled and limited English proficient; gay or bisexual; and inmates who reported sexual victimization during risk screening categories were interviewed. Two inmates who identified as gay or bisexual were interviewed. Three inmates who were disabled or limited English proficient were interviewed. Three inmates who disclosed sexual victimization during risk screening were interviewed. Again, all inmate interviews were selected by audit staff.

## **File Review**

Audit staff conducted a review of human resources, training, medical and mental health, intake/risk screening, inmate PREA education, and investigation records. All records were selected by the audit staff from the lists of employees and inmates provided by the facility. Human resources records were reviewed to ensure compliance with the background check and hiring and promotion standards. Training records were reviewed with respect to PREA employee training and PREA specialized training.

Inmate records were reviewed to ensure intake risk screening was completed within 72 hours and to verify that re-assessment screening was completed within 30 days. The file review also included an education receipts related to intake information and comprehensive information provided pursuant to Standard 115.33.

A list of all sexual abuse or sexual harassment investigations for the past 12 months was requested. A total of twelve investigations were conducted during the past twelve months. Six of these investigations were selected by the auditor for review. Each file was reviewed to see whether the investigation was done promptly, thoroughly, and objectively. The review included whether interviews were conducted with victims, perpetrators, and witnesses. Each report was viewed for a description of the investigative facts and findings, summaries of interviews, evidence collection, victim services, the completion of an incident review, documentation of retaliation monitoring, and notice of disposition to victim.

## **Exit Meeting**

The audit team concluded remaining onsite tasks on the evening of 04/09/2019. An exit meeting was held between the audit staff and facility staff was held in the administration building conference room. In attendance were all four-audit staff and DRCF employees. Discussion included general observations and preliminary findings. The post-audit phase was described, and facility employees were advised about what to expect.

## **Facility Characteristics**

*The auditor's description of the audited facility should include details about the facility type, demographics and size of the inmate, resident or detainee population, numbers and type of staff positions, configuration and layout of the facility, numbers of housing units, description of housing units including any special housing units, a description of programs and services, including food service and recreation. The auditor should describe how these details are relevant to PREA implementation and compliance.*

Dorsey Run Correctional Facility is a minimum-security adult male prison. DRCF was opened in December of 2013. The facility footprint is rectangular in shape, and the perimeter consists of chain link fence topped with razor ribbon. DRCF is a campus style facility consisting of eight separate building



structures. The east and west buildings are single-story free-standing structures while the housing units are two-story free-standing structures. DRCF opened it's the west side of the institution in September of 2016. DRCF has a maximum capacity of 1,098 inmates with an average daily total of 990.

A sally port is located in the center of the facility between the west building and east building. A strip search post is located near the sally port area to process inmates returning from outside work programs. Housing units are separated by a basketball court/yard area with a fence dividing the east side from the west side of this institution. A yard shack is located between east and west side of the institution that observes the foot traffic between the east side and west side of the institution.

There are 225 cameras installed throughout the facility. A complete list of all facility cameras was obtained, reviewed, and retained for audit purposes. The facility reported that video footage can be downloaded and retained for up to 45 days. During the onsite audit, the facility's computer system was used to view camera coverage. Additionally, the auditor also viewed retained videos.

DRCF consists of both security and non-security employees. The facility reported having 228 employees at the time the Pre-Audit Questionnaire was completed. The facility is managed by a warden, assistant warden, acting security chief, major, captains, lieutenants and sergeants. Daily operations are managed by captains, lieutenants, and sergeants who oversee the line staff of officers. The facility has three shifts: first shift (0600-1400 hours), second shift (1400-2200 hours) and third shift (2200-0600 hours).

DRCF provides inmates with a variety of employment and programming options. Employment options include a full-time work release program with several employers in the community, Crownsville State Hospital, the Glen Burnie barrack of the Maryland State Police, Maryland Correctional Enterprises (MCE) warehouses, the Jessup Range, K-9, Intelligence and Investigative Division (IID), and details at other Jessup correctional facilities. Inmates may also participate in State Highway Administration (SHA) road crews. Programming options include Alcoholic Anonymous, Toastmasters, Knitting Behind Bars and Men's Monitoring Programs TYRO, Keepers of the Castle, Rikers Debate Project, Mindful Meditation, ERW, Yoga and Creative Arts. Religious Services are available to all religious denominations.

## Summary of Audit Findings

*The summary should include the number of standards exceeded, number of standards met, and number of standards not met, **along with a list of each of the standards in each category.** If relevant, provide a summarized description of the corrective action plan, including deficiencies observed, recommendations made, actions taken by the agency, relevant timelines, and methods used by the auditor to reassess compliance.*

**Auditor Note:** No standard should be found to be "Not Applicable" or "NA". A compliance determination must be made for each standard.

**Number of Standards Exceeded: 0**

**Number of Standards Met: 45**

**Number of Standards Not Met: 0**

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

115.13(a): In accordance with provision 115.13(a) the agency shall ensure that DRCF develops and documents a PREA-compliant staffing plan that demonstrates how the 11 required factors were taken into consideration to ensure the protection of inmates against sexual abuse within the facility.

115.16(c): During interviews staff were unable to clearly articulate the limitations to inmate interpreter use. The facility shall train staff on the limitations to inmate interpreter use.

115.32(c): Provision 115.32(c) explicitly states, "The agency shall maintain documentation confirming that volunteers and contractors understand the training they have received." Contractor and volunteer training records were insufficient to determine compliance. The agency/facility shall provide training records for volunteers and contractors who have contact with inmates.

115.34(c): Investigator training records are insufficient to demonstrate compliance. Training records for the DRCF based investigator are necessary to demonstrate compliance. DRCF shall submit training records for the DRCF based investigator.

115.34(c): Investigator training records are insufficient to demonstrate compliance. Training records for the DRCF based investigator are necessary to demonstrate compliance. DRCF shall submit training records for the DRCF based investigator.

115.35(a) Medical and mental health care employee training records are insufficient to make a determination of compliance. The facility shall provide medical and mental health care employee training records for review.

115.35(c) Medical and mental health care employee training records are insufficient to make a determination of compliance. The facility shall provide medical and mental health care employee training records for review.

115.35(d) Medical and mental health care employee training records are insufficient to make a determination of compliance. The facility shall provide medical and mental health care employee training records for review.

115.41(d), 115.41(f), and 115.41(g): A review of the *PREA Intake Screening* form revealed that it does not consider whether the inmate is perceived to be LGBTI or gender nonconforming. Consideration is specifically required pursuant to provision 115.41(d)(7). Additionally, reliance upon a non-compliant risk screening instrument fails provision 115.41(f) regarding risk screening re-assessments completed within 30-days. Though re-assessments may be completed within 30-days; the risk screening reassessment is guided by a non-compliant risk screening instrument. Furthermore, DRCF may be conducting risk screening reassessments 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 abusiveness. The risk screening instrument itself is non-compliant with Standard 115.41. Again, the risk screening reassessment is guided by a non-compliant risk screening instrument. The agency shall amend the screening instrument to take into consideration the criteria of provision 115.41(d)(7).

115.42(a): The facility did not provide documentation that demonstrates information from the risk screening is utilized to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. The facility shall provide documentation that demonstrates information from the risk screening is utilized to inform housing, bed, work, education, and program assignments with the goal of

keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive pursuant to 115.42(a).

115.42(b): The facility did not provide documentation that demonstrates information from the risk screening is utilized to make determinations about how to ensure the safety of each inmate. The facility shall provide documentation that demonstrates information from the risk screening is utilized to make determinations about how to ensure the safety of each inmate pursuant to 115.42(b).

115.67(c): Retaliation monitoring is required for 90 days following a report of sexual abuse. The facility shall provide documentation that demonstrates retaliation monitoring is conducted pursuant to provision 115.67(c).

115.67(d): The facility shall provide documentation that demonstrates periodic status checks are conducted in conjunction with retaliation monitoring pursuant to provision 115.67(d).

115.71(b) Investigator training records are insufficient to demonstrate compliance. The facility shall submit training records for the DRCF investigator. Training documentation shall demonstrate that the DRCF investigator has completed specialized training in the conduct of sexual abuse and sexual harassment investigations.

115.81(e) During interviews medical staff lacked knowledge of the requirements for obtaining informed consent from inmates prior to reporting information about prior sexual victimization that did not occur in an institutional setting. The facility shall provide medical and mental health care employees instruction regarding the requirements of informed consent. These instructions shall be signed and acknowledged by health care staff.

115.86(d) A review of the sexual abuse incident review documentation does not demonstrate consideration regarding whether or not the incident was motivated by the inmate's lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status. The standards explicitly require a report of finding that includes but is not necessarily limited to determinations made pursuant to every element indicated in paragraphs (d)(1)-(d)(5) of this section. The sexual abuse incident review form should be revised to reflect consideration for whether or not the incident was motivated by the inmate's lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status.

## PREVENTION PLANNING

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

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

#### 115.11 (a)

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

#### 115.11 (b)

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

#### 115.11 (c)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

#### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Secretary Directive DPSCS.020.0026 Prisoner Rape Elimination Act – Federal Standards Compliance*
- *Executive Directive OPS.050.0001 Sexual Misconduct - Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Facility Directive DRCF.050.0030.2 Sexual Misconduct Prohibited*

## Interviews:

- Interview with PREA Coordinator
- Interview with PREA Compliance Manager

## Site Review:

- Site Review Observations

## Findings:

### 115.11(a)

The Department of Public Safety and Correctional Services submitted the agency *Prison Rape Elimination Act Audit Manual* as the authoritative document that guides agency compliance regarding provision 115.11(a). The manual is a comprehensive 385-page catalogue of agency policies and other documentation related to PREA. Collectively, the documents contained within the manual comprise the agency's sexual abuse and sexual harassment policy. The directives contained within the manual outline and guide the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment. Additionally, the directives also contain definitions and direction regarding the strategies and methods utilized to reduce and prevent sexual abuse and sexual harassment of inmates. The manual was authorized by then Deputy Secretary of Operations, J. Michael Zeigler. As of April 2019, Robert L. Green has been appointed to the position of Secretary of the Maryland Department of Public Safety and Correctional Services. The manual reiterates the standard language verbatim and uses the term "Department" in place of the term "Agency."

*Secretary's Directive DPSCS.020.0026* section .03 states, "The Department does not tolerate sexual abuse or sexual harassment of an inmate." *DPSCS.020.0026* provides direction regarding reporting incidents of sexual abuse and sexual harassment, establishes and outlines the responsibilities of the PREA coordinator position. The directive also establishes and outlines the responsibilities of the PREA Compliance Manager position, responsibilities of the human resources services division, and requirements for performing background checks. Section .04 provides definitions for sexual abuse, sexual harassment, and voyeurism. The definitions contain the exact verbiage of the adult *Prisons and Jails* standards with the exception that the standards speak to "staff" whereas agency directive refers to the "employee."

*Executive Directive OPS.050.0001* describes responsibilities and established procedures for reporting, responding to, investigating, processing, and resolving complaints of sexual misconduct. OPS.050.0001 speaks directly to employee "sexual misconduct" of an inmate to include sexual abuse and sexual harassment. Section .03(A)(1)-(2) states, "The Department does not: tolerate sexual misconduct by an employee, by either omission or commission." It was noted that sexual abuse and sexual harassment are contained within the definition of "sexual misconduct." Section I(1)-(5) describes sanctions for those found to have participated in prohibited behaviors.

*Executive Directive OPS.200.0005* describes assigned responsibilities and procedures for reporting, responding to investigating, processing, and resolving a complaint of inmate on inmate sexual conduct. Section .03(A)(1)-(2) states, "The Department does not: tolerate inmate on inmate sexual conduct." OPS.200.0005 section 10 defines "sexual conduct" as behavior or acts of a derogatory or offensive sexual nature by an inmate directed toward another inmate. It was noted that sexual abuse and sexual

harassment are contained within the definition of “sexual conduct.” Section I(1)-(4) describes sanctions for those found to have participated in prohibited behaviors.

The facility also provided *Facility Directive DRCF.050.0030.2 Sexual Misconduct Prohibited* which serves as the facility’s zero tolerance approach to sexual misconduct to include sexual abuse and sexual harassment. *Section .03 specifically states*, “DRCF does not tolerate staff on inmate or inmate on inmate sexual misconduct.” Again, pursuant to agency policy sexual abuse and sexual harassment is covered under the agency “Sexual Misconduct” definition.

The agency and facility both have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment. Additionally, the *Prison Rape Elimination Act Audit Manual* does outline the agency’s approach to preventing, detecting, and responding to sexual abuse and sexual harassment. Based on the above, the facility has demonstrated substantial compliance with provision 115.11(a).

#### **115.11(b)**

The Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual and Secretary’s Directive DPSCS.020.0026 establishes and outlines the responsibilities of the agency-wide PREA coordinator position. The manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” Section .05(A) states, “The Secretary shall designate a Department PREA Coordinator (coordinator).” Additionally, section .05(B) states, “The Coordinator shall have sufficient time and appropriate authority to develop, implement, and oversee Department activities taken to comply with PREA standards in Department corrections and detention facilities,” establishes the agency’s PREA Coordinator.

David Wolinski (coordinator Wolinski) is currently the agency’s upper-level agency-wide PREA coordinator. Coordinator Wolinski also serves as the Special Assistant to the Deputy Secretary for Operations which places him as an assistant to the number two position within the entire MDPSCS. Therefore, coordinator Wolinski is in a position to have the authority and impact necessary to carry out the duties of a PREA coordinator as required by provision 115.11(b).

Section .05(B)(1)-(7) establishes the coordinator’s responsibilities regarding all facets of the agency’s zero tolerance policy for sexual abuse and sexual harassment of inmates. Likewise, the coordinator is responsible for ensuring compliance with federal PREA standards regarding the prevention planning, response planning, training and education, risk screening, reporting, investigations, discipline, medical and mental health care, data collection, audits, and auditing and corrective action. Additionally, the coordinator is also responsible for maintaining a list of facility compliance managers, serves as chair of the PREA Committee, authorizes departmental procedures related to prevention, detection, and response to acts involving inmate sexual abuse and sexual harassment. The coordinator also prepares and submits PREA related reports.

During the interview, coordinator Wolinski indicated that he has sufficient time and authority to manage all PREA related responsibilities. Coordinator Wolinski reported that there are 23 PREA compliance managers within the MDPSCS. The coordinator reported having regular contact with facility PREA compliance managers through email, telephone, and during facility visits. The coordinator also reported having the authority to make changes and implement policy on behalf of the agency in order to improve PREA efforts. Per the coordinator, when issues are identified the coordinator will communicate with the appropriate administrator to address the problem and attempt to resolve the issue permanently.

The agency does have an upper-level, agency-wide PREA coordinator. Additionally, based on the interview and agency policy it is evident that the coordinator does have sufficient time and authority to develop, implement, and oversee agency efforts to comply with the federal PREA standards. Based on the above, the facility has demonstrated substantial compliance with 115.11(b).

#### **115.11(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* and *Secretary's Directive DPSCS.020.0026* establishes and outlines the responsibilities of the facility PREA compliance manager. The manual reiterates the standard language verbatim and uses the term "Department" in place of the term "Agency." Section .05(C)(1) states, "The managing official for each Department detention, correctional and community confinement facility, shall identify a PREA Compliance manager (PCM) for that facility." Per the directive, "The managing official may be the PCM or recommend to the Coordinator, for approval, a designee to be the facility PCM." Additionally, Section .05(C)(1)(b) states, "The managing official shall ensure that an employee recommended to the Coordinator as the facility PCM has the authority to independently act on behalf of the managing official on facility PREA compliance activities."

The facility has appointed Kristin Silk (Silk) as the PREA Compliance Manager (PCM). This designation is in addition to Silk's duties as a Correctional Case Management Supervisor. Based on a facility organizational chart the Correctional Case Management Supervisor reports directly to the Correctional Case Management Manager and is two positions removed from the warden. On-site observations indicate that the PCM does have direct access with administration.

Facility Directive *DRCF.050.0030.2 Sexual Misconduct Prohibited* Section .05(C)(1)-(5) establishes the PCM's responsibilities with regard the facility's PREA compliance efforts. Per facility directive, the PCM is required to participate in all meetings/committees involving PREA, maintain PCM files, ensure completion of pre-audit questionnaire and communicate with auditor prior to the site visit. Additionally, the PCM is also required to participate in incident review meetings, ensure that all inmates involved in PREA related incidents receive appropriate medical and mental health follow-up as well as appropriate housing, ensure completion of retaliation monitoring, ensure victim notification or final determination, ensure and incident review is completed within 30 days, and maintain files of all incidents.

The PCM reported having adequate time to manage all PREA related responsibilities. The PCM reported that administrators are available through an open-door policy and compliance efforts are coordinated through communication with facility administration. Thus, the PCM has access to all levels of facility administration.

The facility does have a designated PREA compliance manager. Additionally, based on interviews and agency policy it is evident that the PREA compliance manager does have sufficient time and authority to coordinate the facility's efforts to comply with the federal PREA standards. Based on the above, the facility has demonstrated substantial compliance with 115.11(c).

#### **Recommendations:**

- None

#### **Corrective Action:**

- None

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

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

### 115.12 (a)

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

### 115.12 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Threshold Contract*
- *Threshold Audit Report*

### Interviews:

- Interview with Agency Contract Administrator

### Site Review:



- None

## **Findings:**

### **115.12(a)**

The Maryland Department of Public Safety and Correctional Services (MDPSCS) contracts with "Threshold, Inc." for its pre-release services. Prior to the on-site visit, the agency coordinator provided the auditor with a copy of the "Threshold, Inc." contract dated August 6, 2018. "Threshold, Inc." is the only agency contracted by the MDPSCS for the confinement of its inmates. The agency PREA Coordinator serves as the agency contract administrator regarding the "Threshold, Inc." contract. Pursuant to the "Threshold, Inc." agreement, the Threshold facility will comply with the PREA standards. Sections 25.3 and 25.4 of the contract state, "It shall 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."

The MDPSCS does contract for the confinement of its inmates with "Threshold, Inc." Furthermore, the obligation of the contractor to comply with PREA standards is clearly stated within the contract language. Based on the above, the facility has demonstrated substantial compliance with 115.12(a).

### **115.12(b)**

The Maryland Department of Public Safety and Correctional Services (MDPSCS) contracts with "Threshold, Inc." for its pre-release services. Prior to the on-site visit, the agency coordinator provided the auditor with a copy of the "Threshold, Inc." contract dated August 6, 2018. "Threshold, Inc." is the only agency contracted by the MDPSCS for the confinement of its inmates.

The inspections and evaluations section of the contract states, "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."

The MDPSCS provided a copy of the previous PREA audit completed at "Threshold, Inc." The audit report dated May 22, 2018 indicates that "Threshold, Inc." is in full compliance with federal PREA standards. Furthermore, it was noted that the "Threshold, Inc." audit report is posted on the agency's website.

The agency coordinator serves as the contract administrator for the "Threshold, Inc." contract and personally visits the facility on a bi-annual basis. The coordinator reported that "Threshold, Inc." is treated like any other facility in the agency as is currently scheduled to be audited in the second year of the audit cycle.

Based on the above, the facility has demonstrated substantial compliance with 115.12(b).

## **Recommendations:**

- None

## **Corrective Action:**

- None

## Standard 115.13: Supervision and monitoring

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

### 115.13 (a)

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

the need for video monitoring? ☒ Yes ☐ No ☐ NA

- Does the agency ensure that each facility's staffing plan takes into consideration any applicable State or local laws, regulations, or standards in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No
- Does the agency ensure that each facility's staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No
- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

#### 115.13 (b)

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

#### 115.13 (c)

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

#### 115.13 (d)

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

#### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.115.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Staffing Analysis and Overtime Management Manual*
- *FY19 DRCF Staffing Plan*
- *Staffing Plan Review – DRCF*
- *Unannounced Rounds Logbook Signatures*

### Interviews:

- PREA Coordinator
- Warden or Designee
- PREA Compliance Manager
- Intermediate or Higher-Level Staff

### Site Review:

- None

### Findings:

#### 115.13(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*, and *Executive Directive OPS.115.0001 Sexual Misconduct - Prohibited* serve as the authoritative guidance regarding the development and implementation of a staffing plan. The manual reiterates the standard language verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OPS.115.0001 Sexual Misconduct – Prohibited*, Section .05 states the requirements of a facility staffing plan. These requirements parallel the eleven requirements stated in provision 115.13(a). The

*Staffing Analysis and Overtime Management Manual* provides guidance regarding minimum operational staffing levels and requirements and the documentation of any deviations to these requirements.

The *FY19 DRCF Staffing Plan* as submitted by the facility does not address the eleven enumerated requirements as indicated in provision 115.13(a). The *FY19 DRCF Staffing Plan* is merely a report indicating the authorized positions and location of those positions regarding institutional need. What it is not, is a written rationale indicating the reasons why staff and technology are deployed pursuant to the elements of a facility staffing plan as indicated in provision 115.13(a).

Interviews with the agency PREA coordinator, warden or designee, and facility PREA compliance manager indicated that the facility does develop and comply with a staffing plan as outlined in *The Staffing Analysis and Overtime Management Manual*. Furthermore, it was indicated that the facility does consider each element of provision 115.13(a) and that upper level administration as well as the PC Wolinski review the staffing plan.

Through document analysis, interviews, and onsite observations, the DRCF staffing plan as currently presented does not clearly demonstrate the rationale for staff and technology deployment regarding each element of 115.13(a). Based on the above, the facility has not demonstrated compliance with provision 115.13(a).

#### **115.13(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*, and *Executive Directive OPS.115.0001 Sexual Misconduct - Prohibited* serve as the authoritative guidance regarding development and implementation of a staffing plan. The manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.115.0001 Sexual Misconduct – Prohibited*, Section .05 states the requirements of a facility staffing plan. These requirements parallel the eleven requirements stated in provision 115.13(a). The *Staffing Analysis and Overtime Management Manual* provides guidance regarding minimum operational staffing levels and requirements for documenting any deviations with these requirements.

The *Staffing Analysis and Overtime Management Manual* outlines the minimum requirements for the development of a facility staffing plan and the requirements for documenting any deviations from the staffing plan. The facility staffing plan is developed with these requirements in mind and a daily *Post Assignment Worksheet DPSCSD #115 (PAW)* is developed to deploy staff in accordance with the stated staffing plan. The PAW identifies positions and the staffing requirements for those positions and reconciles staffing deployment in accordance with the position requirements outlined in the staffing plan. Any deviations from the staffing plan are documented on the PAW with an explanation as to why that position was closed.

Interviews with the warden’s designee and facility PREA compliance manager indicated that the facility does develop and comply with a staffing plan as outlined in *The Staffing Analysis and Overtime Management Manual*. The warden’s designee reported that deviations are documented, and the PAW ensures that staffing levels are maintained at the required level.

Throughout the on-site tour it was noted that staff are deployed in a manner consistent with the PAW. Staff presence was prevalent throughout the institution. Furthermore, it was observed that staff deployment is increased during shifts where inmate activity is increased.

Through document analysis, interviews, and onsite observations, DRCF does document and justify all deviations from the facility staffing plan. Based on the above, the facility has demonstrated compliance with provision 115.13(b).

### **115.13(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual and Executive Directive OPS.115.0001 Sexual Misconduct – Prohibited* serve as the authoritative documents regarding this provision. The manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.115.0001 Sexual Misconduct – Prohibited*, section .05(c)(3) states, “At least annually, or on an as needed basis, consulting with the Department PREA Coordinator to review, assess, determine, and document if adjustments are necessary to the facility’s: (a) Staffing plan based on topics identified under §.05C(2)(d) of this directive; (b) Use and deployment of video monitoring system and other surveillance technology; and (c) Resources available to commit to ensure compliance with the established staffing plan.” The staffing plan review is documented on an agency-wide standardized form. DRCF provided a copy of the *Staffing Plan Review* dated March 7, 2019. The form considers all the criteria required for a staffing plan review as outlined by provision 115.13(a), 115.13(b), and 115.13(c) and provides areas for narrative, any recommendations, as well as space for signatures by the facility compliance manager and agency wide coordinator.

Interviews with the agency PREA coordinator, warden or designee, and facility PREA compliance manager indicated that the facility does conduct a staffing plan review at least annually. Again, this was demonstrated on a completed *Staffing Plan Review* dated March 7, 2019.

Through document analysis, interviews, and onsite observations, DRCF does complete and document a staffing plan review. Interviews indicate that a staffing plan review is conducted annually. The agency does have a process in place for conducting a staffing plan review which is guided by policy. Furthermore, the documentation indicates that the facility does consider the deployment of video monitoring systems and resources available to commit to ensure adherence to the staffing plan. As part of the review process. Additionally, the documentation provided indicated this is completed on an annual basis. Based on the above, the facility has demonstrated compliance with provision 115.13(c).

### **115.13(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual and Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* serve as the authoritative guidance regarding provision 115.13(d). The manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*, .05 Section D states “(a) 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: (i) Randomly on all shifts; (ii) Except when necessary to prevent prohibited cross gender viewing of an inmate or as part of a legitimate facility operation, unannounced in order to prohibit staff from alerting other staff that the rounds are being conducted; and (iii) At a frequency established by the managing official” regarding the conduct of unannounced rounds. The auditor requested rounds documentation for three random dates during the 12-month audit period. A review of the round documentation indicates that rounds are occurring on all shifts. Additionally, the noted rounds will specifically state “PREA Rounds” in the logbook notation.

An interview with intermediate or higher levels staff indicated that unannounced rounds for the purpose of identifying and deterring staff sexual abuse and sexual harassment are conducted at least weekly. Staff indicated that these rounds are documented in logbooks. Furthermore, rounds are varied to mitigate predictability. Additionally, staff who are caught alerting other staff are verbally counseled about the behavior.

During the on-site tour logbooks were reviewed to verify that supervisory rounds were being conducted in accordance with policy. A review of the logbooks indicates that unannounced rounds are being conducted on all shifts in accordance with agency policy.

Through document analysis, interviews, and on-site observations, DRCF does conduct and document unannounced rounds. The agency does have a policy in place that requires the rounds be unannounced and documented. Documentation, interviews, and on-site observations indicate that these rounds are being conducted. Based on the above, the facility has demonstrated compliance with provision 115.13(d).

**Recommendations:**

- None.

**Corrective Action:**

- 115.13(a): In accordance with provision 115.13(a) the agency shall ensure that DRCF develops and documents a PREA-compliant staffing plan that demonstrates how the 11 required factors were taken into consideration to ensure the protection of inmates against sexual abuse within the facility.

**Corrective Action Verification:**

- 115.13(a): A facility staffing plan was provided. The plan indicates consideration for the 11 required factors contained within standard 115.13. The staffing plan noted several recommendations to add posts to facility operations. The rationale for these positions was provided in the narrative of the staffing plan. Overall recommendations were made in order to enhance the safety and security of the institution and ensure the facility is operating in the most efficient manner possible. The plan also accounts for increased staffing in specific areas of the institution in order to accommodate increased foot traffic throughout the institution. Some of the recommendations noted include, increased supervisor presence on the weekends, increased security coverage in the medical department, increased staffing for the entry and exit gate, and a request for an IID vetted intelligence liaison to assist with investigatory matters. These recommendations were noted as being necessary to enhance efficiency and compliance within institution. Based on the above, the facility has demonstrated substantial compliance with provision 115.13(a).

**Standard 115.14: Youthful inmates**

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

**115.14 (a)**

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

#### 115.14 (b)

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

#### 115.14 (c)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*



**Documentation:**

None

**Interviews:**

None

**Site Review:**

None

**Findings:**

DRCF does not house youthful inmates. Pre-audit and onsite discussions indicated that youthful inmates were not housed at DRCF. On-site observations did not indicate the presence of youthful offenders. Standard 115.14 does not apply insofar as DRCF does not house youthful inmates. Therefore, the facility has demonstrated compliance with Standard 115.14.

**Recommendations:**

- None

**Corrective Action:**

- None

**Standard 115.15: Limits to cross-gender viewing and searches****All Yes/No Questions Must Be Answered by the Auditor to Complete the Report****115.15 (a)**

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

**115.15 (b)**

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

**115.15 (c)**

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

#### 115.15 (d)

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

#### 115.15 (e)

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

#### 115.15 (f)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

#### **Documentation:**

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.110.0047 Search Protocol – Inmates*
- *DRCF Facility Directive DRCF.050.0030.2*
- *Maryland Police and Correctional Training Division Lesson Plan – LGBTI*
- *Maryland Police and Correctional Training Division Lesson Plan - Frisk/ Body Searches, Restraints, and Scanning Devices*

#### **Interviews:**

- Random Staff Interviews
- Random Inmate Interviews

#### **Site Review:**

- Housing Units
- Sally Port Strip Search Area

#### **Findings:**

##### **115.15(a)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*, and *Executive Directive OPS.110.0047 Search Protocol – Inmates* serve as the authoritative documents that guide strip and cavity search protocol. The manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.110.0047 Search Protocol – Inmates*, Section .05F states, “(4) An inmate strip search shall be conducted: (a) By a single correctional officer of the same gender as that of the inmate being searched; (b) In a location and in a manner that ensures maximum privacy for the inmate being strip searched; and (c) In the presence of additional correctional officer.” Furthermore, *Executive Directive OPS.110.0047 Search Protocol – Inmates*, Section .05F(3)(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” with regard to conducting strip searches of transgender and intersex inmates. *Executive Directive OPS.110.0047 Search Protocol – Inmates*, Section .05H(2) states, “Only a certified medical professional may perform a body cavity search of an inmate.” Section .05H(4) states, “Only the certified medical professional and the inmate being searched may be present during the procedure.”

Staff interviews did not indicate any cross-gender strip or cross-gender visual body cavity searches of inmates, including any exigent circumstances, conducted by security or medical staff in the past 12 months. Furthermore, 98% of inmates interviewed did not report being subjected to cross-gender viewing by female staff during a strip search or visual cavity search. The one outlier reported a cross gender viewing issue that was unrelated to this provision.

Through document analysis, interviews, and onsite observations, the facility has demonstrated compliance with provision 115.15(a).

#### **115.15(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*, and *Executive Directive OPS.110.0047 Search Protocol – Inmates* serve as the authoritative documents that guide search protocol. The manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.110.0047 Search Protocol – Inmates*, Section .05E(3)(a) and(c) states, “(a) Except under provisions of §.05E(3)(c) of this directive, a frisk search of a female inmate shall be conducted by female correctional officer. (c) 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 that the officer does not touch the breast or genital area of the inmate.” Discussion with staff and on-site observations verified that DRCF is a male only facility. Therefore, provision 115.15(b) does not apply insofar as the facility does not house female inmates.

Through document analysis, interviews, and onsite observations, the facility has demonstrated compliance with provision 115.15(b).

#### **115.15(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*, and *Executive Directive OPS.110.0047 Search Protocol – Inmates* serve as the authoritative documents that guide search protocol. The manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.110.0047 Search Protocol – Inmates*, section .05F(6)(b) regarding all strip searches states, “(b) Log or report the search in accordance with established procedures.” Section .05H(1)(b) regarding body cavity searches requires prior written authorization from the managing official or designee before conducting a body cavity search.

The facility reported zero cross-gender strip or cross-gender visual body cavity searches of inmates, including any exigent circumstances, conducted by security or medical staff in the past 12 months. Thus, there are no written reports or incidents of cross-gender strip searches or cross-gender body cavity searches.

Again, staff interviews did not indicate any occurrence of cross-gender strip or cross-gender visual body cavity searches of inmates, including any exigent circumstances, conducted by security or medical staff in the past 12 months. Likewise, inmate interviews did not indicate any occurrence of cross-gender viewing by female staff during a strip search or visual cavity search. DRCF does not house female inmates. Therefore, cross gender pat down searches of female inmates does not apply insofar as DRCF does not house female inmates.

Through document analysis, interviews, and onsite observations, the facility has demonstrated compliance with provision 115.15(c).

#### **115.15(d)**

Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual and Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited guides facility actions regarding opposite gender announcements. The manual reiterates the standard language verbatim and uses the

term “Department” in place of the term “Agency.” Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited section .05D(6) states, “Staff of the opposite sex announce their presence when entering a housing unit.” Additionally, during the tour it was noted that the facility implemented procedures that allow inmates to shower, change clothes, and use the toilet without being viewed by staff of the opposite gender.

All housing units were observed to have curtains in place that allow inmates to use both the bathroom and shower facilities without being observed by staff of the opposite gender. Housing unit camera coverage was noted as not having the ability to see into bathroom or shower areas. The temporary holding cells, and kitchen bathroom were noted as possible cross gender viewing issues due to the ability of opposite gender staff to view inmates using toilet. However, the facility addressed these concerns prior to the conclusion of the on-site review. The facility provided visual barriers and adjusted camera coverage prior to the departure of the audit team. These measures were observed to effectively mitigate any cross-gender viewing concerns and provide adequate privacy in accordance with provision 115.15(d).

93% of inmates indicated that opposite gender staff announce their presence when entering a housing unit. This practice was also observed by the audit team during the on-site tour. Furthermore, inmates overwhelmingly (98%) indicated that were not able to be viewed by female staff when using the toilet, showering, or changing clothes. 100% of random staff interviews indicated that opposite gender staff announce prior to entering the housing units.

DRCF does have a policy in place that requires staff of the opposite gender staff to announce prior to entering the unit. The facility also has implemented procedures (i.e. visual barriers, cameral placement) to ensure inmates have adequate privacy when changing clothes, showering, or using the toilet. Furthermore, inmate interviews did not indicate a concern regarding cross gender viewing. Based on the above, the facility has demonstrated compliance with provision 115.15(d).

#### **115.15(e)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*, and *Executive Directive OPS.110.0047 Search Protocol – Inmates* serve as the authoritative documents that guide search protocol. The manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.110.0047 Search Protocol – Inmates*, Section .05F(3)(a) regarding strip searches of transgender and intersex inmate’s states, “A strip search of a transgender or intersex inmate may not be conducted for the sole purpose of determining the inmate’s genital status.” Additionally, *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* section F1 states, “A strip search of transgender or gender dysphoric inmates shall not be conducted for the sole purpose of determining the inmate(s) genital status.” Both documents indicate that if an inmate’s status is unknown it may be determined by conversation with the inmate, a review of available medical records, or as part of a broader medical examination conducted in private by a licensed medical professional. However, it is recommended that *.050.0030.2 Sexual Misconduct – Prohibited*, section F1 be amended to replace the term “gender dysphoric” with “intersex” as the two terms are not related. This would bring facility policy in line with agency policy and correspond with the language of the standard. Given that agency policy supersedes facility policy, agency policy will be relied upon regarding a determination of compliance.

100% of staff interviewed reported that the facility prohibits staff from searching or physically examining transgender or intersex inmates for the sole purpose of determining genital status. The facility was unable to identify inmates who identified as being transgender or intersex. Additionally, the audit team was unable to identify through inmate interviews or risk assessment documentation review any transgender

or intersex inmates currently at the facility. Therefore, the audit team did not conduct interviews of transgender or intersex inmates.

Both the agency and DRCF have a policy prohibiting staff from searching or physically examining a transgender or intersex inmate for the sole purpose of determining genital status. Staff interviews indicate that this is practice. Furthermore, staff interviews indicate that searches conducted for the sole purpose of determining genital status were prohibited. Based on the above, the facility has demonstrated substantial compliance with provision 115.15(e).

#### **115.15(f)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*, and *Executive Directive OPS.110.0047 Search Protocol – Inmates* serve as the authoritative documents that guide overall search protocol. The manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” Search protocol is standardized the term “Frisk Search” is defined as “A search not requiring the removal of all clothing. It is conducted by running your hands across clothing to detect hidden objects.” Policy notes that frisk searches may be conducted by females on males, but it is not permissible for female staff to search the groin area of male inmates. Likewise, policy also states, “Males shall not conduct searches of females” except during exigent circumstances a managing official or a designee may authorize a male officer to conduct a frisk search on a female inmate provided that the officer does not touch the breast or genital area of the inmate. Strip searches are performed exclusively by two staff of the same gender this including a provision for transgender or intersex inmates who prefer to be searched by a specific gender of staff. Section.05F(3)(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.”

*Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* is facility specific and is consistent with agency policy with regarding to search of male inmates by female staff. Section .05F(3) speaks to searches of transgender and intersex inmates stating, “The inmate is responsible for carrying the Personal Search Exception Card at all times and shall present the card to the correctional officer prior to the start of a personal search. Failure to present the card may result in the inmate being searched in accordance with the gender associated with the institution.”

The *Maryland Police and Correctional Training Division Lesson Plan – LGBTI* and *Maryland Police and Correctional Training Division Lesson Plan - Frisk/ Body Searches, Restraints, and Scanning Devices* are the primary lesson plans regarding cross gender, transgender, and intersex search procedures. The *Maryland Police and Correctional Training Division Lesson Plan – LGBTI* is a 2-hour lesson plan that covers many topics including definitions associated with LGBTI populations, and risk statistics related to LGTBI populations. Training also covers such topics as professional and respectful interactions with LGBTI inmates such as avoiding making assumptions, using affirming and respectful language, and pronoun usage. Training topics, including definitions, were found to be consistent with the definitions contained in the standards.

The Pre-Audit Questionnaire noted that 100% of DRCF staff have been trained. The PAQ also noted that staff also receive training annually. Random staff interviews indicate that 92% of staff report having received training regarding cross gender, transgender, and intersex search procedures. 77% of staff reported that the agency provides training annually. A review of training records verified that training is conducted on an annual basis.

Training is comprehensive in the processes, techniques, and conduct of searches. Search protocol is tailored to the specific gender of the inmate and includes a provision to allow transgender or intersex inmates to be searched by a gender of their preference. Through document analysis, interviews, and onsite observations, the facility has demonstrated compliance with provision 115.15(f).

**Recommendations:**

- It is recommended that DRCF.050.0030.2 section F1 be amended to replace the term “gender dysphoric” with “intersex” as the two terms are not related. This would bring facility policy in line with agency policy and in line with the language of the standard.

**Corrective Action:**

- None

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

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

**115.16 (a)**

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are deaf or hard of hearing? ☒ Yes ☐ No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are blind or have low vision? ☒ Yes ☐ No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have intellectual disabilities? ☒ Yes ☐ No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have psychiatric disabilities? ☒ Yes ☐ No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have speech disabilities? ☒ Yes ☐ No

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

#### 115.16 (b)

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

#### 115.16 (c)

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

#### Auditor Overall Compliance Determination

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



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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OSPS.050.0011 Americans With Disabilities Act of 1990, Titles I and II*
- *Executive Directive OEO.020.0032 Limited English Proficiency (LEP) Policy*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Innate Sexual Conduct – Prohibited*
- *Ad Astra Interpreter Services Contract*
- *Translation Services Documentation*
- *Staff Interpreter Services Flier*

### Interviews:

- Disabled and Limited English Proficient Inmate Interviews
- Agency Head/Designee

### Site Review:

- PREA Signage in Spanish
- Prisoner Orientation
- Interpreter Services Flier

### Findings:

#### 115.16(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* and *Executive Directive OSPS.050.0011 Americans With Disabilities Act of 1990, Titles I and II* are the authoritative documents pertaining to implementation of provision 115.16(a). The manual reiterates the standard language verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OSPS.050.0011 Americans With Disabilities Act of 1990, Titles I and II requirements of the Americans with Disabilities Act of 1990 (ADA), Title I (Employment) and Title II (Public Services)*. Upon arrival to DRCF inmates are processed through the traffic office. Part of the traffic office process includes providing inmates with the *Prison Rape Elimination Act and Sexual Assault Awareness* brochure. This brochure covers the zero-tolerance policy and reporting information and is available in both English and Spanish. At orientation inmates are provided a hard copy of the *Inmate Orientation Handbook – 2018* that covers the agency's zero-tolerance policy. Additionally, inmates also participate in a video and audio presentation that specifically covers PREA topics to include the agency's zero-tolerance policy; how to

report sexual abuse and sexual harassment; agency policy regarding sexual abuse and sexual harassment; and inmate rights regarding sexual abuse, sexual harassment, and retaliation. The video presentation has audio and is also available in Spanish. Staff were observed to be present during inmate orientation and conducted a question and answer session at the end of the presentation.

Sign language services are available through Statewide Visual Communication Services. Schrieber, Inc. provides document translation services. An interpretation services quick reference flier has been developed to assist staff with selecting the correct interpretation service. The flier was noted as missing the sign language contact information. It is recommended that the sign language services information through Statewide Visual Communication Services be added to the flier.

During interviews, the agency head/designee indicated that language line and sign language services are available to inmates. Two disabled inmates were interviewed, one hearing impaired and one physically disabled. Inmates reported being given information regarding sexual abuse and sexual harassment in formats that they were able to understand and reported that they could understand the information provided.

A Maryland Coalition Against Sexual Assault (MCASA) representative was present at the DRCF audit. An interview with the MCASA representative indicated that her organization does have a relationship with the agency. The representative indicated that legal advocacy, legislative advocacy, general advocacy, and emotional support services are provided through MCASAs network of providers. Specific services include accompaniment during forensic medical exams, investigatory interviews, and court proceedings. Services also include emotional support, and crisis intervention. Services are generally available via telephone, mail, or in-person. Additionally, MCASA also has interpreters on staff.

The facility does have procedures and practices in place to assist disabled inmates with understanding DRCF's sexual abuse and sexual harassment prevention program. Additionally, services are available should inmates need assistance with accessing the program. Based on the above, the facility has demonstrated compliance with provision 115.6(a).

#### **115.16(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* and *Executive Directive OEO.020.0032 Limited English Proficiency (LEP) Policy* serve as the authoritative documents pertaining to LEP access to the agency's PREA program. The manual reiterates the standard language verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OEO.020.0032 Limited English Proficiency (LEP) Policy* establishes policy and procedures to ensure effective communication with individuals with Limited English Proficiency (LEP), including individuals under the authority of the Department of Public Safety and Correctional Services (Department), in order to provide meaningful access to Department programs and services.

Upon arrival inmates are processed through the traffic office. The traffic office process includes providing inmates with the *Prison Rape Elimination Act and Sexual Assault Awareness* brochure. This brochure covers the zero-tolerance policy, reporting information, is available in both English and Spanish, and provided to the inmates in hard copy. At orientation, inmates are provided a hard copy of the *Inmate Orientation Handbook – 2018* that also covers the agency's zero-tolerance policy. Additionally, inmates participate in a video and audio presentation that specifically covers PREA topics including the agency's zero-tolerance policy; how to report sexual abuse and sexual harassment; agency policy regarding sexual abuse and sexual harassment; and inmate rights regarding sexual abuse, sexual harassment, and

retaliation. Staff were observed to be present during inmate orientation and conducted a question and answer session at the end of the orientation session.

The facility taken several steps to ensure meaningful access to the agency's sexual abuse and sexual harassment program for inmates who are limited English proficient. In-person translation services are available through Ad Astra. A copy of the Ad Astra contract was provided as part of the audit documentation. Documentation also noted that telephone interpretation services are available through Language Line Solutions. Hotline reporting posters written in Spanish were noted throughout the institution. Advocacy and external support services information was also posted in Spanish. Additionally, the audit team observed inmates being given bi-lingual information at orientation.

Additionally, a Maryland Coalition Against Sexual Assault (MCASA) representative was present at the DRCF audit. An interview with the MCASA representative indicated that her organization does have a relationship with the agency. The representative indicated that legal advocacy, legislative advocacy, general advocacy, and emotional support services are provided through her agency's network of providers. Specific services include accompaniment during forensic medical exams, investigatory interviews, and court proceedings. Services also include emotional support, and crisis intervention. Services are generally available via telephone, mail, or in-person and have interpreters on staff

One limited English proficient inmate was interviewed. The inmate was able to speak enough English to answer the interview questions without the need of interpretation services. The inmate reported receiving information in a format that was understandable and reported reading the information posted in Spanish throughout the institution.

DRCF does have procedures and practices in place to assist limited English proficient inmates with understanding the DRCF's sexual abuse and sexual harassment program. Additionally, interpretation services are available should inmates need assistance with accessing the program. Based on the above, the facility has demonstrated substantial compliance with provision 115.16(b).

#### **115.16(c)**

The Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual and Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited guide compliance with provision 115.16(c). The manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited section .05C(6) states, “Inmate interpreters, 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, the performance of first responder duties, or the investigation of an inmate's allegation. Likewise, Executive Directive OPS.200.0005 Inmate on Innate Sexual Conduct – Prohibited, section .05C(6) 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.” These policies guide practice regarding the use of inmate interpreters.

62% of staff reported no limitations to inmate interpreter use. This result does not coincide with agency policy regarding the use of inmate interpreters to limited circumstances where a delay in obtaining an effective non-inmate interpreter would compromise the inmate's safety, the performance of first responder duties, or the investigation of an inmate's allegation. Inmate interview results did not reveal

anything that would contradict the requirements of the standards. The facility shall train staff on limitations to inmate interpreter use.

DRCF has procedures and practices in place to limit the use of inmate interpreters. However, staff interview results did not indicate a working knowledge of the policy regarding inmate interpreter use. Based on the above, the facility has not demonstrated compliance with provision 115.16(c).

**Recommendations:**

- None.

**Corrective Action:**

- 115.16(c): During interviews staff were unable to clearly articulate the limitations to inmate interpreter use. The facility shall train staff on limitations to inmate interpreter use.

**Corrective Action Verification:**

- 115.16(c): The facility provided documentation demonstrating that all staff had received information regarding limitations to inmate interpreter use. All staff received verbal instruction regarding the requirements of *Executive Directive OPS.050.0001 Sexual Misconduct - Prohibited*, section.05C(6) which states, "Inmate interpreters, 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, the performance of first responder duties, or the investigation of an inmate's allegation." Additionally, staff were also verbally informed of the requirements of *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct - Prohibited*, section .05C(6) which states, "Except under limited circumstances where a delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first responder duties, or the investigation of an inmate's allegation, inmate interpreters, inmate readers, or other types of inmate assistance are not used to communicate information required under this directive to other inmates." This instruction was read to all shifts during rollcall for ten consecutive days. Given the mode of delivery there is a high probability that most staff are informed of agency policy regarding inmate interpreter use. Based on the above, the facility has demonstrated substantial compliance with provision 115.16(c).

## **Standard 115.17: Hiring and promotion decisions**

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

**115.17 (a)**

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? ☒ Yes ☐ No

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse? ☒ Yes ☐ No
- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? ☒ Yes ☐ No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? ☒ Yes ☐ No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse? ☒ Yes ☐ No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? ☒ Yes ☐ No

#### 115.17 (b)

- Does the agency consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates? ☒ Yes ☐ No

#### 115.17 (c)

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

#### 115.17 (d)

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

#### 115.17 (e)

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

#### 115.17 (f)

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

#### 115.17 (g)

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

#### 115.17 (h)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

#### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Secretary's Directive DPSCS.020.0026 Prison Rape Elimination Act Federal Standards Compliance*

- *Code of Maryland (COMAR) 12.15.01.19 Issuance of a Revised Printed Statement (State Rape Back Program)*
- *Department of Public Safety and Correctional Services Standards of Conduct & Internal Administrative Disciplinary Process*
- *Hiring Guidelines for the Position of Correctional Officer*
- *PREA DBM DPSCS JOBAPS Application Form*
- *PREA Interview Questions for Non-Mandated Positions, Mandated Positions, Promotional and Transfer Candidates*
- *Polygraph Questions for Mandated Positions*
- *Maryland Department of Public Safety and Correctional Services Personal Interview form – Correctional Applicant*
- *Hiring and Promotional Records*
- *Criminal History Background Records Check Documentation*

#### **Interviews:**

- Administrative (Human Resources) Staff
- Facility Administrative Staff

#### **Site Review:**

- None

#### **Findings:**

##### **115.17(a)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.17(a) verbatim and uses the term “Department” in place of the term “Agency.” *Secretary’s Directive DPSCS.020.0026 Prison Rape Elimination Act Federal Standards Compliance*, section .05F(1) regarding the Human Resources Services Division (HRSD) states, “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.” This policy serves as the authoritative document guiding hiring practices throughout the agency. Additionally, these requirements were noted throughout the *Hiring Guidelines for the Position of Correctional Officer*; *PREA DBM DPSCS JOBAPS Application form*; *PREA Interview Questions for Non-Mandated Positions form*; *Mandated Positions, Promotional and Transfer Candidates form*; *Maryland Department of Public Safety and Correctional Services Personal Interview form – Correctional Applicant*, and *Polygraph Questions for Mandated Positions* documentation provided by the facility.

Human resources staff reported that hiring and background checks of new employees, promotions, contractors, and volunteers are performed by the centralized hiring unit. Human resources staff verified that the agency does prohibit the hiring or promotion of anyone who do not meet the requirements of

115.17(a). Likewise, hiring practices also prohibit the acquisition of services from any contractor who does not meet the requirements of 115.17(a).

A total of 8 (4 security and 4 contractor) agency hiring and promotional records were reviewed. Records indicated that applicants were asked about behavior described in 115.17(a)(1-3). Documentation indicates that all applicants were asked again during a polygraph examination. Upon review all records were compliant with provision 115.17(a).

There are procedures and practices in place that prohibit the hiring, promotion and acquisition of services from anyone who does not meet the requirements of 115.17(a)(1-3). Based on the above, the facility has demonstrated substantial compliance with provision 115.17(a).

#### **115.17(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.17(b) verbatim and uses the term “Department” in place of the term “Agency.” *Secretary’s Directive DPSCS.020.0026 Prison Rape Elimination Act Federal Standards Compliance*, section .05F(2)(a)-(b) states, “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.” Additionally, consideration for incidents of sexual harassment were noted throughout the *Hiring Guidelines for the Position of Correctional Officer*, *PREA DBM DPSCS JOBAPS Application* form; *PREA Interview Questions for Non-Mandated Positions* form, *Mandated Positions, Promotional and Transfer Candidates* form; *Maryland Department of Public Safety and Correctional Services Personal Interview* form – *Correctional Applicant*, and *Polygraph Questions for Mandated Positions* documentation provided by the facility.

Human resources staff reported that incidents of sexual harassment are considered during the application, interview, background investigation, and orientation processes. Human resources staff also indicate that this also true for contractors.

A total of 8 (4 security and 4 contractor) agency hiring and promotional records were reviewed. Records indicate that applicants were asked about the types of behavior described in 115.17(b) regarding sexual harassment. Documentation also indicates that all applicants were asked again during a polygraph examination. Upon review all records were noted as being compliant with provision 115.17(b).

The agency does consider sexual harassment as part of the application, interview, background investigation, and orientation processes. Based on the above, that facility has demonstrated compliance with provision 115.17(b).

#### **115.17(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.17(c) verbatim and uses the term “Department” in place of the term “Agency.” *Secretary’s Directive DPSCS.020.0026 Prison Rape Elimination Act Federal Standards Compliance*, section .05F(3) states, “Before hiring a new employee to perform duties involving contact with an inmate, the Human Resources Services Division shall: (a) Conduct a criminal background records check; and (b) 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.” This policy serves as the authoritative document guiding pre-hire background checks and prior institutional employer contact practices.



Human resources staff reported that the centralized hiring unit performs all criminal background checks and efforts to contact all prior institutional employers of new employees. It was reported that investigators are assigned and attempt to contact all previous employers. A total of 8 (4 security and 4 contractor) agency hiring and promotional records were reviewed. Upon review it was noted that a criminal background check and efforts to contact all prior employers was performed for all applicants. Furthermore, it was noted that prior employer contact was not limited solely to institutional employers. Upon review, all records were noted as in compliance with provision 115.17(c).

The agency does perform criminal background checks and does endeavor to contact all prior institutional employers of new employees. Based on the above, the facility has demonstrated compliance with provision 115.17(c).

#### **115.17(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.17(d) verbatim and uses the term “Department” in place of the term “Agency.” *Secretary’s Directive DPSCS.020.0026 Prison Rape Elimination Act Federal Standards Compliance*, section .05F(3)(c) states, “Before hiring a new employee to perform duties involving contact with an inmate, the Human Resources Services Division shall: (c) 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.” This policy serves as the authoritative document guiding pre-hire background checks and prior institutional employer contact practices.

Human resources staff reported that the centralized hiring unit performs all criminal background checks and efforts to contact all prior institutional employers of new employees. It was reported that investigators are assigned and attempt to contact all previous employers. A total of 8 (4 security and 4 contractor) agency hiring and promotional records were reviewed. Records indicate that a criminal background check was performed for all contractor applicants. Upon review it was noted that a criminal background check and efforts to contact all prior employers was performed for all applicants.

The agency does perform criminal background checks of contractors as required by policy. Based on the above, the facility has demonstrated substantial compliance with provision 115.17(d).

#### **115.17(e)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.17(e) verbatim and uses the term “Department” in place of the term “Agency.” *Secretary’s Directive DPSCS.020.0026 Prison Rape Elimination Act Federal Standards Compliance*, section .05I states, “For each subordinate employee and contractor service provider who may have contact with an inmate, an appointing authority, or a designee, shall conduct a criminal records background check, at minimum, every five years, or have in place a system for otherwise capturing such information for current employees and contractors.” This policy guides agency practice regarding criminal record background checks of current employees.

Human resources staff reported that criminal background checks are performed at least every five years. Additionally, pursuant to COMAR 12.15.01.19 regarding the state “Rap Back” program, arrest reports are monitored for employee contact with law enforcement, on a continuous basis. The “Rap Back” program is a continuous real time monitoring program. If an employee has any contact with a law enforcement

agency, the contact is immediately reported to the agency. Facility administrative staff indicate that background checks are also performed regularly at the facility level via a driver's license inquiry and tracked via an institutional spreadsheet.

A total of 29 agency background check records were examined. A review of the documentation indicates that criminal records background checks are being completed as required. The documentation confirms that these records are tracked via an institutional spreadsheet and the results are forwarded to command staff upon completion.

The agency requires criminal background records checks of current employees and contractors at least every five years. The facility demonstrated that criminal background records checks are being conducted and have a system in place for capturing criminal background records checks information. Based on the above, the facility has demonstrated compliance with provision 115.17(e).

#### **115.17(f)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.17(f) verbatim and uses the term "Department" in place of the term "Agency." *Secretary's Directive DPSCS.020.0026 Prison Rape Elimination Act Federal Standards Compliance*, section .05F(4)(a)-(b) states, "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) A written application or interview for employment or promotions; and (b) An interview or written self-evaluation conducted as a part of a review of a current employee." This policy guides agency practice regarding criminal record background checks of current employees. These questions are part of the *PREA DBM DPSCS JOBAPS Application form*, *PREA Interview Questions for Non-Mandated Positions*, *Mandated Positions*, *Promotional and Transfer Candidates form*, *Polygraph Questions for Mandated Positions*, and *Maryland Department of Public Safety and Correctional Services Personal Interview form – Correctional Applicant*.

The agency's "continuing affirmative duty to disclose any such misconduct" is noted in the *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*. The manual reiterates the language of provision 115.17(f) verbatim and uses the term "Department" in place of the term "Agency." Additionally, the *Department of Public Safety and Correctional Services Standards of Conduct & Internal Administrative Disciplinary Process* section B(10) states, "An employee may not violate any state, federal or local law. An employee arrested or criminally charged shall notify or cause to be notified, in writing, his/her appointing authority via the immediate supervisor on his/her next scheduled workday, but in no case later than five calendar days following the employee's arrest or criminal summons. Upon adjudication of the criminal case, the employee shall notify or cause to be notified, in writing, his/her appointing authority via the immediate supervisor of the Court's disposition. This shall be done on the employee's next scheduled workday, but in no case later than five (5) calendar days following such action." The *Maryland Department of Public Safety and Correctional Services Personal Interview – Correctional Applicant* form also indicates a requirement for applicants to disclose the types of behavior indicates in this provision.

Human resources staff indicate that hiring and promotion applications include the questions previously described in provision 115.17(a). This was confirmed via a review of application documents. Human resources staff also report that agency policy requires staff to report such conduct within 24 hours.

The agency does ask all applicants and employees who may have contact with inmates directly about previous misconduct described in provision 115.17(a) of this section in written applications or interviews

for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. Furthermore, the agency does impose a continuing affirmative duty to disclose any misconduct described in Standard 115.17. Based on the above, the facility has demonstrated substantial compliance with provision 115.17(f)

#### **115.17(g)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.17(g) verbatim and uses the term “Department” in place of the term “Agency.” *Secretary’s Directive DPSCS.020.0026 Prison Rape Elimination Act Federal Standards Compliance*, section .05F states, “A material omission regarding conduct described in this directive or providing materially false information shall be grounds for termination of employment.” Additionally, the *PREA DBM DPSCS JOBAPS Application Form* also contains the following language “I hereby affirm that this application contains no willful misrepresentation or falsifications and that this information given by me is true and complete to the best of my knowledge and belief. I am aware that should investigation at any time disclose any misrepresentation or falsification, I shall be subject to immediate termination and/or my application will be disapproved, my name removed from the eligible list, and that I will not be certified for employment in any position under the jurisdiction of the Department of Budget & Management. I am aware that a false statement is punishable under law by fine or imprisonment or both” advising applicants of this requirement.

The agency does consider material omissions regarding misconduct and/or materially false information regarding conduct described in 115.17 as grounds for termination. Based on the above, the facility has demonstrated compliance with provision 115.17(g).

#### **115.17(h)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.17(h) verbatim and uses the term “Department” in place of the term “Agency.” *Maryland’s Public Information Act (“PIA”), GP§ 4-311*, states, “personnel records of an individual are protected; however, such records are available to the person who is the subject of the record and to the officials who supervise that person. An agency may not generally share personnel records with other agencies; however, it is implicit in the personnel records exemption that another agency charged with responsibilities related to personnel administration may have access to those records to the extent necessary to carry out its duties.”

The documentation provided by the facility indicates that current practice does allow for the disclosure of 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. In fact, the documentation indicates it is being submitted specifically for the purpose of compliance with Standard 115.17. Furthermore, it was noted that these inquiries are processed by the agency’s human resources department rather than at the facility level.

The documentation clearly demonstrates that the agency and facility do disclose the information as required. Based on the above, the facility has demonstrated substantial compliance with provision 115.17(h)

#### **Recommendations:**

- None.

**Corrective Action:**

- None

## Standard 115.18: Upgrades to facilities and technologies

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

### 115.18 (a)

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

### 115.18 (b)

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

**Auditor Overall Compliance Determination**

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

**Instructions for Overall Compliance Determination Narrative**

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

**Documentation:**

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*

**Interviews:**

- Agency Head or Designee
- Administrative (Human Resources) Staff
- Warden's Designee

**Site Review:**

- Physical Plant
- Video Monitoring Equipment

**Findings:****115.18(a)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.18(a) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the Department shall consider the effect of the design, acquisition, expansion, or modification upon the Department’s ability to protect inmates from sexual abuse. The *Pre-Audit Questionnaire* did not indicate any substantial expansions or modifications to the physical plant following DRCF’s last PREA audit in 2016. At this time, no expansions or modifications to the existing physical plant are planned.

An interview with the agency head designee indicates that when designing, acquiring, or planning substantial modifications to facilities the agency considers PREA requirements relevant blind spots in building plans regarding camera placement. The agency also considers statistics (e.g. a prevalence of incidents), considers needs, past problem areas and evidence-based practices. The warden’s designee interview indicated DRCF has not undergone any significant expansions or modifications since the last PREA audit in 2016. The interview did not indicate any planned expansions or modifications to the existing physical plant in the near future.

The on-site tour did not reveal any substantial expansions or modifications to the facility’s physical plant during the past 12 months or since the last PREA audit. Based on the above, the facility has demonstrated substantial compliance with provision 115.18(a).

**115.18(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.18(b) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the Department shall consider how such technology may enhance the Department’s ability to protect inmates from sexual abuse.” The *Pre-Audit Questionnaire* did not indicate any new installation or update to the current video monitoring systems, electronic surveillance systems, or other monitoring technology.

An interview with the agency head designee indicates that when designing, acquiring, or planning substantial modifications to facilities the agency does consider PREA requirements. The agency

considers statistics (e.g. a prevalence of incidents), considers needs, past problem areas, blind spots and evidence-based practices. The warden's designee interview did not indicate any new installation or update to the current video monitoring systems, electronic surveillance systems, or other monitoring technology since the last PREA audit in 2016.

The on-site tour did not reveal any significant updates to video monitoring systems, electronic surveillance systems or other monitoring technology since the last PREA audit in 2016. Based on the above, the facility has demonstrated compliance with provision 115.18(b).

**Recommendations:**

- None.

**Corrective Action:**

- None

## RESPONSIVE PLANNING

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

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

#### 115.21 (a)

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

#### 115.21 (b)

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

#### 115.21 (c)

- Does the agency offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate? ☒ Yes ☐ No
- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible? ☒ Yes ☐ No
- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)? ☒ Yes ☐ No
- Has the agency documented its efforts to provide SAFEs or SANEs? ☒ Yes ☐ No

#### 115.21 (d)

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

#### 115.21 (e)

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

#### 115.21 (f)

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

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Executive Directive IIU.110.0011 Investigating Sex Related Offenses*
- *Internal Investigative Unit Procedures IIU.220.0002 Evidence and Personal Property Collection, Storage, and Disposition*
- *Code of Maryland (COMAR) 10.12.02.03 Rape and Sexual Offense – Physician and Hospital Charges*
- *Code of Maryland (COMAR) 10.12.02.04 Rape and Sexual Offense – Alleged Child Sexual Abuse Victim Care*
- *PREA Standard 115.21 – Evidence Protocol Memo*
- *Internet Search Mercy Medical Center Baltimore, Maryland*

### Interviews:

- Random Sample of Staff
- A Maryland Coalition Against Sexual Assault (MCASA) representative
- Medical Staff
- Random Sample Inmates

### Site Review:



- Advocacy Contact Information Signage

## Findings:

### 115.21(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.21(a) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department is responsible for investigating allegations of sexual abuse; the Department shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.” The Maryland Department of Public Safety and Correctional Services evidence collection protocol is contained within *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* and *Internal Investigative Unit Procedures IIU.220.0002 Evidence and Personal Property Collection, Storage, and Disposition* policies. Combined *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* and *Internal Investigative Unit Procedures IIU.220.0002 Evidence and Personal Property Collection, Storage, and Disposition* are the established policies and procedures for Department of Public Safety and Correctional Services investigators conducting an investigation of an allegation of misconduct that involves a sex related offense.

The investigative entity recently underwent a name change; therefore, the terms Internal Investigative Unit/Intelligence and Investigative Division (IIU/IID) are used interchangeably. During the audit it was noted that both policy and staff refer to the same entity using both names. Though the names are different the policy language and staff are referring to the same entity. IIU initially handles all allegations of sexual abuse and sexual harassment. IIU has jurisdiction over both administrative and criminal investigations. In Evidence collection protocol outlined in *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* requires staff to protect the scene to preserve evidence and items that may be used as evidence, and the victim is advised against actions that would destroy evidence that may be present on the victim’s body or clothing. *Internal Investigative Unit Procedures IIU.220.0002 Evidence and Personal Property Collection, Storage, and Disposition* establishes procedures for collection, storage, and disposition of evidence and other property seized or otherwise under the control of the Maryland Department of Public Safety and Correctional Services internal investigative unit. Policy covers handling evidence in a manner that preserves evidentiary value, prevents damage, and prevents deterioration. Hazardous materials are handled in accordance with Maryland Occupational Safety and Health Administration; Occupational Safety and Health Administration; National Center for Disease Control and Prevention; and The State Fire Marshall. Evidence is documented and catalogued to preserve chain of custody and ensure the evidence is turned over to the custodial investigator.

*Internal Investigative Unit Procedures IIU.220.0002 Evidence and Personal Property Collection, Storage, and Disposition* states, “When the possibility for recovery of physical evidence from the victim exists or otherwise is medically appropriate the victim will undergo a forensic medical examination that is performed by a Sexual Assault Forensics Examiner (SAFE), Sexual Assault Nurse Examiner (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.” Additionally, *COMAR 10.12.02.03 Rape and Sexual Offense – Physician and Hospital Charges* section B(3) states, “When performing a sexual assault forensic examination, a physician or a forensic nurse examiner shall use the Maryland State Police victim sexual assault evidence collection kit or a comparable evidence collection kit and shall follow the kit instructions including: (a) Packaging the victim’s clothing in paper bags; and (b) Collecting the following specimens: (i) Blood sample (lavender cap); (ii) Vaginal swabs (a minimum of four); (iii) Oral swabs (a minimum of two); (iv) Pubic hair combings; (v)

Pulled pubic hair; (vi) Pulled head hair; and (vii) If indicated, anal swabs, bite mark swabs, and fingernail scrapings.”

The bulk of investigative and evidence collection duties are performed by IIU investigators and forensic medical examiners. However, 100% of staff reported being knowledgeable in the agency’s protocol for obtaining physical evidence. Additionally, random staff were able to articulate that the scene would be secured to preserve physical evidence and the victim would be escorted to health care for further evidence collection to include a forensic examination at a local medical facility. Additionally, random staff were able to indicate that evidence collection may include the collection of clothing and other procedures performed at a local medical facility. The interviews indicated that staff did know about evidence collection protocols, their responsibilities regarding scene preservation, and ensuring the victim is referred to medical professionals for further evidence collection.

The agency does have a uniform protocol for the collection and preservation of evidence. Additionally, staff were able to articulate their role and responsibility regarding evidence collection and preservation processes. Based on the above, the facility has demonstrated substantial compliance with provision 115.21(a).

#### **115.21(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.21(b) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The protocol shall be developmentally appropriate for youth where applicable, and, as appropriate, shall be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice’s Office on Violence Against Women publication, “*A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents*, or similarly comprehensive and authoritative protocols developed after 2011.”

Internal Investigative Unit (IIU) initially handles all allegations of sexual abuse and sexual harassment. IIU has jurisdiction over both administrative and criminal investigations. In Evidence collection protocol outlined in *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* requires staff to protect the scene to preserve evidence and items that may be used as evidence, and the victim is advised against actions that would destroy evidence that may be present on the victim’s body or clothing. *Internal Investigative Unit Procedures IIU.220.0002 Evidence and Personal Property Collection, Storage, and Disposition* establishes procedures for collection, storage, and disposition of evidence and other property seized or otherwise under the control of the Maryland Department of Public Safety and Correctional Services internal investigative unit. Policy covers handling evidence in a manner that preserves evidentiary value, prevents damage, and prevents deterioration. Hazardous materials are handled in accordance with Maryland Occupational Safety and Health Administration; Occupational Safety and Health Administration; National Center for Disease Control and Prevention; and The State Fire Marshall. Evidence is documented and catalogued to preserve chain of custody and ensure the item is turned over the custodial investigator.

*Internal Investigative Unit Procedures IIU.220.0002 Evidence and Personal Property Collection, Storage, and Disposition* states, “When the possibility for recovery of physical evidence from the victim exists or otherwise is medically appropriate the victim will undergo a forensic medical examination that is performed by a Sexual Assault Forensics Examiner (SAFE), Sexual Assault Nurse Examiner (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.” *COMAR 10.12.02.04 Rape and Sexual Offense – Alleged Child Sexual Abuse Victim Care*

addresses protocol necessary to conduct a thorough pediatric examination. COMAR defines a child as any individual younger than 18 years old. The evidence collection protocol is similar to that of an adult; however, there is an emphasis on minimizing additional physical or emotional trauma to the child during the conduct of an evidence collection exam.

Though the agency does not conduct forensic examinations; the agency does have a uniform protocol for the collection and preservation of evidence that appears to be developmentally appropriate for youth. Based on the above, the facility has demonstrated substantial compliance with provision 115.21(b).

#### **115.21(c)**

Neither the agency nor facility conduct forensic examinations. The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.21(c) verbatim and uses the term “Department” in place of the term “Agency.” *Internal Investigative Unit Procedures IIU.220.0002 Evidence and Personal Property Collection, Storage, and Disposition* states, “When the possibility for recovery of physical evidence from the victim exists or otherwise is medically appropriate the victim will undergo a forensic medical examination that is performed by a Sexual Assault Forensics Examiner (SAFE), Sexual Assault Nurse Examiner (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.” *Executive Directive IIU.110.0011 Investigating Sex Related Offenses*; *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*; and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* require, if medically appropriate or necessary to preserve evidence, the facility to offer the victim access to a medical forensics examination at no cost to the victim that is performed by s Sexual Assault Forensics Examiner (SAFE), Sexual Assault Nurse Examiner (SANE), or a medical professional who has been specifically trained to conduct medical forensics examinations.

Per the PAQ, no forensic examinations were conducted during the current audit period and all forensic examinations are performed off-site at a local medical facility. If a forensic exam were medically appropriate or necessary to preserve evidence, the victim would be transported to Mercy Medical Center (MMC) in Baltimore, Maryland. An internet search revealed that MMC has a dedicated treatment center for sexual assault and domestic violence victims. Mercy Medical Center has 30 specially trained Forensic Nurse Examiners available 24 hours a day seven days a week. The auditor also spoke with Mercy Medical Center forensic department staff via telephone. Per MMC staff, Mercy Medical Center is contracted to service the Jessup and Baltimore area and that SAFE/SANE trained staff are available 24 hours a day 7 days a week. Furthermore, Mercy Medical Center always has an advocate available and works with Turnaround Center for advocacy services.

An interview with facility medical staff verified that facility medical staff do not conduct forensic examinations. Additionally, inmate victims of sexual abuse initially come to health care and are subsequently referred to the local hospital. A Maryland Coalition Against Sexual Assault (MCASA) representative was present during the on-site audit. The MCASA representative indicated that, if contacted, local hospitals would be utilized for SAFE/SANE services.

Facility staff do not conduct forensic exams. Facility medical staff reported that inmate victims of sexual abuse would be sent to the local hospital for these services. Therefore, the facility does have access to these services through Mercy Medical Center. Based on the above, the facility has external services available, and a process that allows inmate victims of sexual abuse to access these services. Therefore, DRCF has demonstrated substantial compliance with provision 115.21(c).

#### **115.21(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.21(d) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .05D(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” Both *OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* indicate that as requested by the victim and the services are reasonably available, have one of the following accompany, for the purpose of support, 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; or a non-department community-based organization representative who meets the criteria for a department employee established under §.05G(3)(b)(ii) of this directive.

DPSCS has an agreement with the Maryland Coalition Against Sexual Assault (MCASA) to provide advocacy services statewide. MCASA is the federally recognized state sexual assault coalition. Its core members are the state’s 17 rape crisis and recovery centers. 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.

An MCASA representative was present for the DRCF audit. This representative indicated that MCASA does have a relationship with the agency. MCASA provides legal advocacy, legislative advocacy, general advocacy, and emotional support services through the organizations network of providers. Specific services include accompaniment during forensic medical exams, investigatory interviews, and court proceedings. Services also include emotional support, and crisis intervention. Services are generally available via telephone, mail, or in-person. An interview with the facility compliance manager Silk corroborated the information provided by the MCASA representative.

No inmates who reported sexual abuse, in the past 12 months, were still located at the facility. Thus, this interview protocol was not utilized. Inmate interviews indicated that services were available. Some inmates were able to specifically identify that advocacy, crisis intervention, and other services were available. Telephone was noted as the primary means of contacting these services. This would coincide with the advocacy and emotional support information that was posted throughout the institution.

Based on the above, the facility has demonstrated substantial compliance with provision 115.21(d).

#### **115.21(e)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.21(e) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .05D(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” Both *OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* states, “(b) If requested by the victim and the services are reasonably available, have one of the following accompany, for the purpose of support, the victim through the forensic examination and investigation interviews: (i) A

qualified victim advocate; (ii) 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; or (iii) A non-Department community-based organization representative who meets the criteria for a Department employee established under §.05G(3)(b)(ii) of this directive.” Collectively, these documents guide facility practice regarding evidence protocol and forensic medical examinations.

DPSCS has an agreement with the Maryland Coalition Against Sexual Assault (MCASA) to provide advocacy services statewide. MCASA is the federally recognized state sexual assault coalition. Its core members are the state’s 17 rape crisis and recovery centers. 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.

An MCASA representative was present at the DRCF audit. An interview with the representative noted that MCASA does have a relationship with the agency. The representative indicated that legal advocacy, legislative advocacy, general advocacy, and emotional support services are provided through her agency’s network of providers. Specific services include accompaniment during forensic medical exams, investigatory interviews, and court proceedings. Services also include emotional support, and crisis intervention. Services are generally available via telephone, mail, or in-person. An interview with the facility PREA compliance manager verified the information provided by the MCASA representative.

There were no inmates who reported sexual abuse, in the past 12 months, still housed at the facility. Thus, the interview protocol for inmates who reported sexual abuse was not utilized. Though not required, most random inmates were asked about services available outside of the institution. During inmate interviews, many inmates indicated that services were available. In fact, some inmates were able to specifically identify that advocacy, crisis intervention, and emotional support services were available. Inmates reported that telephone was noted as the primary means of contacting these services.

Based on the above, the facility has demonstrated substantial compliance with provision 115.21(e).

#### **115.21(f)**

This Maryland Department of Public Safety and Correctional Services (DPSCS) has an investigative division staffed with sworn police officers who conduct all of the agency’s administrative and criminal investigations. Therefore, this subsection is not applicable insofar as the agency itself is responsible for investigating allegations of sexual abuse.

Based on the above, the facility has demonstrated substantial compliance with provision 115.21(f).

#### **115.21(g)**

The auditor is not required to audit this provision.

#### **115.21(h)**

This subsection is not applicable to Maryland Department of Public Safety and Correctional Services (DPSCS) insofar as advocacy services are provided through the Maryland Coalition Against Sexual Assault (MCASA).

### **Recommendations:**

- None.

**Corrective Action:**

- None

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

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

### 115.22 (a)

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

### 115.22 (b)

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

### 115.22 (c)

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

### 115.22 (d)

- Auditor is not required to audit this provision.

### 115.22 (e)

- Auditor is not required to audit this provision.

## Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive IIU.110.0011 Investigating Sex Related Offenses*
- *Executive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Facility Directive DRCF.050.0030.2 Sexual Misconduct - Prohibited*
- *Investigation Records*

### Interviews:

- Interview of Agency Head
- Investigative Staff

### Site Review:

- None

### Findings:

#### 115.22(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.22(a) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .03 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." Both *OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* 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." *Facility Directive*

*DRCF.050.0030.2* section .05C(3)(c) requires the DRCF PREA compliance manager to maintain files of all sexual misconduct incidents that occur at the facility or that are reported while an inmate is housed at the facility.

The agency head designee reported that every allegation of sexual abuse or sexual harassment goes through IID. Likewise, all investigations criminal or administrative are tracked through IID. Investigation records were provided. During the audit period, IID received 13 allegations of sexual abuse and sexual harassment. Investigations were noted as having been received through various means including the alleged victim, security staff, and the agency PREA hotline.

Based on the above, the facility has demonstrated substantial compliance with provision 115.22(a).

#### **115.22(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.22(b) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .03 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.” Both *OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* 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.”

An investigator, in regard to investigations of allegations of sexual abuse and sexual harassment within the DPSCS, is defined as a Department employee permanently assigned to, or assigned to assist, the Internal Investigative Unit (IIU) 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 IIU. Subsection (b) of the code states in part, an investigation of the IIU 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. Additionally, the agency employs investigators who are sworn police officers who are authorized under Maryland law to conduct both administrative and criminal investigations. The DPSCS website was reviewed and the policy was posted on the agency website.

Interviews with investigative staff indicate that all allegations of sexual abuse and sexual harassment are first referred to IIU for investigation. An interview with the agency head designee noted that every allegation of sexual abuse or sexual harassment goes through IIU.

The agency does have a policy in place to ensure all allegations of sexual abuse or sexual harassment are investigated. Based on the above, the facility has demonstrated substantial compliance with provision 115.22(b).

#### **115.22(c)**

The Maryland DPSCS IIU is responsible for investigations of sexual abuse and sexual harassment. Based on the above, the facility has demonstrated substantial compliance with provision 115.22(c).

#### **115.22(d)**



The auditor is not required to audit this provision.

**115.22(e)**

The auditor is not required to audit this provision.

**Recommendations:**

- None.

**Corrective Action:**

- None

## TRAINING AND EDUCATION

### Standard 115.31: Employee training

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

**115.31 (a)**

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on inmates' right to be free from sexual abuse and sexual harassment ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on the dynamics of sexual abuse and sexual harassment in confinement? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on the common reactions of sexual abuse and sexual harassment victims? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to detect and respond to signs of threatened and actual sexual abuse? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to avoid inappropriate relationships with inmates? ☒ Yes ☐ No

- Does the agency train all employees who may have contact with inmates on how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities? ☒ Yes ☐ No

#### 115.31 (b)

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

#### 115.31 (c)

- Have all current employees who may have contact with inmates received such training? ☒ Yes ☐ No
- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures? ☒ Yes ☐ No
- In years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies? ☒ Yes ☐ No

#### 115.31 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

**Documentation:**

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Facility Directive DRCF.050.0030.2 Sexual Misconduct - Prohibited*
- *COMAR 12.10.01.16 Correctional Training Commission requires annual training.*
- *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Correctional In-Service Training Program)*
- *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Correctional Entrance Level Training Program)*
- *The Department of Public Safety and Correctional Services Maryland Police and Correctional Training Commission Lesson Plan – Managing the Female Offender*
- *Training Records*

**Interviews:**

- Random Staff
- Training Staff

**Site Review:**

- None

**Findings:****115.31(a)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.31(a) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .05C states, “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: (1) Each employee attends approved training related to preventing, detecting, and responding to acts of sexual misconduct;” regarding staff training. Additionally, *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05C states, “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: (1) An employee attends approved training related to preventing, detecting, and responding to acts of inmate on inmate sexual conduct;” regarding staff training. *Facility Directive DRCF.050.0030.2 Sexual Misconduct - Prohibited* section .05A(1)-(2) requires every employee, contractor, and volunteer that has contact with inmates to be familiar with DPSCS policy and DRCF policy and procedures prohibiting sexual misconduct and follow procedures for handling allegations. Additionally, *COMAR 12.10.01.16 Correctional Training Commission* requires completion of annual training by December 31 of each calendar year. PREA training is part of the annual training curriculum.

The *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Correctional In-Service Training Program)* is utilized to conduct in-service training for all current

employees. The *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Correctional Entrance Level Training Program)* is utilized to conduct new employee training. Both lesson plans are very similar in content. It was noted that new employee training is more deliberate regarding how content is delivered. Given that new employees typically do not possess the knowledge that more seasoned employees possess this is to be expected. Training is two hours, lecture based with a slide presentation, and followed by a test. Staff must score 75% or better in order to complete the training.

The lesson plan covers the agency zero-tolerance policy for sexual abuse and sexual harassment. The lesson plan also covers inmates' right to be free from sexual abuse and sexual harassment and the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment. Employees are provided instruction regarding their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures. The presentation covers characteristics of at-risk populations, characteristics associated with predatory inmates, and the dynamics of sexual abuse and sexual harassment associated with inmate populations. The warning signs of victimization are also covered in the presentation. Also covered are prevention strategies, reporting and documentation responsibilities, and response duties including evidence collection. Training also covers how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates. Topics include defining the terms transgender and intersex, so staff have a clear understanding of these populations; how to conduct pat-down searches of transgender and intersex inmates, in a professional and respectful manner; and discusses that no Inmate will be frisked or stripped searched by any staff member for the sole purpose of determining the inmate's sex. Training also covers how to avoid inappropriate relationships with inmates and informs staff that romantic relationships between an inmate and a staff, volunteer, or contractor cannot be consensual. Employees are advised that termination is the presumptive disciplinary sanction and wherever possible violators will be prosecuted to the fullest extent of the law.

A review of staff training records was performed to confirm staff completed training in accordance with provision 115.31(a). Training records were obtained, reviewed, and retained for audit purposes. Training is tracked via spreadsheet by the training division. A total of 25 training records were selected by the auditor for review. 92% of the records reviewed indicated that staff had completed PREA training. Employee signatures acknowledging the completion of training verified the information reported above.

Random staff interviews indicated that in-service training is provided annually and that PREA is part of this training. 100% of random staff interviewed reported that in-service training contains all the information required by provision 115.31(a). Training staff indicate that all staff are required to complete training annually and the training department tracks staff progress via spreadsheet to ensure completion of training. Furthermore, anyone who did not complete training may have been unable to attend for various reasons (i.e. injury, illness, scheduling conflict) and would be required to make up any missed training by the required deadline.

Based on the above, the facility has demonstrated compliance with provision 115.31(a).

#### **115.31(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.31(b) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "Such training shall be tailored to the gender of the inmates at the

employee's facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa."

The *Department of Public Safety and Correctional Services Maryland Police and Correctional Training Commission Lesson Plan – Managing the Female Offender* is the approved lesson plan for staff working at a facility that houses female inmates. Training is one and a half hours long, lecture based with a slide presentation, and followed by a test. Staff must score 75% or better in order to complete the training. Interviews with training staff indicate that facility staff receive training tailored towards the male inmate population annually.

Training is tailored to the gender of the inmates at DRCF. DRCF houses male inmates; therefore, training geared towards male inmates is appropriate for this facility. Based on the above, Therefore, the facility has demonstrated substantial compliance with provision 115.31(b)

### **115.31(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.31(c) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "All current employees who have not received such training shall be trained within one year of the effective date of the PREA standards, and the Department shall provide each employee with refresher training every two years to ensure that all employees know the Department's current sexual abuse and sexual harassment policies and procedures. In years in which an employee does not receive refresher training, the Department shall provide refresher information on current sexual abuse and sexual harassment policies." Again, *COMAR 12.10.01.16 Correctional Training Commission* requires completion of annual training by December 31 of each calendar year. PREA training is part of the annual training curriculum.

A review of annual staff training records was performed to confirm staff completed training in accordance with provision 115.31(c). Training records were obtained, reviewed, and retained for audit purposes. A total of 25 training records were selected by the auditor for review. 92% of the records reviewed indicated that staff had completed PREA training in accordance with *COMAR 12.10.01.16 Correctional Training Commission* requirements. Employee signatures acknowledging the completion of training verified the information reported above.

Random staff interviews indicated that in-service training is provided annually and that PREA is part of this training requirement. Again, training staff reported that all staff are required to complete training annually and the training department tracks staff progress to ensure completion of training. Furthermore, anyone who did not complete training may have been unable to attend for various reasons (i.e. injury, illness, scheduling conflict) and would be required to make up any missed training by the required deadline.

All staff are required to attend annual in-service training. Staff training records and information gleaned from interviews indicates that training is provided. Based on the above, the facility has demonstrated compliance with provision 115.31(c).

### **115.31(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.31(d) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "The Department shall document, through employee signature or

electronic verification that employees understand the training they have received.” *COMAR 12.10.01.16 Correctional Training Commission* section F(3) states, “An agency head or training director sending a mandated employee to another academy for Commission-approved mandated employee training shall maintain records of in-service training and firearms training and qualification provided by the academy conducting the training until audited by the Commission.

Training records were obtained, reviewed, and retained for audit purposes. A review of annual staff training records was performed. Staff signatures confirm that training records are indeed accompanied by signatures indicating completion of training. Based on the above, the facility has demonstrated compliance with provision 115.31(d).

**Recommendations:**

- None.

**Corrective Action:**

- None

**Standard 115.32: Volunteer and contractor training**

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

**115.32 (a)**

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

**115.32 (b)**

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

**115.32 (c)**

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

**Auditor Overall Compliance Determination**

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

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Facility Directive DRCF.050.0030.2 Sexual Misconduct - Prohibited*
- *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Non-Academy Pre-service Orientation)*
- *Volunteer Program Administrative Manual*
- *Prison Rape Elimination Act Information Booklet for Volunteers and Contractual Workers*
- *Sexual Assault Prevention and Reporting Staff Information Brochure*
- *Contractor and Volunteer Training Records*

### Interviews:

- Contractor and volunteer interviews

### Site Review:

- None

### Findings:

#### 115.32(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.32(a) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .04B(6) defines "employee" as an individual assigned to or employed by the department in a full-time, part-time, temporary, or contractual position. Section .05C(1) states, "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: Each employee attends approved training related to preventing, detecting, and responding to acts of sexual misconduct;" with regard to contractor training. *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* section .05A(a) states, "Every employee, Contractor, and Volunteer of DRCF that has contact with an inmates(s) under the authority of the facility is familiar with DPSCS policy and DRCF policy and procedures prohibiting sexual misconduct and follows the procedures for handling all allegations." The *Volunteer Program Administrative Manual* guides volunteer training. According to the manual volunteer shall complete approved orientation prior to beginning an assignment and volunteer orientation shall be a minimum of 2 hours. PREA is included amongst the training topics required before

a volunteer begins an assignment. These policies and procedures serve as the authoritative documents that guide volunteer and contractor training requirements.

Training curriculum was obtained, reviewed, and retained for audit purposes. Training is two and a half hours, lecture based with a slide presentation, and followed by a test. Staff must score 75% or better in order to complete the training. *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Non-Academy Pre-service Orientation)* this lesson plan covers the agency zero-tolerance policy for sexual abuse and sexual harassment. The lesson plan specifically speaks contractors and volunteers however the agency indicates that the lesson plan is for contractors. Topics covered include inmates' right to be free from sexual abuse and sexual harassment and the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment. Instruction regarding contractor and volunteer responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures. The presentation covers characteristics of at-risk populations, characteristics associated with predatory inmates, and the dynamics of sexual abuse and sexual harassment associated with inmate populations. The warning signs of victimization are also covered in the presentation.

Additionally, prevention strategies, reporting and documentation responsibilities, and response duties including evidence collection are also covered. Training also covers how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates. Topics include defining transgender and intersex, so staff have a clear of these populations. Training also covers how to avoid inappropriate relationships with inmates and informs staff that romantic relationships between an inmate and a staff, volunteer, or contractor cannot be consensual. Employees are advised that termination is the presumptive disciplinary sanction and wherever possible will be prosecuted to the fullest extent of the law.

The *Sexual Assault Prevention and Reporting Staff Information Brochure* is also provided to contractors. This brochure covers the agency's zero tolerance policy, methods of reporting, consequences for participating in prohibited activities, and basic actions to take (i.e. separate victim and aggressor) during an incident.

Volunteers and contractors are provided with the *Prison Rape Elimination Act Information Booklet for Volunteers and Contractual Workers* which is a 5-page guide that covers the agency's zero tolerance policy and outlines volunteer and contractor responsibilities as they relate to the PREA. This includes a duty to report and how to report allegations of sexual abuse and sexual harassment. The document also covers characteristics of at-risk populations, and characteristics associated with predatory inmates, and the warning signs associated with victimization.

The only contract staff available during the on-site audit were medical staff contracted through Corizon. Contractor interviews indicated that training is provided annually. Staff indicated that training covers the agency's zero tolerance policy and agency reporting requirements. Medical contract staff were also able to articulate that they receive additional training relevant to their duties as health care workers. Again, no volunteers were present on either day of the audit. Therefore, no volunteers were interviewed during the audit.

Contractor and volunteer training records were insufficient to determine compliance. Training curriculum was provided; however, verification of participation in these training sessions was not provided. Contractor and volunteer training records will be requested. Based on the above, the facility has not demonstrated compliance with provision 115.32(a).



### 115.32(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.32(b) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .04B(6) defines “employee” as an individual assigned to or employed by the department in a full-time, part-time, temporary, or contractual position. Section .05C(1) states, “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: Each employee attends approved training related to preventing, detecting, and responding to acts of sexual misconduct;” with regard to contractor training. *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* section .05A(a) states, “Every employee, Contractor, and Volunteer of DRCF that has contact with an inmates(s) under the authority of the facility is familiar with DPSCS policy and DRCF policy and procedures prohibiting sexual misconduct and follows the procedures for handling all allegations.” The *Volunteer Program Administrative Manual* guides volunteer training. According to the manual volunteer shall complete approved orientation prior to beginning an assignment and volunteer orientation shall be a minimum of 2 hours. PREA is included amongst the training topics required before a volunteer begins an assignment. These policies and procedures serve as the authoritative documents that guide volunteer and contractor training requirements.

The *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Non-Academy Pre-service Orientation)* covers the agency zero-tolerance policy for sexual abuse and sexual harassment and a myriad of other topics related to the PREA. The *Sexual Assault Prevention and Reporting Staff Information Brochure* is also provided to contractors. This brochure also covers the agency’s zero tolerance policy, methods of reporting, consequences for participating in prohibited activities, and basic actions to take (i.e. separate victim and aggressor) during an incident. Additionally, Volunteers and contractors are provided with the *Prison Rape Elimination Act Information Booklet for Volunteers and Contractual workers* is a 5-page guide that covers the agency’s zero tolerance policy and outlines volunteer and contractor responsibilities as they relate to the PREA.

Contractor interviews indicated that training is provided annually, covers the agency’s zero tolerance policy and agency reporting requirements. Again, no volunteers were present on either day of the audit. Therefore, no volunteers were interviewed during the audit.

Contractor and volunteer training records were insufficient to determine compliance. The training curriculum was provided; however, verification of participation in these training sessions was not provided. Contractor and volunteer training records will be requested. Based on the above, the facility has not demonstrated compliance with provision 115.32(b).

### 115.32(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.32(c) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department shall maintain documentation confirming that volunteers and contractors understand the training they have received.” The *Volunteer Program Administrative Manual* section .10B-C states, “The volunteer shall acknowledge participation and completion of assignment specific training on a form or in a format approved by the Director. A volunteer’s written acknowledgement under §.10B of this *Manual* shall be maintained in the volunteer’s record of service file.” These documents serve as the agency’s authoritative guidance regarding documentation requirements relevant to provision 115.32(c).

Contractor and volunteer training records were insufficient to determine compliance. Training curriculum was provided; however, verification of participation in these training sessions was not provided. Contractor and volunteer training records will be requested. Based on the above, the facility has not demonstrated compliance with provision 115.32(c).

**Recommendations:**

- None.

**Corrective Action:**

- 115.32: Provision 115.32(c) explicitly states, "The agency shall maintain documentation confirming that volunteers and contractors understand the training they have received." Contractor and volunteer training records were insufficient to determine compliance. The agency/facility shall provide training records for volunteers and contractors who have contact with inmates.

**Corrective Action Verification:**

- 115.32: The facility did provide volunteer and contractor training documentation. A review of the documentation noted that volunteers and contractors did complete training in accordance with the standards. A total of 46 volunteer training records were reviewed. Upon completion of training volunteers sign the *Acknowledgment form – Prison Rape Elimination Act (PREA)* confirmation form indicating they have received and understand the training. Contractor training was verified via signed training certificates. A total of 13 contractor training records were reviewed. Based on the contract staff roster, this represents 100% of all contract staff at the facility. Based on the above, training records for volunteers and contractors demonstrates substantial compliance with standard 115.32.

## **Standard 115.33: Inmate education**

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

**115.33 (a)**

- During intake, do inmates receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment? ☒ Yes ☐ No
- During intake, do inmates receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment? ☒ Yes ☐ No

**115.33 (b)**

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

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Agency policies and procedures for responding to such incidents? ☒ Yes ☐ No

#### 115.33 (c)

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

#### 115.33 (d)

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

#### 115.33 (e)

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

#### 115.33 (f)

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

#### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Facility Directive DRCF.050.0030.2 Sexual Misconduct - Prohibited*
- *Prison Rape Elimination Act Sexual Assault Awareness Brochure*
- *Dorsey Run Correctional Facility Inmate Orientation Handbook 2018*
- *Maryland Coalition Against Sexual Abuse (MCASA) Brochure*
- *Prison Rape Elimination Act (PREA) Orientation Acknowledgement*
- *Agency PREA Video*

### Interviews:

- Intake Staff
- Random Sample of Inmates

### Site Review:

- Traffic Office Intake
- Inmate Orientation

### Findings:

#### 115.33(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.33(a) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited and Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* state, "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: 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; By inclusion in the facility's inmate orientation paperwork; and If applicable, the facility's inmate handbook;" are the agency policy requiring inmate education. *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* section .05(4) states, "All inmates shall receive comprehensive PREA education as well as institutional-specific

PREA training within seven days of arrival at DRCF. All inmates shall sign a form indicating that have participated in the training. These signed forms shall be maintained in the inmates' base file." Collectively these polices guide agency/facility practice regarding inmate education.

During intake, inmates are escorted to the traffic office located in the administrative building. Inmates are processed through the traffic office intake individually. Direct observation found this to be an ideal area for conducting intake as this area provides adequate privacy and likely the most effective means of ensuring the information conveyed is free of external distractions. It was noted that intake generally takes place on the day of arrival. During intake the inmates are provided a copy of the *Prison Rape Elimination Act Sexual Assault Awareness Brochure*. This brochure provides information on the agency's zero tolerance policy for sexual abuse or sexual harassment and provides information on how to report sexual abuse and sexual harassment. Methods of reporting identified in the brochure include verbal reports to anyone, the PREA Hotline via telephone, or in writing via the administrative remedy process. Also included is information on how to contact MCASA for advocacy services.

During interviews with intake staff indicated that inmates receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment. Additionally, inmates also receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment. Intake staff indicate this information is provided in the *Prison Rape Elimination Act Sexual Assault Awareness Brochure* (also provided in Spanish) provided to the inmate during this intake process. Random inmate interviews revealed that 88% indicated that information about the facility's rules against sexual abuse and sexual harassment was received upon arrival.

Twelve random files were selected for the purpose of evaluating intake records. Intake records are signed by the inmate and kept in the inmate file. A review of inmate file documentation indicated that 92% received this information at intake on the day of arrival.

Overall the facility has demonstrated that a process is in place to provide inmates with the information required by provision 115.33(a). The institutional process was found to be adequate with regard to providing the necessary information at intake. Based on the above, the facility has demonstrated substantial compliance with provision 115.33(a).

#### **115.33(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.33(b) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited and Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* state, "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: 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; By inclusion in the facility's inmate orientation paperwork; and If applicable, the facility's inmate handbook;" are the agency policy requiring inmate education. *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited section .05(4)* states, "All inmates shall receive comprehensive PREA education as well as institutional-specific PREA training within seven days of arrival at DRCF. All inmates shall sign a form indicating that have participated in the training. These signed forms shall be maintained in the inmates' base file." Collectively these polices guide agency/facility practice regarding inmate education.

Comprehensive orientation is conducted in a group setting at the facility library. The comprehensive orientation process was directly observed during the on-site audit. During orientation inmates receive a copy of the *Dorsey Run Correctional Facility Inmate Orientation Handbook* and the *Maryland Coalition Against Sexual Abuse (MCASA) Brochure*. These documents provide information regarding the agency's zero tolerance policy, advocacy, and emotional support services. The *Prison Rape Elimination Act (PREA) Orientation Acknowledgement* informs inmates about their right to be free from sexual misconduct (i.e. sexual abuse and sexual harassment) and retaliation for reporting such incidents. Comprehensive orientation also includes a video that provides information regarding inmate rights to be free from sexual abuse, sexual harassment, and retaliation for reporting such incidents. The Video also includes information regarding agency policies and procedures for responding to such incidents. Comprehensive orientation is conducted by facility staff and ends with question and answer session. Inmates sign the *Prison Rape Elimination Act (PREA) Orientation Acknowledgement* indicating that they understand the information provided.

Intake staff indicate that orientation is usually conducted the week of arrival. Inmates are provided the comprehensive orientation information mentioned above and sign a form indicating they have participated in orientation. 91% of inmates reported having received comprehensive orientation within 30 days of arrival. Though many inmates reported receiving comprehensive orientation within days of arrival.

Twelve random files were selected for the purpose of evaluating orientation records. Comprehensive orientation records are signed by the inmate and kept in the inmate file. A review of inmate file documentation indicates that 92% received comprehensive orientation within 30 days of arrival. Based on the above, the facility has demonstrated substantial compliance with provision 115.33(b).

#### **115.33(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.33(c) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited and Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* state, “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: 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; By inclusion in the facility's inmate orientation paperwork; and If applicable, the facility's inmate handbook;” are the agency policy requiring inmate education. *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited section .05(4)* states, “All inmates shall receive comprehensive PREA education as well as institutional-specific PREA training within seven days of arrival at DRCF. All inmates shall sign a form indicating that have participated in the training. These signed forms shall be maintained in the inmates' base file.” Collectively these policies guide agency/facility practice regarding inmate education.

Based on direct observation, a review of file documentation, and interviews with inmates and staff all inmates including those who transfer from another facility receive the benefit of the same educational information. Agency education information is standardized and does not change from one facility to the next. Regardless of how the inmate arrived at the facility the education process for all incoming inmates at DRCF is the same. All inmates go through the very same intake and comprehensive orientation process as any other inmate. Any difference would be dependent upon the specific needs of the inmate (i.e. interpreter services).

Based on the above, the facility has demonstrated substantial compliance with 115.33(c).

### 115.33(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.33(d) stating, “The Department shall provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .05C(5) states, “Procedures are in place that eliminate barriers that would prevent or inhibit an individual from reporting alleged sexual misconduct to any one or all of the parties listed under §.05E(4) of this directive;” regarding inmate education. These policies govern facility practice.

Upon arrival inmates are processed through the traffic Office. This process includes providing inmates with the *Prison Rape Elimination Act and Sexual Assault Awareness* brochure. This brochure covers the zero-tolerance policy, reporting information and is available in both English and Spanish. Every inmate is provided this brochure in hard copy.

Comprehensive orientation is conducted in a group setting at the facility library. Comprehensive orientation is conducted by facility staff and ends with a question and answer session. The comprehensive orientation process was directly observed during the on-site audit. During orientation inmates receive a copy of the *Dorsey Run Correctional Facility Inmate Orientation Handbook* and the *Maryland Coalition Against Sexual Abuse (MCASA) Brochure*. These documents provide information regarding the agency’s zero tolerance policy, advocacy, and emotional support services. The *Maryland Coalition Against Sexual Abuse (MCASA) Brochure* is available in both English and Spanish. The *Prison Rape Elimination Act (PREA) Orientation Acknowledgement* is also available in Spanish and informs inmates about their right to be free from sexual misconduct (i.e. sexual abuse and sexual harassment) and retaliation for reporting such incidents. Comprehensive orientation also includes a video presentation that provides information regarding inmate rights to be free from sexual abuse, sexual harassment, and retaliation for reporting such incidents. This presentation also includes information regarding agency policies and procedures for responding to such incidents. The video presentation has audio and is available in Spanish. Inmates sign the *Prison Rape Elimination Act (PREA) Orientation Acknowledgement* indicating that they understand the information provided. This form is also provided in Spanish. Additionally, in-person translation services are available through Ad Astra. A copy of the contract was provided as part of the audit documentation. If necessary, telephone interpretation services are available through Language Line Solutions.

Based on the above, the facility has demonstrated compliance with provision 115.33(d).

### 115.33(e)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.33(e) states, “The Department shall maintain documentation of inmate participation in these education sessions.” *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* section .05(4) states, “All inmates shall receive comprehensive PREA education as well as institutional-specific PREA training within seven days of arrival at DRCF. All inmates shall sign a form indicating that have participated in the training. These signed forms shall be maintained in the inmates’ base file.” These policies guide agency/facility practice.

Twelve random files were selected for the purpose of evaluating intake records and comprehensive orientation records. Inmates sign two separate forms one acknowledging receipt of the intake information and another form acknowledging participation in comprehensive orientation. A review of inmate file

documentation indicates that 92% of inmates signed acknowledging having participated in both the intake education and the comprehensive education.

Based on the above, the facility has demonstrated compliance with provision 115.33(e).

#### **115.33(f)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.33(f) stating, “In addition to providing such education, the Department shall ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats.”

PREA information was observed to be continuously and readily available to the inmate population. Agency PREA hotline information was noted as being painted on unit walls. PREA signage containing hotline contact information and Maryland Coalition Against Sexual Abuse (MCASA) information was noted as being posted throughout the institution. Signage was observed to be available in English and Spanish.

Information was noted as being posted throughout the facility. As previously discussed, inmates are provided with personal copies of brochures and handbooks containing information regarding inmates’ rights to be free from sexual abuse and sexual harassment, and how to report sexual abuse and sexual harassment. Inmates are provided with personal copies of the information regarding how to contact advocacy, emotional support, and third-party reporting services. Based on the above, the facility has demonstrated compliance with provision 115.33(f).

#### **Recommendations:**

- None

#### **Corrective Action:**

- None

### **Standard 115.34: Specialized training: Investigations**

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

##### **115.34 (a)**

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

##### **115.34 (b)**



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

#### 115.34 (c)

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

#### 115.34 (d)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*

- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Executive Directive IIU.110.0011 Investigating Sex Related Offenses*
- *Maryland Police and Correctional Training Commission Lesson Plan – Specialized Training: Investigations*
- *Position Description Internal Investigative Unit Position Description*

#### **Interviews:**

- Investigative Staff

#### **Site Review:**

- None

#### **Findings:**

##### **115.34(a)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.34(a). The manual states, “(a) In addition to the general training provided to all employees pursuant to 115.31, the Department shall ensure that, to the extent the Department itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings. *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(2) states in part, “To the extent possible, but in every case where the allegation of alleged sexual misconduct involves sexual abuse, the investigator assigned to investigate the allegation shall have received specialized training related to conducting sexual abuse investigations.” *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .03B 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.” These policies and procedures guide agency practice regarding specialized training: investigators.

IIU has jurisdiction over both administrative and criminal investigations. Initially, IIU handles all allegations of sexual abuse and sexual harassment. IIU investigators are generally all detectives and former police officers with experience in conducting investigations prior to being hired as an IIU investigators. Furthermore, IIU investigators are required to meet training standards in order to maintain law enforcement certification.

All investigations of sexual abuse and sexual harassment, criminal and administrative, are initially forwarded to the IIU unit. IIU will subsequently determine if the allegation will be investigated locally by facility staff or investigated by an IIU detective. The agency provided the *Maryland Police and Correctional Training Commission Lesson Plan – Specialized Training: Investigations* which is required of all The Internal Investigative Unit (IIU) detectives before conducting sexual abuse and sexual harassment investigations. Upon completion of training IIU detectives are issued a certificate of completion indicating that the detective has successfully completed training in conducting PREA investigations.

DRCF reported having one local investigator. During an interview the facility investigator indicated that field investigator training had been completed. Information covered during investigator training included but was not limited to evidence collection, interviews, documentation, and evidentiary standards.

One IIU detective was also interviewed. The IIU detective indicated that sexual abuse investigation training is covered during PREA in-service training and at the policy academy. Topics discussed during specialized investigator training include how to process a scene, interviewing techniques, witness interviews, video forensic examinations, how to take statements, and how to develop a conclusion to the investigation.

Training records for IIU based detectives were received. Training records indicate that all IID detectives who completed an investigation for DRCF have been trained. However, training records did not include records for the facility-based investigator.

The agency does maintain documentation that agency investigators have completed specialized training in the conduct of sexual abuse investigations. However, investigator training records are insufficient to demonstrate compliance. Training records for the DRCF based investigator are necessary to demonstrate compliance with provision 115.34(a). Based on the above, the facility does not comply with provision 115.34(a).

#### **115.34(b)**

The agency submitted the *Maryland Police and Correctional Training Commission Lesson Plan – Specialized Training: Investigations* as the curriculum utilized to train staff in the conduct of sexual abuse and sexual harassment investigations. The “General Comments” section on page 2 states, “This lesson plan is intended for use with Department personnel assigned to conduct an investigation of an allegation of misconduct that involves a sex related offense. This lesson will give participants the information they will need to conduct criminal and administrative investigations compliant with the Prison Rape Elimination Act.” *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* 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. Collectively, these documents guide agency practice regarding investigator training.

The *Maryland Police and Correctional Training Commission Lesson Plan – Specialized Training: Investigations* is a 4-hour training program including a slide presentation, video presentation, role play activities, handouts and a comprehensive knowledge test. Staff must score 75% or better in order to complete the training. Training topics include techniques for interviewing the victim including consideration for the emotional state of the victim and the inability of victims to recall information immediately after an event. Training curriculum includes discussion on proper use of Miranda rights and Garrity rules relative to inmates and staff interviews. Though forensic medical exams are conducted at a local medical facility; training does cover evidence collection processes that are likely to be performed by a Sexual Assault Nurse Examiner (SANE) or Sexual Assault Forensic Examiner (SAFE). Training does cover investigatory staff evidence collection with regards to collecting and packaging items of evidentiary value correctly. Staff are trained to be mindful of items that may be wet or soiled with bio-hazardous materials and ensure that evidence is labeled, packaged, catalogued, and stored in a manner that

preserves evidence and establishes an accurate chain of custody. *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* is a supplemental handout that accompanies and covers evidentiary standards up to and including referring an investigation for possible prosecution.

Specialized training does include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection procedures in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. The local facility investigator was able to demonstrate knowledge in techniques for interviewing victims, proper use of Miranda rights and Garrity rules, sexual abuse evidence collection and processing, evidentiary standards, and incident response protocol. Based on the above, the facility has demonstrated compliance with provision 115.34(b).

#### **115.34(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.34(c). The manual states, “The Department shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations.” The agency did submit sample investigator training verification documents with the PAQ.

The agency does maintain documentation of agency investigators who have completed specialized training in the conduct of sexual abuse investigations. However, investigator training records are insufficient to demonstrate compliance. Training records for the DRCF based investigator are necessary to demonstrate compliance with provision 115.34(c). Based on the above, the facility does not comply with provision 115.34(c).

#### **115.34(d)**

The auditor is not required to audit this provision.

#### **Recommendations:**

- None

#### **Corrective Action:**

- 115.34(a)&(c): Investigator training records are insufficient to demonstrate compliance. Training records for the DRCF based investigator necessary to demonstrate compliance with provision 115.34(a) or provision 115.34(c). DRCF shall submit training records for the DRCF based investigator.

#### **Corrective Action Verification:**

- The facility provided *DRCF.050.0030.2 Sexual Misconduct Prohibited*. Section K.3. states, in part, “Once allegations have been received, a supervisor, if warranted, shall begin a Serious Incident Report (SIR) and make a referral to IID.” As a result, all sexual abuse investigations are referred to IID detectives who have received specialized training pursuant to the standard. Considering the documentation provided, evidence gathered during the interview process, and a review of facility investigative records the facility has demonstrated that facility-based investigators do not conduct sexual abuse investigations. All sexual abuse investigations are conducted by IID

detectives. Based the above, the facility has demonstrated compliance with provisions 115.34(a) and provision 115.34(c).

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

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

#### **115.35 (a)**

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

#### **115.35 (b)**

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

#### **115.35 (c)**

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

#### **115.35 (d)**

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

### **Auditor Overall Compliance Determination**

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited*
- *Medical and Mental Health Training Presentation*
- *Training Records*

### Interviews:

- Medical and mental health staff

### Site Review:

- None

### 115.35(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.35(a) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .04B(6) defines "employee" as an individual assigned to or employed by the department in a full-time, part-time, temporary, or contractual position. Section .05C(1) states, "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: Each employee attends approved training related to preventing, detecting, and responding to acts of sexual misconduct;" with regard to contractor training. *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* section .05A(a) states, "Every employee, Contractor, and Volunteer of DRCF that has contact with an inmates(s) under the authority of the facility is familiar with DPSCS policy and DRCF policy and procedures prohibiting sexual misconduct and follows the procedures for handling all allegations." Collectively, these policies guide facility practice regarding specialized training for medical and mental health care staff.

Since medical and mental health staff are contract employees' they must complete the agency's training via the *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Non-Academy Pre-service Orientation)* and training received from the contractor. The training curriculum *Medical and Mental Health Training Presentation* was obtained, reviewed, and retained for audit purposes. Training is lecture based accompanied by a slide presentation and followed by a test.

The lesson plan covers the agency zero-tolerance policy for sexual abuse and sexual harassment. Topics covered include inmates' right to be free from sexual abuse and sexual harassment and the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment. Training also covers physical and emotional reactions to sexual abuse. Instruction regarding detection, reporting, response duties, response policies and procedures evidence collection, treatment and limits of confidentiality.

Medical and mental health staff also receive the *Sexual Assault Prevention and Reporting Staff Information Brochure* and the *Prison Rape Elimination Act Information Booklet for Volunteers and Contractual Workers*. This information covers the agency's zero tolerance policy, methods of reporting, consequences for participating in prohibited activities, and basic actions to take (i.e. separate victim and aggressor) during an incident. This includes a duty to report and how to report allegations of sexual abuse and sexual harassment. The information also covers characteristics of at-risk populations, predatory inmates, and the warning signs associated with victimization.

During interviews employees did indicate that training is provided annually. Employees were also able to articulate that they receive additional training relevant to their duties as health care workers. Medical and mental health care employee training records are insufficient to make a determination of compliance. The facility shall provide medical and mental health care employees training records for review. Based on the above, DRCF is not in compliance with 115.35(a).

#### **115.35(b)**

Neither the agency nor the facility will conduct a forensic medical exam. The PAQ indicates that no forensic examinations were conducted during the current audit period and all forensic examinations are performed off-site at a local medical facility. If a forensic exam were medically appropriate or necessary to preserve evidence the victim would be transported to Mercy Medical Center in Baltimore, Maryland. An internet search revealed that Mercy Medical Center has a dedicated treatment center for sexual assault and domestic violence victims. Mercy Medical Center has 30 specially trained Forensic Nurse Examiners available 24 hours a day seven days a week.

An interview with the medical staff verified that forensic examinations are not conducted on-site. Sexual abuse victims would be transported off-site to a local hospital for a forensic examination. Based on discussion with both medical and facility staff it is evident that facility health care staff do not conduct forensic medical exams. All forensic medical exams are conducted at a local hospital. Based on the above, DRCF has demonstrated compliance with provision 115.35(b).

#### **115.35(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.35(c) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .04B(6) defines "employee" as an individual assigned to or employed by the department in a full-time, part-time, temporary, or contractual position. Section .05C(1) states, "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: Each employee attends approved training related to preventing, detecting, and responding to acts of sexual misconduct;" with regard to contractor training. *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* section .05A(a) states, "Every employee, Contractor, and Volunteer of DRCF that has contact with an inmates(s) under the authority of the facility is familiar with DPSCS policy and DRCF policy and procedures prohibiting sexual misconduct and follows the procedures for handling all allegations." Medical and mental health care workers are contract employees. Therefore, agency policy regarding contract employee training is applicable. Collectively, these policies guide facility practice regarding specialized training for medical and mental health care staff.

Medical and mental health care employee training records are insufficient to determine compliance. The facility shall provide medical and mental health care employees training records for review. Based on the above, the facility is not in compliance with 115.35(c).

#### **115.35(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.35(d) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "Medical and mental health care practitioners shall also receive the training mandated for employees under § 115.31 or for contractors and volunteers under § 115.32, depending upon the practitioner's status at the Department." *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .04B(6) defines "employee" as an individual assigned to or employed by the department in a full-time, part-time, temporary, or contractual position. Section .05C(1) states, "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: Each employee attends approved training related to preventing, detecting, and responding to acts of sexual misconduct;" with regard to contractor training. *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* section .05A(a) states, "Every employee, Contractor, and Volunteer of DRCF that has contact with an inmates(s) under the authority of the facility is familiar with DPSCS policy and DRCF policy and procedures prohibiting sexual misconduct and follows the procedures for handling all allegations."

Since medical and mental health staff are contract employees' they must complete the agency's training via the *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Non-Academy Pre-service Orientation)* and training received from the contractor. The training curriculum *Medical and Mental Health Training Presentation* was obtained, reviewed, and retained for audit purposes. Training is lecture based accompanied by a slide presentation and followed by a test. Collectively, these policies and procedures serve as the authoritative documents that guide volunteer and contractor training requirements.

The only contract staff available during the on-site audit were medical staff and mental health care workers. Interviews indicated that training is provided annually. Staff indicated that training covers the agency's zero tolerance policy and agency reporting requirements. Medical contract staff were also able to articulate that they receive additional training relevant to their duties as health care workers. Medical and mental health care employee training records are insufficient to determine compliance. The facility shall provide medical and mental health care employee training records for review. Based on the above, the facility is not in compliance with 115.35(d).

#### **Recommendations:**

- None



**Corrective Action:**

- 115.35(a) Medical and mental health care employee training records are insufficient to make a determination of compliance. The facility shall provide medical and mental health care employee training records for review.
- 115.35(c) Medical and mental health care employee training records are insufficient to make a determination of compliance. The facility shall provide medical and mental health care employee training records for review.
- 115.35(d) Medical and mental health care employee training records are insufficient to make a determination of compliance. The facility shall provide medical and mental health care employee training records for review.

**Corrective Action Verification:**

- 115.35: The facility did provide medical and mental health care contractor training documentation. A review of the documentation noted that medical and mental health care did complete training in accordance with the standards. Contractor training was verified via signed training certificates. A total of 13 contractor training records were reviewed. Based on the contract staff roster, this represents 100% of all contract staff at the facility. Based on the above, training records for medical and mental health contractors demonstrates substantial compliance with standard 115.35.

<b>SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS</b>
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**Standard 115.41: Screening for risk of victimization and abusiveness**

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

**115.41 (a)**

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

**115.41 (b)**

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

**115.41 (c)**

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

#### 115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?  
☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent?  
☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes? ☒ Yes ☐ No

#### 115.41 (e)

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

#### 115.41 (f)

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

#### 115.41 (g)

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

#### 115.41 (h)

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

#### 115.41 (i)

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

#### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness*
- *PREA Intake Screening*
- *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited*
- *Risk Screening Records*

### Interviews:

- Random Inmates
- Intake Staff
- Staff who Perform Screening for risk of Victimization and Abusiveness
- PREA Coordinator
- PREA Compliance Manager

### Site Review:

- File Room

### 115.41(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.41(a) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "All inmates shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates." *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* establishes policy and assigns responsibilities for screening individuals housed in a correctional facility under the authority of the Department of Public Safety and Correctional Services to assess the risk of the individual being sexually abused or being sexually abusive towards other inmates. Collectively, these policies guide agency practice regarding risk screening.

The agency uses the *PREA Intake Screening* form to assess inmate risk of sexual victimization and risk of sexually abusing other inmates. A random sample of 12 inmate *PREA Intake Screening* forms were

selected for review. 100% of the sample was screened using the *PREA Intake Screening* form. The documentation suggests that inmates are being screened at intake and upon transfer as required.

Upon arrival to DRCF inmates are processed through the traffic Office. The initial risk assessment is completed upon arrival to DRCF in the traffic office prior to the inmate receiving a cell/bunk assignment. Risk assessment screening is conducted by staff who personally interview the inmate in a private setting. Traffic office staff complete the *PREA Intake Screening* form. Interviews with Traffic office staff indicate that the *PREA Intake Screening* is the form utilized to conduct screening for the risk of sexual victimization and risk of sexually abusing other inmates. 88% of inmates interviewed reported being asked questions related to the *PREA Intake Screening* form. Information obtained from the inmate interviews would suggest that the *PREA Intake Screening* form is the document utilized during the risk screening process.

Through sample document analysis, interviews, and onsite observations, DRCF has demonstrated that inmates are screened at intake and upon transfer into the facility. Based on the above, has demonstrated substantial compliance with provision 115.41(a).

#### **115.41(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.41(b) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “Intake screening shall ordinarily take place within 72 hours of arrival at the facility.” *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05B(1) states, “That each managing official designate sufficient intake, custody, or case management staff to assess each inmate for risk of sexual victimization or potential for abusiveness within 72 hours of arrival at a facility” with regard to risk screening. *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* section D1 states, “Custody staff is responsible to ensure all inmates arriving into the facility are screened using the PREA Intake Screening Instrument within 72 hours of their arrival.” Section J1 states, “Ensure that inmates who transfer to the facility are screened using PREA Intake Screening Instrument (Attachment I to OSPS.200.0005) within 72 hours of arrival. Custody staff assigned to traffic shall complete the initial PREA screening form upon arrival of inmates transferring to this facility.” Collectively, these policies guide facility practice regarding risk screening.

A random sample of 12 inmate *PREA Intake Screening* forms were reviewed for compliance with the 72-hour requirement. 92% of the *PREA Intake Screening* forms reviewed were compliant with the 72-hour requirement. In fact, 92% of *PREA Intake Screening* forms reviewed were completed on the day of arrival.

Upon arrival to DRCF inmates are processed through the traffic Office. Part of the traffic office process includes completion of the *PREA Intake Screening* form. Interviews with intake staff indicate that *PREA Intake Screening* is the form utilized to conduct screening for the risk of sexual victimization and risk of sexually abusing other inmates. Interviews indicated that 88% of the inmates were asked questions related to the *PREA Intake Screening* form. Information obtained from the inmate interviews suggests that the *PREA Intake Screening* form is the document utilized during the risk screening process.

Through document analysis, interviews, and onsite observations, DRCF has demonstrated that inmates are screened within the 72-hour requirement. Based on the above, the facility has demonstrated substantial compliance with provision 115.41(b).

#### **115.41(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.41(c) verbatim. The manual states, “Such assessments shall be conducted using an objective screening instrument.” *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05A requires the implementation of a screening instrument and cites the criteria utilized to perform the risk assessment.

The *PREA Intake Screening* form is the agency-approved standardized screening instrument. A blank copy of the *PREA Intake Screening* form was obtained, reviewed, and retained by the auditor. The *PREA Intake Screening* form is a one-page form that assigns a numerical point value to questions regarding risk of victimization and risk of abusiveness categories. The form considers 12 separate inmate risk of victimization factors and risk of abusiveness factors. Each risk factor is assigned a numerical point value based on the information obtained from an interview with the inmate and information gleaned from inmate records. Questions are generally assigned 1 point for each answer. Collectively, these policies guide agency practice regarding risk screening.

Risk of victimization designations are determined by comparing the sum of the risk of victimization factor score relative to a vulnerability scoring range of (0-3) low risk, and (4 or more) as at risk of victimization. Risk of abusiveness designations are determined by comparing the sum of the risk of abusiveness factor score relative to a scoring range of (3 or more points) being at risk of abusiveness.

DRCF has demonstrated that an objective screening instrument is utilized to objectively screen inmates. The *PREA Intake Screening* form contains a scoring mechanism and relevant scoring range that ensures consistency in scoring. Based on the above, the facility has demonstrated substantial compliance with this provision.

#### **115.41(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.41(d) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05A(1) requires the implementation of a screening instrument and cites the criteria utilized to perform the risk assessment. Collectively, these policies guide facility practice regarding risk screening.

The *PREA Intake Screening* form is the agency-approved standardized screening instrument. A blank copy of the *PREA Intake Screening* form was obtained, reviewed, and retained by the auditor. The *PREA Intake Screening* form is a one-page form that assigns a numerical point value to questions regarding risk of victimization and risk of abusiveness categories.

The *PREA Intake Screening* form considers 12 separate inmate risk of victimization factors. Factors considered in the risk of victimization category include whether the inmate has a mental, physical, or developmental disability, the age of the inmate, the physical build of the inmate, if the inmate has previously been incarcerated, if the inmate’s criminal history is exclusively nonviolent, prior convictions for sex offenses against an adult or child, previously experienced sexual victimization, the inmate’s own perception of vulnerability, and if the inmate is gay, lesbian, bisexual, transgender, intersex, or gender nonconforming. The *PREA Intake Screening* form also considers if the inmate has ever been approached for sex/threatened with sexual assault while incarcerated and if the inmate has ever had consensual sex while incarcerated. Additionally, the risk screening form does require a file review and observation to confirm inmate responses. Documentation suggests that the agency does not house inmates solely for civil immigration purposes. Therefore, this item does not appear on the *PREA Intake Screening* form.

However, the *PREA Intake Screening* form does not consider whether the inmate is perceived to be intersex or gender nonconforming. This is not part of the risk of victimization factors included in the *PREA Intake Screening* form. These criteria are specifically required by Provision 115.41(d)(7). In addition, interpretive guidance by the Department of Justice has clarified that there must be both an objective and a subjective determination for this criterion. The screening instrument must capture whether the inmate “is perceived to be” LGBTI or gender nonconforming. The rationale being that even if the inmate does not disclose this status, but is perceived this way, the increase in risk is still present. The *PREA Intake Screening* does not consider whether or not the inmate is detained solely for civil immigration purposes. However, documentation indicates that the DPSCS does not house inmates solely for civil immigration purposes.

Staff interviews indicate that upon arrival to DRCF inmates are individually processed through the traffic office. The traffic office process includes completion of the *PREA Intake Screening* form. Direct observation noted this as an ideal area to conduct risk screening due to the private setting of the office and absence of any external distractions.

A review of the *PREA Intake Screening* form revealed that it does not consider all the criteria required by provision 115.41(d)(7). Therefore, the screening instrument should be amended to capture whether the inmate is perceived to be LGBTI or gender nonconforming. Based on the above, the facility has not demonstrated compliance with provision 115.41(d).

#### **115.41(e)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.41(e) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05A(2) requires the implementation of a screening instrument and cites the criteria utilized to perform the risk assessment.

The *PREA Intake Screening* form is the agency-approved standardized screening instrument. A blank copy of the *PREA Intake Screening* form was obtained, reviewed, and retained by the auditor. The *PREA Intake Screening* form is a one-page form that assigns a numerical point value to questions regarding risk of victimization and risk of abusiveness categories. Collectively, these documents guide facility practice regarding risk screening.

The *PREA Intake Screening* form considers six separate inmate risk of abusiveness factors. Factors considered in the risk of abusiveness category include prior acts of sexual abuse, prior convictions for violent offenses and a history of prior institutional violence or sexual abuse. The instrument also considers a history of violent crimes including pending and current charges and a history of domestic violence including pending and current charges. Additionally, the risk screening form does require file review and observation to confirm inmate responses.

Staff interviews indicate that upon arrival to DRCF inmates are individually processed through the traffic office. Part of the traffic office process includes completion of the *PREA Intake Screening* form. Direct observation noted this as an ideal area to conduct risk screening due to the private setting of the office and absence of any external distractions.

A review of the *PREA Intake Screening* form revealed that it does consider all the criteria required by provision 115.41(e). Based on the above, the facility has demonstrated compliance with provision 115.41(e).

#### **115.41(f)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.41(f) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “Within a set time period, not to exceed 30 days from the inmate’s arrival at the facility, the facility will reassess the inmate’s risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.” *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05B(2) requires case management staff to re-assess each inmate within 30 days of the inmate’s arrival at the facility. *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* section J4 requires case management to review risk assessment scores within 30 days of transfer into the facility. Collectively, these policies guide facility practice regarding risk screening.

The *PREA Intake Screening* form is utilized to conduct the 30-day risk screening re-assessment. A blank copy of the *PREA Intake Screening* form was obtained, reviewed, and retained by the auditor. The *PREA Intake Screening* form is a one-page form that assigns a numerical point value to questions regarding risk of victimization and risk of abusiveness categories. 12 inmate risk screening re-assessment records were randomly selected for review. Upon review it was noted that 100% of risk screening re-assessments were completed within 30-days.

Staff who perform risk screening re-assessments indicated that re-assessments are conducted within 30 days and generally two weeks after the inmate arrived at the facility. Additionally, case-managers typically perform a bi-annual risk screening re-assessment. During inmate interviews, inmates were able to recall having been asked questions that would be associated with the *PREA Intake Screening* form a second time. It should be noted that a third of the inmates interviewed had not been at the facility for a full 30-days.

The *PREA Intake Screening* form does not consider whether the inmate is perceived to be intersex or gender nonconforming. This is not part of the risk of victimization factors included in the *PREA Intake Screening* form. These criteria are specifically required by Provision 115.41(d)(7). In addition, interpretive guidance by the Department of Justice has clarified that there must be both an objective and a subjective determination for this criterion. The screening instrument must capture whether the inmate “*is perceived to be*” LGBTI or gender nonconforming. The rationale being that even if the inmate does not disclose this status, but is perceived in this way, the increase in risk is still present. Therefore, the current risk screening re-assessments rely upon a non-compliant risk screening instrument.

Documentation and interviews indicate that 30-day risk screening re-assessments are being completed. However, the risk screening instrument itself is non-compliant with Standard 115.41. Therefore, the facility has not demonstrated compliance with provision 115.41(f).

#### **115.41(g)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.41(g) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “An inmate’s risk level shall be reassessed 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 abusiveness.” *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05B(4) requires case management staff to re-assess an inmate's risk level 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.” Collectively, these policies guide facility practice regarding risk screening.

The *PREA Intake Screening* form is utilized to conduct any re-assessment. A blank copy of the *PREA Intake Screening* form was obtained, reviewed, and retained by the auditor. The *PREA Intake Screening* form is a one-page form that assigns a numerical point value to questions regarding risk of victimization and risk of abusiveness categories.

A review of investigation files indicated one instance where a risk re-assessment would have been necessary. However, the allegation was reported while the inmate was being housed in a different institution. Therefore, the re-assessment would have been performed at the institution where the allegation was reported.

Staff who perform risk screening indicated that a re-assessment is conducted upon receiving information that an inmate has been abused, harassed, or something has changed regarding the initial assessment. During inmate interviews, inmates were able to recall having been asked questions that would be associated with the *PREA Intake Screening* form a second time.

The *PREA Intake Screening* form does not consider whether the inmate is perceived to be intersex or gender nonconforming. This is not part of the risk of victimization factors included in the *PREA Intake Screening* form. These criteria are specifically required by Provision 115.41(d)(7). In addition, interpretive guidance by the Department of Justice has clarified that there must be both an objective and a subjective determination for this criterion. The screening instrument must to capture whether the inmate “is perceived to be” LGBTI or gender nonconforming. The rationale being that even if the inmate does not disclose this status, but is perceived this way, the increase in risk is still present. Therefore, risk screening reassessments rely upon a non-compliant risk screening instrument.

Even though the facility may be conducting risk screening reassessments 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 abusiveness. The risk screening instrument itself is non-compliant with Standard 115.41. Based on the above, the facility has not demonstrated compliance with provision 115.41(f).

#### **115.41(h)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.41(h). The manual states, “Inmates may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (d)(1),(d)(7),( d)(8), or (d)(9) of this section.” *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05B(5) states that inmates will not be disciplined for refusing to answer or disclosing complete information in response to screening questions. Collectively, these policies guide facility practice regarding risk screening.

Two staff who perform risk screening were interviewed. Staff reported that an inmate is not disciplined for refusing to respond or for not disclosing complete information. Based on the above, DRCF does not discipline inmates for refusing to respond or for not disclosing complete information during risk assessments. Based on the above, that facility has demonstrated compliance with provision 115.41(h).

#### **115.41(i)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.41(i) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the inmate’s detriment by staff or other inmates.” *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05B(6) requires, “Appropriate controls to be in place for facility dissemination of information collected during screening to ensure that sensitive information is not exploited to the inmate’s detriment by staff or other inmates.” Collectively, these policies guide facility practice regarding risk screening documentation security.

Upon completion, the *PREA Intake Screening* form is placed in the inmate file. Inmate files are secured in the administrative building file room. The file room is a secure room, staffed by records personnel, and is capable of being locked. Case Management will ensure screening information is entered in Offender Case Management System (OCMS). The OCMS system has limited access, is password protected, and confined to case management staff with user profile access.

The agency PREA coordinator reported that risk assessments are confidential and only designated staff are allowed to access this information. Staff who perform risk screening indicated that risk assessments are kept in the file room and that case managers, traffic staff (i.e. intake), medical and mental health staff have access to the risk assessment results. The facility compliance manager reported that risk assessments are placed in secure file located in the file room.

Based on the above, the facility has demonstrated compliance with provision 115.41(i).

#### **Recommendations:**

- None

#### **Corrective Action:**

- 115.41(d), 115.41(f), and 115.41(g): A review of the *PREA Intake Screening* form revealed that it does not consider whether the inmate is perceived to be LGBTI or gender nonconforming. Consideration is specifically required pursuant to provision 115.41(d)(7). Additionally, reliance upon a non-compliant risk screening instrument fails provision 115.41(f) regarding risk screening re-assessments completed within 30-days. Though re-assessments may be completed within 30-days; the risk screening reassessment is guided by a non-compliant risk screening instrument. Furthermore, DRCF may be conducting risk screening reassessments 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 abusiveness. The risk screening instrument itself is non-compliant with Standard 115.41. Again, the risk screening reassessment is guided by a non-compliant risk screening instrument. The agency shall amend the screening instrument to take into consideration the criteria of provision 115.41(d)(7).

#### **Corrective Action Verification:**

- The agency provided the *Instructions for PREA Intake Screening Instrument* that were not

included with the original audit documentation. These instructions explicitly state, *“The screening official may determine that an inmate is gender non-conforming based on his or her observations.”* The instructions are lengthy, thorough, and require screening staff to make determinations based on observations and information from past incarcerations. Considering this documentation, it has been determined that the facility does conduct risk screening in accordance with standard 115.41.

## Standard 115.42: Use of screening information

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

#### 115.42 (a)

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

#### 115.42 (b)

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

#### 115.42 (c)

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

health and safety, and whether a placement would present management or security problems?  
☒ Yes ☐ No

#### 115.42 (d)

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

#### 115.42 (e)

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

#### 115.42 (f)

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

#### 115.42 (g)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness*
- *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited*

### Interviews:

- PREA Coordinator
- PREA Compliance Manager
- Intake Staff
- Staff who Perform Screening for Risk of Victimization and Abusiveness
- LGBTI Inmates

### Site Review:

- Housing Units

### Findings:

#### 115.42(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.42(a) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05C(1)(a) states, "The PREA Coordinator shall ensure that the following issues are appropriately addressed in procedures for using information obtained during screening required under this directive: (1) Screening information shall be considered: (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."

*Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* section J2 states, "Traffic officers shall base their housing decisions upon the results of the initial PREA screenings. Inmates who are identified as potential victims (VP) shall be housed in housing units 1, 3 and 4. Inmates who are identified as potential aggressors (AP) shall be housed in housing unit 2. All forms shall be forwarded to the Case Management Department." Section J5 states, "Case Management will ensure that risk information is entered in the base file and in the Offender Case Management System (OCMS) to inform housing, bed, work, education, and program assignments. When considering an inmate for job or program assignment. Case management staff will review all applicable alerts prior to placement in that job or program. Case

Management will notify the detail supervisors if any special consideration is appropriate due to an inmate's PREA status." Collectively, these policies guide facility practice regarding use of risk screening information.

The institution does not house victims and abusers together. The PREA compliance manager reported that the traffic office conducts initial housing assignments based on the initial risk assessment results. Staff who perform screening reported that inmates at risk of victimization are separated from inmates at risk of abusiveness based on the risk assessment score. Those who are at risk of victimization are housed in different units from those who are at risk of abusiveness. Those who do not score in either range can be housed anywhere in the institution.

The facility did not provide documentation that demonstrates information from the risk screening is utilized to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. Based on the above, the facility has not demonstrated compliance with provision 115.42(a).

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

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.42(b) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "The Department shall make individualized determinations about how to ensure the safety of each inmate." *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05C(1)(b) states, "The PREA Coordinator shall ensure that the following issues are appropriately addressed in procedures for using information obtained during screening required under this directive: When making individualized determinations as how to ensure the safety of each inmate." Collectively, these policies guide facility practice regarding the use of risk screening information.

The institution does not house victims and abusers together. Staff who perform screening indicated that housing assignments for inmates at risk of victimization are separated from inmates at risk of abusiveness based the risk assessment score. Those who are at risk of victimization are housed in different units from those who are at risk of abusiveness. Those who do not score in either range can be housed anywhere in the institution.

The facility did not provide documentation that demonstrates information from the risk screening is utilized to make determinations about how to ensure the safety of each inmate. Based on the above, the facility does not comply with provision 115.42(b).

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

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.42(c) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05C(1)(i)-(ii) states, " When deciding to assign a trans gender 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." Collectively, these policies guide facility practice regarding the use of risk screening information.

A review of the *PREA Intake Screening* form revealed that it does affirmatively inquire as to whether an inmate is transgender or intersex. However, at the time of the on-site audit there were no transgender or intersex inmates identified through the screening process currently housed at the facility. Additionally, the auditor did not discover through interviews or observation any inmates that were perceived to be transgender or intersex. Therefore, no transgender or intersex inmates were interviewed.

The PREA compliance manager indicated placement and programming assignments for transgender and intersex inmates are reviewed with the case management team every thirty days. Staff who perform risk screening added that placement decision for transgender and intersex inmates are handled by the PREA compliance manager. Case management and medical staff perform bi-annual re-assessments, case planning, and housing recommendations.

Based on the above, the facility has demonstrated compliance with provision 115.42(c).

#### **115.42(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.42(d) verbatim. *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05C(2) states, “Placement and programming assignments for each trans gender or intersex inmate shall be re assessed at least twice each year to review threats to safety experienced by the inmate.” Collectively, these policies guide facility practice regarding use of risk screening information.

A review of the *PREA Intake Screening* form revealed that it does affirmatively inquire as to whether an inmate is transgender or intersex. However, at the time of the on-site audit there were no transgender or intersex inmates identified through the screening process currently housed at the facility. Additionally, the auditor did not discover through interviews or observation any inmates that were perceived to be transgender or intersex. Therefore, no transgender or intersex inmates were interviewed.

The PREA compliance manager indicated placement and programming assignments for transgender and intersex inmates are reviewed with the case management team every thirty days. Staff who perform risk screening added that placement decision for transgender and intersex inmates are handled by the PREA compliance manager. Case management and medical staff perform bi-annual re-assessments, case planning, and housing recommendations.

Based on the above, the facility has demonstrated compliance with provision 115.42(d).

#### **115.42(e)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.42(e) verbatim. The manual states, “A transgender or intersex inmate’s own views with respect to his or her own safety shall be given serious consideration.” *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05C(3) states, “A transgender or intersex inmate's own views with respect to personal safety shall be seriously considered.” Collectively, these policies guide facility practice regarding use of risk screening information.

A review of the *PREA Intake Screening* form revealed that it does affirmatively inquire as to whether an inmate is transgender or intersex. However, at the time of the on-site audit there were no transgender or intersex inmates identified through the screening process currently at the facility. Additionally, the auditor

did not discover through interviews or observation any inmates that were perceived to be transgender or intersex. Therefore, no transgender or intersex inmates were interviewed.

The PREA compliance manager indicated that transgender and intersex inmate's views regarding his or her own safety are seriously considered. Transgender and intersex inmate can request a personal search exception card issued by the warden which allows the inmate to be searched by staff of a preferred gender. The PCM also indicated that transgender and intersex inmate have an opportunity to shower separately. Staff who perform risk screening reported that transgender or intersex inmate's views are absolutely considered and advised that if a transgender or intersex inmate felt unsafe at DRCF that inmate could request to be transferred out of the institution. Based on the above, the facility has demonstrated compliance with provision 115.42(e).

#### **115.42(f)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.42(f) verbatim. *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05C(4) states, "Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates." *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* section D(3) states, "Custody staff shall ensure transgender and intersex inmates have an opportunity to shower separately from other inmates." Collectively, these policies guide facility practice regarding the use of risk screening information.

A review of the *PREA Intake Screening* form revealed that it does affirmatively inquire as to whether an inmate is transgender or intersex. However, at the time of the on-site audit there were no transgender or intersex inmates identified through the screening process currently at the facility. Additionally, the auditor did not discover through interviews or observation any inmates that were perceived to be transgender or intersex. Therefore, no transgender or intersex inmates were interviewed.

The PREA compliance manager indicated that transgender and intersex are given the opportunity to shower separately from other inmates. Facility practice has been to allow transgender or intersex inmates to shower during off hours or during count time. Staff who perform risk screening indicated that transgender or intersex inmate are provided the opportunity to shower separately from other inmates.

The facility does have a process in place to allow transgender or intersex inmates shower separately from other inmates. Based on the above, the facility has demonstrated compliance with provision 115.42(f).

#### **115.42(g)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.42(g) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05C(5) states, "Lesbian, gay, bisexual, transgender, or intersex inmates may not be placed in dedicated facilities, units, or wings solely on the basis of such identification or status, unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting inmates." *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* section D(4) states, "Gay, bisexual, transgender, or intersex inmates are not placed in dedicated facilities, units or wings solely on the basis of such identification or status, unless done so in connection with a legal determination to protect such inmates." Collectively, these policies guide facility practice regarding use of risk screening information.



A review of the *PREA Intake Screening* form revealed that it does affirmatively inquire as to whether an inmate is transgender or intersex. However, at the time of the on-site audit there were no transgender or intersex inmates identified through the screening process currently at the facility. Additionally, the auditor did not discover through interviews or observation any inmates that were perceived to be transgender or intersex. Therefore, no transgender or intersex inmates were interviewed. Two inmates who identified as gay were interviewed. Both inmates reported that the facility does not house lesbian, gay, bisexual, transgender, or intersex inmates in dedicated units or wings at DRCF. Direct observation corroborates inmate interview results.

The agency PREA Coordinator stated regarding housing of lesbian, gay, bisexual, transgender, or intersex inmates, "This is something we work with within all our facilities. We simply don't move inmates around for this." The facility PREA compliance manager indicated that DRCF does not house lesbian, gay, bisexual, transgender, or intersex inmates in dedicated units or wings.

The facility does not house lesbian, gay, bisexual, transgender, or intersex inmates in dedicated units or wings. Rather the institution houses all inmates according to risk screening results. Based on the above, the facility has demonstrated compliance with provision 115.42(g).

**Recommendations:**

- None

**Corrective Action:**

- 115.42(a): The facility did not provide documentation that demonstrates information from the risk screening is utilized to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. The facility shall provide documentation that demonstrates information from the risk screening is utilized to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive pursuant to 115.42(a).
- 115.42(b): The facility did not provide documentation that demonstrates information from the risk screening is utilized to make determinations about how to ensure the safety of each inmate. The facility shall provide documentation that demonstrates information from the risk screening is utilized to make determinations about how to ensure the safety of each inmate pursuant to 115.42(b).

**Corrective Action Verification:**

- 115.42(a): The facility did provide documentation that demonstrates information from the risk screening is utilized to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. The facility tracks inmates who are identified as at risk for victimization and those at risk for abusiveness through the traffic office. Documentation provided by the facility noted that inmates are tracked by risk assessment designations on a monthly basis. This documentation was cross referenced with work, education, housing, and programming assignment rosters to verify compliance. Upon review no conflicts regarding housing, bed, work, education, and programming assignments were noted. The facility appears to have policies and

procedures in place separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. Based on the above, the facility has demonstrated substantial compliance with provision 115.42(a).

- 115.42(b): Documentation provided by the facility demonstrates that information from risk screening is utilized to make determinations about how to ensure the safety of each inmate. This documentation clearly demonstrates the separation of inmates at high risk of being sexually victimized from those at high risk of being sexually abusive on an individual basis pursuant to 115.42(b). The documents noted that inmates who are at high risk of being sexually victimized are distributed throughout the institution; however, the documentation noted that none are housed in areas with those who are at high risk of being sexually abusive. Furthermore, it was noted that inmates at high risk of being sexually victimized participated in various programming and employment opportunities throughout the institution. However, none were noted as being placed with those who are at high risk of being sexually abusive. Based on the above, the facility has demonstrated substantial compliance with provision 115.42(b).

## **Standard 115.43: Protective Custody**

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

#### **115.43 (a)**

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

#### **115.43 (b)**

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

- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The duration of the limitation? ☒ Yes ☐ No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The reasons for such limitations? ☒ Yes ☐ No

#### 115.43 (c)

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

#### 115.43 (d)

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

#### 115.43 (e)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

#### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Division of Corrections – Case Management Manual*
- *Administrative Segregation Investigative Report*
- *Notice of Assignment to Administrative Segregation*

#### **Interviews:**

- Warden or Designee

#### **Site Review:**

- Admin Building Holding Cell
- Housing Unit 3 Holding Cells

#### **Findings:**

##### **115.43(a)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.43(a) verbatim and uses the term “Department” in place of the term “Agency.” The *Division of Corrections – Case Management Manual* section .18E(1)(a)-(f) states, “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).” *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* section G(1) states, “Inmate at high risk of sexual victimization shall not be placed on involuntary segregation housing unless an assessment of all available alternatives has been considered and a determination has been made, and there is not an available alternative means of separation from likely abuser. If the institution cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment.” Collectively, these policies guide facility practice regarding use of protective custody.

DRCF does not have segregation and the PAQ noted that zero inmates were held in involuntary segregated housing in the past 12 months for one to 24 hours awaiting completion of assessment. The facility does have three temporary holding cells. One holding cell is located in the administrative building and the other two are located in unit three. During the on-site audit it was evident that these cells were utilized in a temporary capacity only. Inmates who were confined to these cells were either released back to general population or transferred within twenty-four hours.

Despite the facility not having segregation, the warden’s designee demonstrated knowledge of the requirements pertaining to the placement of inmates at high risk of sexual victimization in involuntary segregated housing. The warden’s designee reported that as a last resort holding cells could be utilized to hold inmates who are at high risk for sexual victimization. However, placement would be for no longer than 24 hours. This would coincide with on-site observations. Additionally, all alternative placement

options would have to be exhausted prior to utilizing the holding cells for this purpose. The warden's designee reported that no inmates who were at high risk of sexual victimization placed in involuntary segregated housing within the past 12 months.

Based on the above, the facility has demonstrated compliance with provision 115.43(a).

#### **115.43(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.43(b) verbatim and uses the term "Department" in place of the term "Agency." The *Division of Corrections – Case Management Manual* section .18F(1)-(17) states in part, "An inmate assigned to administrative segregation or protective custody shall be subject to the conditions of confinement as follows..." The conditions of confinement outline opportunities that have been limited, and the duration of these limitations. Opportunities for those in protective custody include institutional movement, hygiene, property, out-of-cell activities, access to health care, case management, education, library, legal, visits, religion, food, mail, commissary, and segregation status. The rationale for any limitations would be documented on the *Administrative Segregation Investigative Report* and the *Notice of Assignment to Administrative Segregation*. *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* section G(2) states, "Inmates placed in segregation housing for this purpose shall have access to programs, privileges, education and work opportunities to the extent possible." Collectively, these policies guide facility practice regarding use of protective custody.

Again, DRCF does not have segregation and the PAQ indicated that zero inmates were held in involuntary segregated housing in the past 12 months. The facility does have three temporary holding cells. One holding cell is located in the administrative building and the other two are located in unit three. During the on-site audit it was evident that these cells were utilized in only a temporary capacity. Inmates who were confined to these cells were either released back to general population or transferred within twenty-four hours.

Despite the facility not having segregation, the warden's designee indicated that as a last resort, the holding cells could be utilized to hold inmates at high risk for sexual victimization. However, placement would be for no longer than 24 hours. This would coincide with on-site observations. Additionally, all alternative placement options would have to be exhausted prior to utilizing the holding cells for this purpose. The warden's designee reported that no inmates who were at high risk of sexual victimization placed in involuntary segregated housing within the past 12 months.

Based on the above, the facility has demonstrated compliance with provision 115.43(b).

#### **115.43(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.43(c) verbatim and uses the term "Department" in place of the term "Agency." The *Division of Corrections – Case Management Manual* section .18E(1) states, "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." *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* section G(1) states, "Inmate at high risk of sexual victimization shall not be placed on involuntary segregation housing unless an assessment of all available alternatives has been considered and a determination has been made, and there is not an available alternative means of separation from likely abuser." Collectively, these policies guide facility practice regarding use of protective custody.

Again, DRCF does not have segregation and the PAQ indicated that zero inmates were held in involuntary segregated housing in the past 12 months. The facility does have three temporary holding cells. One holding cell is located in the administrative building and the other two holding cells are located in unit three. During the on-site audit it was evident that these cells were utilized in only a temporary capacity. Inmates who were confined to these cells were either released back to general population or transferred within twenty-four hours.

Despite the facility not having segregation, the warden's designee reported that as a last resort, the holding cells could be utilized to hold inmates at high risk for sexual victimization. However, placement would be for no longer than 24 hours. This would coincide with on-site observations. Additionally, all alternative placement options would have to be exhausted prior to utilizing the holding cells for this purpose. The warden's designee reported that no inmates who were at high risk of sexual victimization were placed in involuntary segregated housing within the past 12 months.

Based on the above, the facility has demonstrated compliance with provision 115.43(c).

#### **115.43(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.43(d) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "(d) If an involuntary segregated housing assignment is made pursuant to paragraph a) of this section, the facility shall clearly document: (1) The basis for the facility's concern for the inmate's safety; and (2) The reason why no alternative means of separation can be arranged." The *Division of Corrections – Case Management Manual* section .18E requires the use of the *Administrative Segregation Investigative Report* and *Notice of Assignment to Administrative Segregation* to document the basis for concern and reasons why no alternative means of separation can be arranged. The *Notice of Assignment to Administrative Segregation* is provided to the inmate and provides the inmate a rationale for placement. Collectively, these policies guide facility practice regarding use of protective custody.

Again, DRCF does not have segregation, rather the facility has three short-term holding cells. A review of the PAQ noted that zero inmates were held in involuntary segregated housing in the past 12 months. The facility does have three temporary holding cells. One holding cell is located in the administrative building and the other two holding cells are located in unit three. During the on-site audit it was evident that these cells were utilized in only a temporary capacity. Inmates who were confined to these cells were either released back to general population or transferred within twenty-four hours.

The facility does not have segregation. However, the warden's designee reported that as a last resort, the holding cells could be utilized to hold inmates at high risk for sexual victimization. However, placement would be for no longer than 24 hours. These statements coincide with on-site observations. Additionally, all alternative placement options would have to be exhausted prior to utilizing the holding cells for this purpose. The warden's designee reported that no inmates who were at high risk of sexual victimization were placed in involuntary segregated housing within the past 12 months.

Based on the above, the facility has demonstrated compliance with provision 115.43(d).

#### **115.43(e)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.43(e) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, every 30 days, the facility shall afford each such inmate a review to determine whether there is a continuing need for separation from the general population.” The *Division of Corrections – Case Management Manual* section .18B(2)(c) requires a case management team review each case at least once every 30 days. Collectively, these policies guide facility practice regarding use of protective custody.

Again, DRCF does not have segregation in the traditional sense, and the PAQ indicated that zero inmates were held in involuntary segregated housing in the past 12 months. The facility does have three temporary holding cells. One holding cell is located in the administrative building and the other two are located in unit three. During the on-site audit it was evident that these cells were utilized in only a temporary capacity. Inmates who were confined to these cells were either released back to general population or transferred within twenty-four hours.

The facility does not have segregation. However, the warden’s designee reported that as a last resort, the holding cells could be utilized to hold inmates at high risk for sexual victimization. However, placement would be for no longer than 24 hours. Additionally, all alternative placement options would have to be exhausted prior to utilizing the holding cells for this purpose. The warden’s designee reported that no inmates who were at high risk of sexual were victimization placed in involuntary segregated housing within the past 12 months.

Based on the above, the facility has demonstrated compliance with provision 115.43(e).

**Recommendations:**

- None

**Corrective Action:**

- None

## REPORTING

### Standard 115.51: Inmate reporting

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

**115.51 (a)**

- Does the agency provide multiple internal ways for inmates to privately report: Sexual abuse and sexual harassment? ☒ Yes ☐ No
- Does the agency provide multiple internal ways for inmates to privately report: Retaliation by other inmates or staff for reporting sexual abuse and sexual harassment? ☒ Yes ☐ No

- Does the agency provide multiple internal ways for inmates to privately report: Staff neglect or violation of responsibilities that may have contributed to such incidents? ☒ Yes ☐ No

#### 115.51 (b)

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

#### 115.51 (c)

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

#### 115.51 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*



## Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited*

## Interviews:

- Random Staff
- Random Inmates
- PREA Compliance Manager
- MCASA representative

## Site Review:

- PREA signage throughout the facility

## Findings:

### 115.51(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.51(a) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* state in section .05E(2), “A complaint of alleged sexual misconduct may be submitted in the following formats: (a) In writing (includes electronic documents); or (b) Verbally.” Additionally, section E(4) states, “To effectively reduce actual or implied barriers to filing a complaint, an individual may file a complaint of sexual misconduct with any one or all of the following without regard to chain of command or assignment: (a) Within the Department: (i) An employee; (ii) A supervisor, manager, or shift commander; (iii) The head of a unit; (iv) The Intelligence and Investigative Division (IID); (v) The Inmate Grievance Office.” *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* section K(1) states, “Any DRCF employee may receive a report of sexual misconduct from many different sources. Including outside persons or agencies. They may be in writing, verbal anonymous or from third parties. Verbal reports shall be documented promptly but not later than the end of the shift. Inmates and staff also have access to the PREA hotline that shall refer any reports back to the facility for investigation. Staff can dial the number privately and anonymously from any facility phone.” Collectively, these policies guide facility practice regarding reporting of sexual abuse and sexual harassment allegations.

A review of investigation tracking documents noted that inmates are aware of several ways to report allegations of sexual abuse, sexual harassment, retaliation, and staff neglect internally. Documentation indicated that inmates had reported both verbally and in writing to both security and non-security staff. It was also noted that inmates had also reported via the agency hotline.

Random inmate interviews indicate that the majority of inmates are aware of the internal reporting mechanisms available to them. 91% of inmates indicated some way to report allegations of sexual abuse, sexual harassment, retaliation, and staff neglect internally. Reporting directly to staff, the agency hotline and in writing were noted as the most popular methods of reporting.

Random staff interviews indicate that the majority of staff are aware of the internal reporting mechanisms available to the inmate population. 100% of staff described some way for inmates to report allegations of sexual abuse, sexual harassment, retaliation, and staff neglect internally. Reporting directly to staff, the agency hotline and in writing were noted as the most popular methods of reporting.

Based on the above, the facility has demonstrated compliance with provision 115.51(a).

#### **115.51(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.51(b) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* state in section .05E(4)(b) allows inmates to make a report of sexual abuse or sexual harassment outside the department to the Office of the Attorney General or any other private or public office. Collectively, these policies guide facility practice regarding reporting of sexual abuse and sexual harassment allegations.

DPSCS has an agreement with the Maryland Coalition Against Sexual Assault (MCASA) to provide advocacy services statewide. An MCASA representative was present at the DRCF audit and reported that MCASA does have a relationship with the agency. The representative reported that MCASA does receive reports of sexual abuse and sexual harassment from inmates as an external reporting entity.

The MCASA representative did not know of any reports received in the last 12 months concerning DRCF. A review of investigation documentation did not reveal any instance whereby an external reporting entity (public or private) was utilized to report an allegation of sexual abuse or sexual harassment.

Based on the above, the facility has demonstrated compliance with provision 115.51(b).

#### **115.51(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.51(c) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05E (1)-(4) requires an employee receiving a complaint of sexual abuse or sexual harassment to immediately report the complaint to a supervisor, manager, shift commander, or head of the unit and subsequently document the report in a written format. Additionally, reports of sexual abuse or sexual harassment may be submitted verbally, in writing (including electronic documents), anonymously, and by third parties. *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* section K(1) states, “Any DRCF employee may receive a report of sexual misconduct from many different sources, including outside persons or agencies. They may be in writing, verbal anonymous or from third parties. Verbal reports shall be documented promptly but not later than the end of the shift. Inmates and staff also have access to the PREA hotline that shall refer any reports back to the facility for investigation. Staff can dial the number privately and anonymously from any facility phone.” Collectively, these policies guide facility practice regarding reporting of sexual abuse and sexual harassment allegations.

Inmate interviews indicated that 94% of knew how to report sexual abuse or sexual harassment either verbally, in writing, or via third parties. Random inmate interviews also indicated that 72% of inmates reported being able to report sexual abuse or sexual harassment anonymously. Many inmates reported receiving this information during orientation.

100% of random staff reported that inmates could report sexual abuse or sexual harassment either verbally, in writing, anonymously, and via third parties. 58% of random staff interviews reported that they would document verbal reports of sexual abuse or sexual harassment and would do so immediately. Staff who indicated that they would not document verbal reports of sexual abuse or sexual harassment indicated that they would notify their supervisor who would subsequently document the allegation.

Based on the above, the facility has demonstrated compliance with provision 115.51(c).

#### **115.51(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.51(d) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department shall provide a method for staff to privately report sexual abuse and sexual harassment of inmates.” This policy guides facility practice with regard to privately reporting sexual abuse, sexual harassment, and retaliation.

Interviews with random staff indicated that 92% of staff are knowledgeable in how to privately report sexual abuse or sexual harassment. Most staff cited the PREA hotline and notifying a supervisor as the primary means of making a private report of sexual abuse or sexual harassment.

Based on the above, the facility has demonstrated compliance with provision 115.51(d).

#### **Recommendations:**

- None

#### **Corrective Action:**

- None

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

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

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

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

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

- Does the agency permit inmates to submit a grievance regarding an allegation of sexual abuse without any type of time limits? (The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.) (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA
- Does the agency always refrain from requiring an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse? (N/A if agency is exempt from this standard.) ☐ Yes ☐ No ☒ NA

#### 115.52 (c)

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

#### 115.52 (d)

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

#### 115.52 (e)

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

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

#### 115.52 (f)

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

#### 115.52 (g)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *COMAR 12.02.28 Administrative Remedy Procedure (ARP)*

### Interviews:

- Random Staff
- Random Inmates

### Site Review:

- PREA signage throughout the facility

### Findings:

#### 115.52(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.52(a) verbatim and uses the term "Department" in place of the term "Agency." *COMAR 12.02.28 Administrative Remedy Procedure (ARP)* section .04B(5) states, "An inmate may not use the ARP to resolve a complaint concerning: The following acts by staff or another inmate, which shall be addressed according to Department procedures for addressing complaints under the Prison Rape Elimination Act: (a) Rape; (b) Sexual assault, sexual harassment, sexual abuse; and (c) Other sexual misconduct." Collectively, these policies guide facility practice regarding exhaustion of administrative remedies.

The agency does not have administrative procedures to address inmate grievances regarding sexual abuse. As stated above, inmates may not use the ARP process to resolve complaints under the PREA. However, pursuant to section .04B(5) complaints under the PREA (i.e. allegations of sexual abuse or sexual harassment) will be investigated. Furthermore, during inmate interviews and conversation with staff it was evident that the ARP form, not the process itself, could be utilized as a mechanism to report sexual abuse or sexual harassment in writing. It was determined that if an allegation was submitted using the ARP form, the allegation would be investigated. Thus, while the ARP form offers no access to the agency's administrative remedies process, the form does serve as another method to submit a report of sexual abuse or sexual harassment in writing.

Based on the above, the facility has demonstrated compliance with provision 115.52(a).

### Recommendations:

- None

**Corrective Action:**

- None

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

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

**115.53 (a)**

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

**115.53 (b)**

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

**115.53 (c)**

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

**Auditor Overall Compliance Determination**

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

## Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Maryland Coalition Against Sexual Assault (MCASA) Agreement*
- *Maryland Coalition Against Sexual Abuse (MCASA) Brochure.*

### Interviews:

- MCASA representative
- Random Inmates

### Site Review:

- PREA signage throughout the facility

### Findings:

#### 115.53(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.53(a) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "Services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and, for persons detained solely for civil immigration purposes, immigrant services agencies. The facility shall enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible." Collectively, these policies guide facility practice regarding inmate access to outside confidential support services.

DPSCS has an agreement with the Maryland Coalition Against Sexual Assault (MCASA). MCASA is the federally recognized state sexual assault coalition. Its core members are the state's 17 rape crisis and recovery centers. 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 statewide. Services provided through MCASA include legal advocacy, legislative advocacy, general advocacy, and emotional support services provided through MCASA's network of providers. The agreement specifically states, "MCASA will develop procedures to meet PREA Standard 115.53 in providing access to outside confidential services for Inmates. MCASA will provide technical assistance as needed, including researching and developing policies to address problems and concerns related to provision of confidential emotional support services."



A Maryland Coalition Against Sexual Assault (MCASA) representative was interviewed in conjunction with this audit. The MCASA representative reported that her organization does have a relationship with the agency to provide legal advocacy, legislative advocacy, general advocacy, and emotional support services through MCASA's network of providers. Specifically, emotional support services are handled through MCASA's Sexual Assault Legal Institute (SALI).

88% of inmates reported that services are available. Some inmates were able to specifically identify that advocacy, crisis intervention, and emotional support services were available. Telephone was noted as the primary means of contacting these services. This would coincide with the advocacy and emotional support information that was posted throughout the institution.

Agency policy requires that services are available. An agreement with MCASA is in place to provide services. Inmate interviews indicate that services are available. Based on the above, the facility has demonstrated compliance with provision 115.53(a)

#### **115.53(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.53(b) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "(b) Each Department facility shall inform inmates, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws." Collectively, these policies guide facility practice regarding inmate access to outside confidential support services.

Documentation indicates that DPSCS has an agreement with the Maryland Coalition Against Sexual Assault (MCASA) to provide emotional support services. Services include legal advocacy, legislative advocacy, general advocacy, and emotional support services provided through MCASA's network of providers. Upon arrival inmates are provided the *Maryland Coalition Against Sexual Abuse (MCASA) Brochure* which informs inmates about services (including confidential emotional support services) provided through MCASA. Prior to accessing services inmates are informed to the extent to which their communications will be monitored.

94% of the inmates who reported that services were available indicated that information shared with these services is private. Many inmates indicated that immediate danger would be the only circumstance whereby information would be shared with the agency. Telephone was noted as the primary means of communicating with these services. This would coincide with the information posted throughout the facility.

Agency policy requires that inmates are informed to the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. Inmate interview responses suggest are informed. Based the above, the facility has demonstrated compliance with provision 115.53(b).

#### **115.53(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.53(c) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "The Department shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide inmates with confidential emotional support services related to sexual abuse. The Department shall maintain

copies of agreements or documentation showing attempts to enter into such agreements.” Collectively, these policies guide facility practice regarding inmate access to outside confidential support services.

On June 26, 2016, the agency entered into an agreement with the Maryland Coalition Against Sexual Assault (MCASA). MCASA is the federally recognized state sexual assault coalition. Its core members are the state’s 17 rape crisis and recovery centers. MCASA provides policy advocacy, technical assistance, training, outreach, and prevention. Specific services provided to DPSCS through MCASA include legal advocacy, legislative advocacy, general advocacy, and emotional support services. MCASA’s Sexual Assault Legal Institute (SALI) provides direct legal services for victims and survivors of sexual violence statewide and outside emotional support services to inmates. A copy of the agreement was obtained, reviewed, and retained for audit purposes.

The agency does have an agreement in place pursuant to provision 115.53(c). The agency retained a copy of the agreement and subsequently provided a copy to the auditor for audit purposes. Based on the above, the facility has demonstrated compliance with provision 115.53(c).

#### **Recommendations:**

- None

#### **Corrective Action:**

- None

### **Standard 115.54: Third-party reporting**

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

##### **115.54 (a)**

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

#### **Auditor Overall Compliance Determination**

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

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

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

**Documentation:**

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited*

**Interviews:**

- MCASA representative
- Random Inmates

**Site Review:**

- PREA signage throughout the facility

**Findings:**

**115.54(a)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.54(a) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department shall establish a method to receive third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate.” *Executive Directive OPS.050.0001 Sexual Misconduct - Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section E1(c) states, “A complaint of alleged inmate on inmate sexual conduct may be submitted by the following individuals: A “third party” or other individual who has knowledge of the alleged inmate on inmate sexual conduct.” *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* states in part, “Any DRCF employee may receive a report of sexual misconduct from many different sources. Including outside persons or agencies. They may be in writing, verbal anonymous or from third parties.” Collectively, these policies guide facility practice regarding third-party reporting.

The PAQ indicates that the agency website contained all the necessary PREA contact information. Upon review the agency's website contains the necessary PREA contact information. Information provided on the website includes phone numbers and email address that are published and available to the public. Also provided is the agency PREA Coordinator's contact information. The auditor personally verified the content of the agency's website.

Based on the above, the facility has demonstrated compliance with provision 115.54(a).

**Recommendations:**

- None

**Corrective Action:**

- None

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

### Standard 115.61: Staff and agency reporting duties

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

#### 115.61 (a)

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

#### 115.61 (b)

- Apart from reporting to designated supervisors or officials, does staff always refrain from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions? ☒ Yes ☐ No

#### 115.61 (c)

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

#### 115.61 (d)

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

#### 115.61 (e)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

#### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive IIU.110.0011 Investigating Sex Related Offenses*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Executive Directive OPS.020.0003 Reporting Serious Incidents*
- *Child Abuse and Neglect, Maryland Family Law § 5-704 (2013)*
- *Facility Directive DRCF.050.0030.2 Sexual Misconduct - Prohibited*
- Investigation documentation

#### Interviews:

- Random Staff
- Warden or Designee

#### Site Review:

- None

#### Findings:

#### 115.61(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.61(a) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part the Department; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.”

*Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .05A states, “An employee who observes or has knowledge of an incident, regardless of the source of the information, involving a sex related offense that occurs on Department property or in a Department vehicle shall notify the Internal Investigative Unit (IIU) of the incident as soon as possible after the occurrence or the employee first becomes aware of the incident.”

*Executive Directive OPS.050.0001 Sexual Misconduct - Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section E5 requires employees who receive a complaint of or otherwise have knowledge of alleged sexual misconduct/sexual conduct shall immediately report the complaint to a supervisor, manager, shift commander, or head of the unit followed by the appropriate written format used to document the incident. Section E6(a) requires the supervisor, manager, shift commander, or head of a unit at a facility other than the facility where the alleged sexual misconduct/sexual conduct occurred notify the managing official responsible for the facility receiving. If the incident occurred at another department facility the managing official responsible for the facility receiving the complaint immediately, but not later than 72 hours of being notified of the incident, shall notify the managing official of the facility where the incident occurred. If the incident occurred at a facility that is not under the authority of the department the facility head or agency head responsible for the facility where the incident occurred and the IID regardless of the jurisdiction where the incident occurred. It should be noted that pursuant to agency policy “sexual misconduct” and “sexual conduct” are umbrella terms used to encompass sexual abuse, sexual harassment, and retaliation and other related behavior.

*Executive Directive OPS.020.0003 Reporting Serious Incidents* requires, employees to report any incident in which injury, serious enough to warrant medical attention, occurs involving an inmate, employee, or visitor on the grounds of the facility or creates an imminent threat the security of the facility, or to the safety of inmates, employees, or visitors on the grounds of the facility. Collectively, these policies guide facility practice regarding staff and agency reporting duties.

During random staff interviews 100% of staff reported that the agency does require staff to report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility. Staff also indicated a responsibility to report any retaliation against inmates or staff for reporting sexual abuse or sexual harassment. Likewise, staff also indicated a duty to report any staff neglect that may have contributed to an incident of sexual abuse or sexual harassment. The facility did have one allegation of sexual abuse reported by staff. The investigation documents demonstrate that staff are knowledgeable in how to report and do report behavior inconsistent with provision 115.61(a).

The agency does have policies in place that require staff to report immediately and according to agency policy any knowledge of behavior noted in provision 115.61(a). Staff interviews indicate that staff are aware of agency policy regarding their responsibility to report any knowledge of behavior noted in provision 115.61(a). Based on the above, the facility has demonstrated compliance with provision 115.61(a).

#### **115.61(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.61(b) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in the Department policy, to make treatment, investigation, and other security and management decisions.” *Executive Directive OPS.050.0001 Sexual Misconduct - Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section E5 requires confidentiality with regard to information concerning a complaint of alleged sexual misconduct/sexual conduct and any information may only be available to individuals who have an established role in the reporting, processing, investigating, and immediate and continued care of the victims. *Facility Directive DRCF.050.0030.2 Sexual Misconduct - Prohibited* section .03B7 states, “Staff exploitation of sensitive information is subject to disciplinary action.” Collectively, these policies guide facility practice regarding staff and agency reporting duties.

100% of staff reported that the agency does require staff to report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility. Though staff recognize an immediate duty to report the information to a supervisor, staff are also cognizant of their responsibility to keep information related to an incident of sexual abuse confidential.

The agency does have policies in place that require staff to keep information related to an incident confidential. Staff interviews indicate that staff are aware of agency policy regarding their responsibility as it relates to confidentiality. Based on the above, the facility has demonstrated substantial compliance with provision 115.61(b).

#### **115.61(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.61(d) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, the Department shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.”

*Child Abuse and Neglect, Maryland Family Law § 5-704 (2013)* states, “Reporting of abuse or neglect -- By health practitioner, police officer, educator, or human service worker (a) In general. -- Notwithstanding any other provision of law, including any law on privileged communications, each health practitioner, police officer, educator, or human service worker, acting in a professional capacity in this State: (1) who has reason to believe that a child has been subjected to abuse or neglect, shall notify the local department or the appropriate law enforcement agency; and (2) if acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, shall immediately notify and give all information required by this section to the head of the institution or the designee of the head.” Collectively, these documents guide facility practice regarding staff and agency reporting duties.

The agency does have policy in place that requires medical and mental health employees to report incidents of sexual abuse. Interviews confirmed that medical and mental health employees are aware of this duty. Based on the above, the facility has demonstrated compliance with provision 115.61(c).

#### **115.61(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.61(d) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, the Department shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.”

*Child Abuse and Neglect, Maryland Family Law § 5-704 (2013)* states, “Reporting of abuse or neglect -- By health practitioner, police officer, educator, or human service worker (a) In general. -- Notwithstanding any other provision of law, including any law on privileged communications, each health practitioner, police officer, educator, or human service worker, acting in a professional capacity in this State: (1) who has reason to believe that a child has been subjected to abuse or neglect, shall notify the local department or the appropriate law enforcement agency; and (2) if acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, shall immediately notify and give all information required by this section to the head of the institution or the designee of the head.” Collectively, these documents guide facility practice regarding staff and agency reporting duties.

Maryland does have mandatory reporting laws for physical and sexual abuse of children and vulnerable adults. *Child Abuse and Neglect, Maryland Family Law § 5-704 (2013)* pertains to health practitioners, educators or human service workers, and police officers regarding reporting physical and sexual abuse of children and vulnerable adults. DRCF houses only male inmates 18 or older. Pre-audit and onsite discussions indicated that youthful inmates were not housed at DRCF. On-site observations did not indicate the presence of youthful offenders. The agency PREA coordinator stated, “We’ve still never had an allegation. This population is handled very delicately. One of the investigators would investigate the situation and it is reported to social services by law.” The warden’s designee reported that DRCF only houses inmates 18 or older.

Based on the above, the facility has demonstrated compliance with provision 115.61(d).

#### **115.61(e)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.61(e) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility’s designated investigators.” *Directive IIU.110.0011 Investigating Sex Related Offenses* section .05A, “An employee who observes or has knowledge of an incident, regardless of the source of the information, involving a sex related offense that occurs on Department property or in a Department vehicle shall notify the Internal Investigative Unit (IIU) of the incident as soon as possible after the occurrence or the employee first becomes aware of the incident. Section .05B states, “A sex related offense may involve an: (1) Employee with another employee; (2) Employee and an inmate; (3) Employee and an inmate’s personal contact; (4) Employee and a visitor; (5) Inmate and an employee; (6) Inmate and another inmate; or (7) Inmate and visitor.” Collectively, these policies guide facility practice regarding staff and agency reporting duties.

Investigation documents suggest that all allegations of sexual abuse and sexual harassment are forwarded to IIU for investigation. IIU will subsequently determine whether the investigation will be conducted by a local investigator or by an IIU investigator. During an interview with the warden’s designee it was learned that all allegations of sexual abuse and sexual harassment, regardless of the origin, are forwarded to IIU for investigation.



Documentation and interviews suggest that all allegations of sexual abuse, regardless of origin, are forwarded to IIU for investigation. Based on the above, the facility has demonstrated compliance with provision 115.61(e).

**Recommendations:**

- None

**Corrective Action:**

- None

**Standard 115.62: Agency protection duties**

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

**115.62 (a)**

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

**Auditor Overall Compliance Determination**

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

**Instructions for Overall Compliance Determination Narrative**

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

**Documentation:**

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Correctional In-Service Training Program)*
- *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Correctional Entrance Level Training Program)*

**Interviews:**

- Agency head designee

- Warden's designee
- Random Staff

**Site Review:**

- None

**Findings:**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.62(a) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “When the Department learns that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate.” This information is also covered in the *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Correctional In-Service Training Program)* and *Maryland Police and the Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Correctional Entrance Level Training Program)*. Collectively, these policies guide facility practice regarding agency protection duties.

Interviews with the agency head designee, warden's, and random staff were conducted. 100% of those interviewed reported that immediate action is required and would be handled on a case by case basis. The agency head designee indicated that a variety of measures could be taken to protect the victim. The types of measures deployed are dependent on an assessment of the situation. If the threat involves another inmate: housing changes, interdepartmental transfers, and segregation are all options. If the threat arises from staff, staff can be moved. Efforts would be made to ensure the least amount of impact on the victim. As a last resort, placement in involuntary protective custody is possible.

The warden's designee reported that protection of the potential victim is the priority. This would likely require separating the inmate from any potential threat. The inmate would then be interviewed, and action would be taken to minimize the threat to the inmate based on all the information gathered. A variety of measures could be taken to minimize the threat housing moves and interdepartmental transfers were some of the examples provided. Random staff generally indicated that if an inmate was at risk of imminent sexual abuse immediate action to protect the inmate would be taken and then a supervisor would be contacted.

A review of documentation indicated zero instances where the facility determined an inmate was at substantial imminent risk of sexual abuse. However, the agency does train staff to take immediate action and interviews suggest that if an imminent threat were discovered staff would respond appropriately. Based on the above, the facility has demonstrated compliance with provision 115.62(a).

**Recommendations:**

- None

**Corrective Action:**

- None

## Standard 115.63: Reporting to other confinement facilities

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

### 115.63 (a)

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

### 115.63 (b)

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

### 115.63 (c)

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

### 115.63 (d)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

## Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Investigation documentation*

## Interviews:

- *Agency Head Designee*

- Warden's Designee

**Site Review:**

- None

**Findings:**

**115.63(a)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.63(a) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “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 Department where the alleged abuse occurred.”

*Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05E(6) require the managing official responsible for a facility receiving a complaint of sexual misconduct or sexual conduct, if the incident occurred at another Department facility, to notify the managing official of the facility where the incident occurred. Likewise, the managing official responsible for a facility receiving a complaint of sexual misconduct or sexual conduct, that occurred at a facility that is not under the authority of the Department, to notify the managing official of the facility where the incident occurred. Collectively, these policies guide facility practice regarding reporting to other confinement facilities.

The PAQ indicates the facility received zero allegations that an inmate was abused while confined at another facility in the past 12 months. Thus, there is no documentation to review. Based on the above, the facility has demonstrated compliance with provision 115.63(a).

**115.63(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.63(b) verbatim. The manual states, “Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05E(6) require the managing official responsible for a facility receiving a complaint of sexual misconduct or sexual conduct, if the incident occurred at another Department facility, to immediately but not later than 72 hours, notify the managing official of the facility where the incident occurred. Likewise, the managing official responsible for a facility receiving a complaint of sexual misconduct or sexual conduct, that occurred at a facility that is not under the authority of the Department, to immediately but not later than 72 hours, notify the managing official of the facility where the incident occurred. Collectively, these policies guide facility practice regarding reporting to other confinement facilities.

A review of the PAQ noted that the facility received zero allegations that an inmate was abused while confined at another facility in the past 12 months. Thus, there is no documentation to review. Based on the above, the facility has demonstrated compliance with provision 115.63(b).

**115.63(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.63(c) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department shall document that it has provided such notification.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05E(6)(b) states, “Record the notifications made in accordance with §.05E(6)(a) of this directive.” Collectively, these policies guide facility practice regarding reporting to other confinement facilities.

A review of the PAQ noted the facility received zero allegations that an inmate was abused while confined at another facility in the past 12 months. Thus, there is no documentation to review. Based on the above, the facility has demonstrated compliance with provision 115.63(c).

#### **115.63(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.63(d) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The facility head or the Department office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.”

*Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05E(7) states, “An IID representative notified under §.05E(6) of this directive and the facility where the alleged inmate on inmate sexual conduct occurred is a Department facility, shall follow up with the managing official responsible for the Department facility where the alleged inmate on inmate sexual conduct occurred to ensure that the complaint is addressed according to requirements established under this directive.” Collectively, these policies guide facility practice regarding reporting to other confinement facilities.

The agency head designee reported that another agency, or a facility within another agency, could refer allegations of sexual abuse or sexual harassment to the secretary’s office, the agency PREA coordinator, and/or the facility head. If received, these allegations would be forwarded to the warden of the facility where the alleged sexual abuse or sexual harassment occurred. The warden’s designee indicated that any allegation will be investigated. The allegation will be investigated at the site where the alleged sexual abuse or sexual harassment occurred.

A review of investigation documents indicated that the facility had one incident where an allegation of sexual abuse was received from another facility. Investigation documents also demonstrated that IIU was contacted and an investigation was subsequently conducted. This information corroborates the information provided during interviews and the information learned during a review of the documentation. Based on the above, the facility has demonstrated compliance with provision 115.63(d).

#### **Recommendations:**

- None

#### **Corrective Action:**

- None

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

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

### 115.64 (a)

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Separate the alleged victim and abuser?  
☒ Yes   ☐ No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence? ☒ Yes   ☐ No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence? ☒ Yes   ☐ No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence? ☒ Yes   ☐ No

### 115.64 (b)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

## Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Executive Directive OPS.020.0003 Reporting Serious Incidents*
- *Facility Directive DRCF.050.0030.2 Sexual Misconduct - Prohibited*

#### **Interviews:**

- Security staff and non-security staff first responders
- Inmates who reported a sexual abuse
- Random sample of staff

#### **Site Review:**

- None

#### **Findings:**

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

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.64(a) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05D(2)(a)(i) requires employees to stop the incident and separate the alleged victim and abuser. Section .05D(2)(b)(i)-(iii) states, “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.” Collectively, these policies guide facility practice regarding staff first responder duties.

The facility did not report any instances where an incident of sexual abuse occurred where a staff member acted in accordance with the agency’s first responder protocol. Nonetheless, an employee was interviewed utilizing the “Security staff and non-security staff who have acted as first responders” protocol. During the interview, the staff member indicated that the alleged victim and abuser would be separated, the crime scene would be protected, request that the victim not take any actions that would destroy physical evidence, ensure that the alleged abuser does not take any actions that would destroy evidence, and immediately notify medical and mental health care.

Based on the above, the facility has demonstrated compliance with provision 115.64(a).

##### **115.64(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.64(b) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.”

*Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05D(3) requires not security staff responding to an incident of sexual misconduct or sexual conduct to act in accordance with section .05D2(a) and (b). Sections .05D(2)(a)(i) requires employees to stop the incident and separate the alleged victim and abuser. Section .05D(2)(b)(i)-(iii) states, “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.” Collectively, these policies guide facility practice regarding staff first responder duties.”

The facility did not report any instances of sexual abuse where an employee acted in accordance with the agency’s first responder protocol. Nonetheless, an employee was interviewed utilizing the “Security staff and non-security staff who have acted as first responders” protocol. During the interview, the staff member indicated that the alleged victim and abuser would be separated, the crime scene would be protected, request that the victim not take any actions that would destroy physical evidence, ensure that the alleged abuser does not take any actions that would destroy evidence, and immediately notify medical and mental health care. Random staff interviews indicated that staff would separate the victim from the abuser, report the incident to their supervisor, protect the area, protect evidence, and take the victim to health care. Random staff were generally able to articulate their responsibilities regarding responding to an incident of sexual abuse.

Based on the above, the facility has demonstrated compliance with provision 115.64(b).

**Recommendations:**

- None

**Corrective Action:**

- None

**Standard 115.65: Coordinated response**

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

**115.65 (a)**

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

**Auditor Overall Compliance Determination**

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



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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Facility Directive DRCF.050.0030.2 Sexual Misconduct - Prohibited*

### Interviews:

- Warden's designee

### Site Review:

- None

### Findings:

#### 115.65(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.65(a) verbatim. The manual states, "The facility shall develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership." *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05F were also submitted for review. Collectively, these documents guide practice regarding the facility's coordinated response.

During interviews, the warden's designee indicated that the institutional plan is documented in facility policy. *Facility Directive DRCF.050.0030.2 Sexual Misconduct - Prohibited* section .05K outlines the facility's response to an allegation of sexual abuse. This document serves as the facility specific response plan required by provision 115.65(a). Section .05K does provide direction to employees regarding actions to take in response to an allegation of sexual abuse. *Facility Directive DRCF.050.0030.2 Sexual Misconduct - Prohibited* coordinates the actions of first responders, medical and mental health practitioners, investigators, and facility leadership. The institutional response plan provides guidance with regard to actions taken by first responders, the protection of evidence, referral to health care and mental

health care, escort to local hospital for SAFE/SANE examination, referral to IIU for investigation, follow up care for the victim, mental health evaluations for both the victim and the abuser, and in incident review at the conclusion of the investigation.

*Facility Directive DRCF.050.0030.2 Sexual Misconduct - Prohibited* section .05K(2) states, "First responders shall also ensure the alleged victim does not take any actions that could destroy physical evidence." However, it does not mention actions to 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. This is covered in agency policies *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*. A recommendation to add written direction to ensure the alleged abuser does not do anything that would contaminate or destroy physical evidence should be added to the facility response plan.

The facility has demonstrated that a written institutional plan is in place. The plan is contained within *Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited*. A review of the documentation found that the facility does have a written coordinated response plan. Based on the above, the facility has demonstrated compliance with provision 115.65(a).

#### **Recommendations:**

- *Facility Directive DRCF.050.0030.2 Sexual Misconduct - Prohibited* section .05K(2) does not mention actions to 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. It is recommended that the facility response plan be revised to include direction to staff regarding ensuring that the alleged abuser does not do anything that would contaminate or destroy physical evidence.

#### **Corrective Action:**

- None

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

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

##### **115.66 (a)**

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

##### **115.66 (b)**

- Auditor is not required to audit this provision.

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *State Personnel and Pensions Article, §3-302, Annotated Code of Maryland*

### Interviews:

- Agency head designee

### Site Review:

- None

### Findings:

#### 115.66(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.66(a) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “Neither the Department nor any other governmental entity responsible for collective bargaining on the Department’s behalf shall enter into or renew any collective bargaining agreement or other agreement that limits the Department’ ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.” Therefore, Maryland law requires that management retain all basic rights. *State Personnel and Pensions Article, §3-302, Annotated Code of Maryland* regarding management’s rights as provided by law was submitted for review. Items 1 through 8 of this document specifically state 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.

The agency head designee reported that Maryland is a management rights state. Therefore, DPSCS has discretion regarding the assignment, hiring and firing of staff. A review of the documentation and a discussion with the agency head designee suggests that there are no limitations to the agency's ability to remove employee sexual abusers from contact with inmates. Based on the above, the facility has demonstrated compliance with provision 115.66(a).

**115.66(b)**

The auditor is not required to audit this provision.

**Recommendations:**

- None

**Corrective Action:**

- None

**Standard 115.67: Agency protection against retaliation**

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

**115.67 (a)**

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

**115.67 (b)**

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

**115.67 (c)**

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

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation? ☒ Yes ☐ No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any inmate disciplinary reports? ☒ Yes ☐ No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate housing changes? ☒ Yes ☐ No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes? ☒ Yes ☐ No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff? ☒ Yes ☐ No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff? ☒ Yes ☐ No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need? ☒ Yes ☐ No

#### 115.67 (d)

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

#### 115.67 (e)

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

#### 115.67 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Facility Directive DRCF.050.0030.2 Sexual Misconduct - Prohibited*

### Interviews:

- Agency head designee
- Warden designee
- Designated staff member charge with monitoring retaliation

### Site Review:

- None

### Findings:

#### 115.67(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.67(a) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department shall establish a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff, and shall designate which staff members or departments are charged with monitoring retaliation.” Agency policy *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* categorizes “retaliation” as a form of sexual misconduct that is prohibited. Likewise, *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* categorizes “retaliation” as a form of sexual conduct that is prohibited. The two policies are similar in content. However, sexual misconduct generally means staff behavior or acts of a sexual nature directed towards inmates whereas sexual conduct speaks of behavior or acts of a derogatory or offensive sexual nature from one inmate directed towards another inmate.

*Facility Directive DRCF.050.0030.2 Sexual Misconduct - Prohibited* section establishes the policy requirement for retaliation monitoring. According to the facility policy, the investigative captain is

responsible for monitoring staff and the housing unit manager is responsible for monitoring inmates. Collectively, these policies guide facility practice regarding agency protection against retaliation.

The agency does have an established policy in place to protect inmates and staff from retaliation. Based on the above, the facility has demonstrated compliance with provision 115.67(a).

#### **115.67(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.67(b) verbatim and uses the term “Department” in place of the term “Agency.” Agency policy *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05B establish measures to be utilized (i.e. housing changes and work assignment changes) to protect inmates and staff from retaliation. Collectively, these policies guide facility practice regarding an official response following an inmate report.

The agency head designee reported that every institution has staff assigned to monitor retaliation and those who express fear of retaliation would be monitored for at least 90 days. The agency head designee reported that multiple measures could be utilized to protect inmates and staff from retaliation. The types of measures employed would depend on the situation. Such measures could include inmate housing changes and interdepartmental transfers for both inmates and staff. As a last resort, inmates could be placed in restrictive housing; however, this protection measure is to be avoided if possible. Every attempt will be made to minimize the impact on inmate or staff member who is being retaliated against.

The warden’s designee reported that retaliation monitoring is completed in accordance with policy requirements. A staff member who monitors for retaliation reported that housing unit moves, and staff reassignments are some of the measures utilized to protect inmates and staff from retaliation.

The agency does utilize multiple protection measures to protect inmates and staff from retaliation. Based on the above, the facility has demonstrated compliance with provision 115.67(b).

#### **115.67(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.67(c) verbatim and uses the term “Department” in place of the term “Agency.” Agency policy *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* establish agency policy regarding retaliation monitoring. Agency policy requires that staff and inmates who report or participate in the investigation or resolution of, or who is a victim of alleged sexual misconduct or sexual conduct is monitored for a minimum of 90 days. Per policy, retaliation may include Discipline, Changes in work or program assignments; Transfers or placements; or Denial of privileges or services. Collectively, these policies guide facility practice regarding an official response following an inmate report.

During interviews the warden’s designee indicated that any retaliation would be handled through the disciplinary process. This may include internal or external disciplinary action including termination. Staff who monitor for retaliation indicated that for a minimum of 90 days housing unit changes, work assignments, changes in activities would be reviewed for signs of possible retaliation.

There was one unsubstantiated sexual abuse investigation completed during the past 12 months. None of the documentation provided demonstrates that retaliation monitoring occurred. The facility shall

provide documentation that demonstrates retaliation monitoring is conducted pursuant to provision 115.67(c).

Based on the above, the facility has not demonstrated compliance with provision 115.67(c).

#### **115.67(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.67(d) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “In the case of inmates, such monitoring shall also include periodic status checks.” This policy guides facility practice regarding an official response following an inmate report.

There was one unsubstantiated sexual abuse investigation completed in the past 12 months. However, none of the documentation provided demonstrates that periodic status checks are conducted in conjunction with retaliation monitoring. The facility shall provide documentation that demonstrates periodic status checks are conducted in conjunction with retaliation monitoring pursuant to provision 115.67(d).

Based on the above, the facility has not demonstrated compliance with provision 115.67(d).

#### **115.67(e)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.67(e) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “If any other individual who cooperates with an investigation expresses a fear of retaliation, the Department shall take appropriate measures to protect that individual against retaliation.” Agency policy *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05B(3) indicates that any individual (staff or inmate) reporting, participating in the investigation or resolution of, or who is a victim of alleged sexual misconduct or 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.” Collectively, these policies guide facility practice regarding an official response following an inmate report.

The agency head designee reported that every institution has staff assigned to monitor retaliation and those who express fear of retaliation would be monitored for at least 90 days. The agency head designee also reported that multiple measures could be utilized to protect inmates and staff from retaliation. The measures employed would depend on the situation. Such measures could include inmate housing changes, interdepartmental transfers for both inmates and staff, and emotional support services. Every attempt will be made to minimize the impact on inmates or staff who are being retaliated against. As a last resort, inmates could be placed in restrictive housing; however, it was reported that this method of protection is avoided if possible.

The warden’s designee reported that retaliation is monitored pursuant to policy requirements and if any retaliation were discovered it would be addressed via the disciplinary process. Agency policy regarding protection from retaliation does include any individual (staff or inmate) reporting, participating in the investigation or resolution of, or who is a victim of alleged sexual misconduct or sexual conduct is monitored. Based on the above, the facility has demonstrated compliance with provision 115.67(e).



## **115.67(f)**

The auditor is not required to audit this provision.

### **Recommendations:**

- None

### **Corrective Action:**

- 115.67(c): Retaliation monitoring is required for 90 days following a report of sexual abuse. The facility shall provide documentation that demonstrates retaliation monitoring is conducted pursuant to provision 115.67(c).
- 115.67(d): The facility shall provide documentation that demonstrates periodic status checks are conducted in conjunction with retaliation monitoring pursuant to provision 115.67(d).

### **Corrective Action Verification:**

- 115.67(c)&(d): There was one unsubstantiated sexual abuse investigation completed during the past 12 months. None of the documentation provided by the facility demonstrated that retaliation monitoring occurred. Furthermore, there has been no subsequent allegations, including the corrective action period, whereby retaliation monitoring was required. Therefore, in order to demonstrate compliance, the facility was required to develop a plan to ensure retaliation monitoring will not be missed going forward. The facility submitted a documented plan to ensure that retaliation monitoring occurs as required by the standards. Said plan ensures that the facility PREA Compliance Manager and facility retaliation monitor are notified immediately upon receipt of a sexual abuse or sexual harassment allegation. Upon receipt of a sexual abuse allegation, the PREA Compliance Manager or retaliation monitor will meet with the inmate as soon as possible to initiate the retaliation monitoring form. The plan also requires the retaliation monitor to meet with the inmate monthly for the next 90 days, noting that more in-person contact may be prescribed as necessary. After each meeting a copy of the retaliation monitoring form will be forwarded to the PREA compliance manager for review and retention. Furthermore, any indication of retaliation will result in notification to facility administration and an investigation will likely be initiated. The plan also allows for the continuation of monitoring past 90 days if necessary. Additionally, the plan implements a process to ensure that monitoring documentation follows an inmate that transfers to another facility within the agency. Due to a lack of sexual abuse allegations, the facility did not have any documentation to demonstrate the actual retaliation monitoring process. However, the facility appears to have devised a responsive, adaptable, and comprehensive process to ensure that retaliation monitoring is performed in accordance with provision 115.67(c)&(d). Based on the above, the facility has demonstrated substantial compliance.

## **Standard 115.68: Post-allegation protective custody**

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

### **115.68 (a)**

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Division of Corrections – Case Management Manual DOC.100.0002*

### Interviews:

- Agency head designee
- Warden designee's
- Designated staff member charge with monitoring retaliation

### Site Review:

- None

### Findings:

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.68(a) verbatim. *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. Collectively, these policies guide facility practice regarding an official response following an inmate report.

DRCF does not have segregation. Therefore, the PAQ indicated that zero inmates were held in involuntary segregated housing. The facility does have three temporary holding cells. There is one holding cell located in the administrative building and the two holding cells located in unit three. During the on-site audit it was evident that these cells were utilized in a temporary capacity only. Inmates who were confined to these cells were either released back to general population or transferred within twenty-four hours.

The auditor noted that no inmates were placed in protective segregation within the past 12 months. However, the warden's designee was able to demonstrate knowledge of the involuntary segregation requirements outlined in the standards. Warden's designee reported that as a last resort the holding cells could be utilized; however, placement would be for no longer than 24 hours. Additionally, all alternative placement options would have to be exhausted prior to utilizing the holding cells for this purpose.

Per agency policy, inmates who have allegedly suffered sexual abuse would be treated in accordance with Standard 115.43. Based on the above, the facility has demonstrated compliance with provision 115.68(a).

**Recommendations:**

- None

**Corrective Action:**

- None

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

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

**115.71 (a)**

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

**115.71 (b)**

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

#### 115.71 (c)

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

#### 115.71 (d)

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

#### 115.71 (e)

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

#### 115.71 (f)

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

#### 115.71 (g)

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

#### 115.71 (h)

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

#### 115.71 (i)

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

#### 115.71 (j)

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

#### 115.71 (k)

- Auditor is not required to audit this provision.

#### 115.71 (l)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*

- *Executive Directive IIU.110.0011 Investigating Sex Related Offenses*
- *Facility Directive DRCF.050.0030.2 Sexual Misconduct - Prohibited*
- Investigation documentation

#### **Interviews:**

- Warden's designee
- PREA coordinator
- PREA compliance Manager
- Investigative staff

#### **Site Review:**

- None

#### **Findings:**

#### **115.71(a)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.71(a) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “When the Department conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.”

Agency policy *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(1)(a)-(f) states in part, “Investigating, Documenting, and Resolving a Complaint. 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 and inmate on inmate sexual conduct 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, witnesses, and suspected perpetrators; (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.”

*Executive Directive IIU.110.0011 Investigating Sex Related Offenses* .03A 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.”

*Facility Directive DRCF.050.0030.2 Sexual Misconduct – Prohibited* section .05K1 states, “Any DRCF employee may receive a report of sexual misconduct from many different sources. including outside persons or agencies. They may be in writing, verbal anonymous or from third parties. Verbal reports shall be documented promptly but not later than the end of the shift. Inmates and staff also have access to the PREA hotline that shall refer any reports back to the facility for investigation. Staff can dial the number privately and anonymously from any facility phone.” Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

Investigation documents indicate that a total of 12 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. Investigation documents were obtained, reviewed, and retained for audit purposes. The documentation demonstrates that the investigations were initiated shortly after an incident was reported. This was verified by the dates and times observed on witness statements and other documents contained within the investigation files. Investigation documents also demonstrate that a thorough and objective investigation was conducted. This was verified via the supporting documents (i.e. investigation narrative, medical documentation, and witness statements) contained within the investigation files. Investigation documents also noted several reporting methods utilized by the inmate population to report allegations of sexual abuse and sexual harassment. Investigation documents also revealed that inmates had reported both verbally and in writing to both security and non-security staff. Documentation also indicated that inmates had reported via the agency hotline. No third-party reports were received during the audit period.

Two investigative staff were interviewed. Investigators reported that investigations are typically initiated immediately. However, one investigator reported that it could possibly take as long as seven days. It was noted that more urgent matters (i.e. allegations requiring forensic exams) would take priority over other less urgent matters. Investigators reported that anonymous and third-party reports of sexual abuse and sexual harassment would be processed in the very same manner as any other report of sexual abuse and sexual harassment.

Policy exists that guides the conduct of investigations. Facility investigation documentation indicates that investigations are conducted timely, thoroughly, and objectively. Investigator responses indicate that investigations are handled in accordance with provision 115.71(a). Based on the above, the facility has demonstrated compliance with provision 115.71(a).

#### **115.71(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.71(b). The manual states, “In addition to the general training provided to all employees pursuant to 115.31, the Department shall ensure that, to the extent the Department itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(2) states in part, “To the extent possible, but in every case where the allegation of alleged sexual misconduct involves sexual abuse, the investigator assigned to investigate the allegation shall have received specialized training related to conducting sexual abuse investigations.” *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .03B 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.” Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

IIU handles all allegations of sexual abuse and sexual harassment and has jurisdiction over both administrative and criminal investigations. IIU investigators are generally former police officers and detectives with experience in conducting investigations prior to being hired as IIU investigators. Additionally, IIU investigators are required to meet specific training standards in order to maintain law enforcement certification. Training records noted that all DRCF investigations completed by IIU were completed by an investigator who had received specialized training.

Investigators reported having received specialized training in the conduct of sexual abuse and sexual harassment investigations. One investigator reported having received training at the police academy and during annual training. DRCF reported having one local investigator. The local facility investigator reported that field investigator training had been completed. Information covered during investigator training included but was not limited to evidence collection, interviews, documentation, and evidentiary standards.

A total of 12 investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. Investigation documents were obtained, reviewed, and retained for audit purposes. Two investigations were completed by the DRCF investigator and four were completed by IIU detectives. All investigations completed by IIU detectives were verified, through training records, to have completed specialized investigator training.

Some investigations are completed by IIU detectives who have received specialized training in the conduct of sexual abuse and sexual harassment investigations. However, it is unclear if the local investigator has received specialized training in the conduct of sexual abuse and sexual harassment investigations. Investigator training records are insufficient to demonstrate substantial compliance with the standard. The facility was unable to demonstrate that investigations conducted locally (i.e. at DRCF) are being conducted by an investigator who has received specialized training in the conduct of sexual harassment and sexual abuse investigations. Based on the above, the facility has not demonstrated compliance with provision 115.71(b).

#### **115.71(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.71(c). The manual states, “Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.”

*Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(1)(a)-(f) states, “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 related to: (a) Collecting and preserving evidence; (b) Interviewing victims, witnesses, and suspected perpetrators; (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.” *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .05D addresses investigator responsibilities including interviews and the collection and preservation of evidence. Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

A total of 12 investigations were completed during the 12-month audit period. The auditor randomly selected six of these investigations for review. Investigation documents were obtained, reviewed, and retained for audit purposes. Investigation documents demonstrate that investigators do “gather and preserve direct and circumstantial evidence.” Investigation documents contained such information as victim and witness interview statements, electronic case management information, physical evidence



such as letters, and photographs. The facility did not report any cases where a forensic exam was conducted to collect DNA evidence.

Investigators reported that contacting IIU is the first step towards initiating an investigation. IIU also reported that IID would receive information directly from the facility, via the hotline, in writing via letters, verbally from family, or a duty officer. This information would be reviewed by a supervisor, who subsequently assigns an IIU investigator. The investigator will gather all evidence, witness statements, search the crime scene, develop reports and refer to the prosecutor for possible criminal charges. The local investigator indicated that the collection and examination of evidence would begin almost immediately. This includes interviews, sending the victim to health care or to an outside hospital for a rape kit, and provide all this information to IIU.

Policy is in place regarding the collection and preservation of evidence. Likewise, there is also policy regarding the collection of physical and DNA evidence. The facility did not report an incident whereby the collection of DNA evidence would have been appropriate or necessary. However, investigation documents do demonstrate that evidence is collected in accordance with the standard. Based on the above, the facility has demonstrated compliance with provision 115.71(c).

#### **115.71(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.71(d). The manual states, “When the quality of evidence appears to support criminal prosecution, the Department shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.” *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .05H(6) states, “If appropriate, work with the prosecutor to develop the case for criminal prosecution.” Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

12 investigations were completed during the 12-month audit period. The auditor randomly selected six of these investigations for review. Investigation documents were obtained, reviewed, and retained for audit purposes. None of the investigation documents indicated that compelled interviews were utilized to gather information from either the alleged victim, alleged perpetrator, or any witnesses. The local investigator indicated that this would be handled by IIU. The IIU investigator reported that they will consult with the local prosecutor before conducting compelled interviews.

Documentation does not indicate the use of compelled interviews. Furthermore, interviews indicate that IIU would contact the local prosecutor prior to conducting any compelled interviews. Based on the above, the facility has demonstrated compliance with provision 115.71(d).

#### **115.71(e)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.71(e). The manual states, “The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person’s status as inmate or staff. No agency shall require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an allegation.”

*Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(6) prohibits victims of alleged

sexual misconduct or sexual conduct from being compelled to submit to a polygraph or other truth-telling examination as a condition for proceeding with an investigation of alleged sexual misconduct.

*Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .05E states, “(1) 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. (2) 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.” Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

A total of 12 investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. Investigation documents were reviewed and retained for audit purposes. None of the investigation documents indicate the use of a polygraph or other truth-telling device or examination. Additionally, credibility assessments appear to be appropriate given the information contained within the investigation report. Investigators were able to articulate the main ideals of the standard stating that credibility of an alleged victim, suspect, or witness is considered on an individual basis. Additionally, neither investigator indicated any circumstance when an inmate would be required to submit to a polygraph examination.

Based on the above, the facility has demonstrated compliance with 115.71(e).

#### **115.71(f)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.71(f) verbatim. The manual states, “Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(4) requires agency investigators to thoroughly document all aspects of the investigation in a written report so as to best support subsequent administrative action and, if appropriate, referral for criminal prosecution.

*Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .05D(6) states, “Conduct post-incident investigative actions to complete a comprehensive investigation of the incident that intends to: (a) Identify the perpetrator; (b) Determine if employee action or lack of action contributed to the occurrence; and (c) Collect and preserve evidence to effectively support an administrative and, if appropriate, criminal proceedings” with regard to 115.71(f)1. Additionally, Section .05D(7) states, “Document all aspects of the investigation in a comprehensive investigative report that: (a) Thoroughly describes, physical, testimonial, and documentary evidence; (b) Explains the reasoning behind credibility assessments; (c) Includes facts and findings; and (d) When appropriate, has related documents attached; and (e) 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.” Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

12 investigations were completed during the past 12-month audit period. The auditor randomly selected six of these investigations for review. Investigations are documented in written reports that include a description of the physical and testimonial evidence, investigative facts and findings, the rationale behind credibility assessments and efforts to determine if staff negligence contributed to the abuse. Upon review, the agency does document investigations in accordance with the standard.

Investigator interviews indicate that all aspects of an allegation are considered and documented during an investigation. This includes whether staff actions or inactions were the possible cause of an incident. Investigation reports include descriptions of any physical evidence and testimonial evidence relied upon when making a final determination as to the merits of the investigation. Based on the above, the facility has demonstrated compliance with 115.71(f).

#### **115.71(g)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.71(g) verbatim. The manual states, “Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(4) requires agency investigators to thoroughly document all aspects of the investigation in a written report to best support subsequent administrative action and, if appropriate, referral for criminal prosecution.

*Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .05D(6) states, “Conduct post-incident investigative actions to complete a comprehensive investigation of the incident that intends to: (a) Identify the perpetrator; (b) Determine if employee action or lack of action contributed to the occurrence; and (c) Collect and preserve evidence to effectively support an administrative and, if appropriate, criminal proceedings” with regard to 115.71(g). Additionally, Section .05D(7) states, “Document all aspects of the investigation in a comprehensive investigative report that: (a) Thoroughly describes, physical, testimonial, and documentary evidence; (b) Explains the reasoning behind credibility assessments; (c) Includes facts and findings; and (d) When appropriate, has related documents attached; and (e) 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.” Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

12 investigations were completed during the past 12-month audit period. Six of these investigations were randomly selected by the auditor for review. Investigation documents were obtained, reviewed, and retained for audit purposes. All criminal investigations are conducted by IIU. IIU is the investigative body, within the agency, with the authority to conduct criminal investigations. As a result, all criminal investigations are documented in accordance with the standard. A review of the investigation reports completed by IIU noted 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.

The IIU investigator reported that all aspects of an allegation are documented in the investigation report. Investigation reports include a description of all evidence gathered in the conduct of the investigation. This would include evidence gathered at the scene, during forensic examinations, and gathered during interviews.

The agency conducts both administrative and criminal investigations. Policy, investigation documentation, and interviews indicate criminal investigations are documented. Based on the above, the facility has demonstrated compliance with 115.71(g).

#### **115.71(h)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.71(h) verbatim. The manual states, “Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(4)(a) states, “Thoroughly document all aspects of the investigation in a written report so as to best support subsequent administrative action and, if appropriate, referral for criminal prosecution;” with regard to referral for prosecution. *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .05H(6) states, “If appropriate, work with the prosecutor to develop the case for criminal prosecution.” Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

12 investigations were completed during the past 12-month audit period. The auditor randomly selected six of these investigations for review. Investigation documents were obtained, reviewed, and retained for audit purposes. One investigation was noted as having been referred for prosecution; however, the office of the state’s attorney ultimately declined to prosecute the case. None of the investigations were substantiated, nor were any of the investigations referred for prosecution.

During interviews with investigative staff it was reported that investigations containing sufficient evidence to merit prosecution are referred to the office of the state’s attorney for prosecution. Both the IIU investigator and the local facility investigator reported that IIU is the entity that refers investigations to the state’s attorney office.

The agency has policy in place that requires the referral of investigations for prosecution. Investigation documents demonstrate that referrals are made. Interviews support the information provided above. Based on the above, the facility has demonstrated substantial compliance with provision 115.71(h).

#### **115.71(i)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.71(i) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department shall retain all written reports referenced in paragraphs (f) and (g) of this section for as long as the alleged abuser is incarcerated or employed by the Department, plus five years.”

*Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(4)(e) requires the report of investigation to be filed and maintained in accordance with an established retention schedule. The agency retention schedule requires the report of investigation to be held for as long as the alleged perpetrator is incarcerated or employed by the DPSCS, plus an additional five years. Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

12 investigations were completed during the past 12-month audit period. The auditor randomly selected six of these investigations for review. Investigation documents were reviewed and retained for audit purposes. None of the investigation files reviewed were retained for as long as the alleged abuser was incarcerated or employed by the agency, plus five years. However, this is likely due to the recentness of the investigations reviewed. Additionally, some of the investigation files reviewed had been in retention since 2018 at the time of the auditor request. Furthermore, as mentioned above agency policy does require retention in accordance with provision 115.71(i).

Agency retention policy is compliant with provision 115.71(i). Documentation demonstrates files are being tracked and retained in accordance with agency policy. Based on the above, the facility has demonstrated substantial compliance with provision 115.71(i).

#### **115.71(j)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.71(j) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The departure of the alleged abuser or victim from the employment or control of the facility or the Department shall not provide a basis for terminating an investigation.”

*Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(5) sets the requirement for the continuation of an investigation. Per policy, the departure of an employee or inmate alleged to have committed sexual misconduct is not a basis for terminating an investigation of alleged sexual misconduct or alleged inmate on inmate sexual conduct. Likewise, the departure of the victim of sexual misconduct from the from the Department is not a basis for terminating an investigation of alleged sexual misconduct or alleged inmate on inmate sexual conduct. Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

12 investigations were completed during the past 12-month audit period. The auditor randomly selected six of these investigations for review. Investigation documents were reviewed and retained for audit purposes. One investigation indicated that an employee (alleged abuser) voluntarily terminated employment during the conduct of an investigation. The documentation also demonstrates that despite the departure of the alleged abuser the investigation continued until completion.

Investigator interviews indicate that, once initiated, investigations will proceed until completion. Agency policy requires that investigations continue regardless of the alleged abuser’s employment status. Furthermore, documentation demonstrates investigations are being tracked until completion. Based on the above, the facility has demonstrated substantial compliance with provision 115.71(j).

#### **115.71(k)**

The auditor is not required to audit this provision.

#### **115.71(l)**

The agency conducts its own criminal as well as administrative investigations into cases of sexual abuse and sexual harassment. Therefore, provision 115.71(l) is not applicable to the extent that no outside agency conducts administrative or criminal sexual abuse investigations.

12 investigations were completed during the past 12-month audit period. The auditor randomly selected six of these investigations for review. Investigation documents were obtained, reviewed, and retained for audit purposes. A review of the investigation files and interviews with staff confirm that the agency does conduct both administrative and criminal investigations.

Based on the above, the facility has demonstrated compliance with provision 115.71(l).

#### **Recommendations:**

- None

#### Corrective Action:

- 115.71(b): Investigator training records are insufficient to demonstrate compliance. The facility shall submit training records for the DRCF investigator. Training documentation shall demonstrate that the DRCF investigator has completed specialized training in the conduct of sexual abuse and sexual harassment investigations.

#### Corrective Action Verification:

- 115.71(b): The facility provided facility directive *DRCF 050.0030.2* as the authoritative document that guides facility actions regarding investigation referrals. Section .03K(3) states, "Once allegations have been received, a supervisor, if warranted, shall begin a Serious, Incident Report (SIR) and make a referral to IID." Thus, all sexual abuse investigations are referred to IID detectives who have received specialized training pursuant to the standard. A review of the documentation provided, evidence gathered during the interview process, and facility investigation records it's evident that facility-based investigators do not conduct sexual abuse investigations. All sexual abuse investigations are conducted by IID detectives who have received specialized investigations. Based the above, the facility has demonstrated compliance with provisions 115.71(b).

### Standard 115.72: Evidentiary standard for administrative investigations

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

#### 115.72 (a)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

**Documentation:**

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive IIU.110.0011 Investigating Sex Related Offenses*
- Investigation documentation

**Interviews:**

- Investigative staff

**Site Review:**

- None

**115.72(a)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.72(a) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.” *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .05H(2) 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.” Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

12 investigations were completed during the past 12-month audit period. The auditor randomly selected six of these investigations for review. These documents were reviewed and retained for audit purposes. A review of the investigation documents suggests that the agency does not impose a standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. Likewise, investigative staff indicate that “preponderance of evidence” is the standard of evidence necessary to substantiate an allegation of sexual abuse or sexual harassment.

Based on the above, the facility has demonstrated substantial compliance with provision 115.72(a).

**Recommendations:**

- None

**Corrective Action:**

- None

**Standard 115.73: Reporting to inmates**

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

**115.73 (a)**

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

#### 115.73 (b)

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

#### 115.73 (c)

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

#### 115.73 (d)

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

#### 115.73 (e)



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

#### 115.73 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

##### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Executive Directive IIU.110.0011 Investigating Sex Related Offenses*
- Investigation documentation

##### Interviews:

- Warden's designee
- Investigative staff

##### Site Review:

- None

#### 115.73(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.73(a) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "Following an investigation into an inmate's allegation that he or she suffered sexual abuse in the Department facility, the Department shall inform the inmate as to whether

the allegation has been determined to be substantiated, unsubstantiated, or unfounded.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .05H(1) states, “When notified by an investigator under §.05G(4)(c) of this directive, if the allegation was sexual abuse, the head of the unit responsible for the victim inmate shall ensure that the victim inmate is notified of the investigator’s determination that the allegation was substantiated, unsubstantiated, or unfounded.”

Likewise, *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05H(1) regarding victim notification states, “When notified by an investigator under §.05G(4)(c) of this directive, if the allegation of inmate on inmate sexual conduct included sexual abuse, the head of the unit responsible for the victim inmate shall ensure that the victim inmate is notified of the investigator’s determination that the allegation was substantiated, unsubstantiated, or unfounded.” *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .05H requires the inmate victim to be notified when the investigation is determined to be substantiated, unsubstantiated, or unfounded. Collectively, these policies guide facility practice regarding reporting to inmates.

12 investigations were completed during the past 12-month audit period. Six of these investigations were randomly selected by the auditor for review. These documents were reviewed and retained for audit purposes. A review of the investigation documents noted that notification of investigation findings is provided on the *Prison Rape Elimination Act Investigation Inmate Notification* form. The form itself is a single sheet of paper containing a summary narrative of the investigation. The form includes an area for the inmate victim or witness signature, as well as the investigator’s signature, and includes a date of notification. Several *Prison Rape Elimination Act Investigation Inmate Notification* forms were reviewed for the purpose of determining compliance with this standard. Notification is also documented in the investigation report with a date the that inmate was notified by the investigator.

The warden’s designee reported that the investigative unit provides the inmate notification. The IIU investigator reported that inmates will be provided notification regarding the status of a sexual abuse allegation. The only exception would be if the inmate has been released from custody.

The agency has policy that requires inmates to be notified as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. Interviews and documentation indicate that agency policy is followed regarding these notifications. Based on the above, the facility has demonstrated substantial compliance with provision 115.73(a).

#### **115.73(b)**

The agency conducts its own criminal as well as administrative investigations into cases of sexual abuse and sexual harassment. Thus, provision 115.73(b) is not applicable to the extent that the agency is responsible for conducting administrative and criminal investigations.

Based on the above, the facility has demonstrated compliance with provision 115.73(b).

#### **115.73(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.73(c) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “Following an inmate’s allegation that a staff member has committed sexual abuse against the inmate, the Department shall subsequently inform the inmate unless the Department has determined that the allegation is unfounded whenever: (1) The staff member is no longer posted within the inmate’s unit; (2) The staff member is no longer employed at the facility; (3) The Department

learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or (4) The Department learns that the staff member has been convicted on a charge related to sexual abuse within the facility.”

*Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .05H(2) states, “Except when an allegation of sexual abuse is determined to be unfounded, the head of the unit responsible for the victim inmate shall, for as long as the inmate is under the authority of the Department, ensure that the inmate is notified of the following situations concerning the employee who victimized or is alleged to have victimized the inmate: (a) The employee is no longer assigned to the inmate’s housing unit; (b) The employee is no longer assigned at the inmate’s facility; (c) If aware, the employee is criminally charged for an offense related to the sexual abuse that occurred within the facility; and (d) If aware, the employee is convicted on a charge related to the sexual abuse that occurred within the facility.” Collectively, these policies guide facility practice regarding reporting to inmates.

12 investigations were completed during the past 12-month audit period. The auditor randomly selected six of these investigations for review. These documents were reviewed and retained for audit purposes. Three of these investigations originated from an inmate’s allegation that an employee had committed sexual abuse. In all three instances, the investigation was determined to be unfounded. Due to investigation findings, notification was not required.

There were no inmates who reported sexual abuse, in the past 12 months, still located at the facility. Therefore, inmate interviews pertaining to this standard were not conducted.

Based on the above, the facility has demonstrated compliance with provision 115.73(c).

#### **115.73(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.73(d) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “Following an inmate’s allegation that he or she has been sexually abused by another inmate, the Department shall subsequently inform the alleged victim whenever: (1) The Department learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or (2) The Department learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.”

*Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05H(1) regarding victim notification states, “Except when an allegation of inmate on inmate sexual conduct is determined to be unfounded, the head of the unit responsible for the victim inmate shall, for as long as the victim inmate is under the authority of the Department, ensure that the victim inmate is notified of the following situations concerning the inmate who sexually abused or is alleged to have sexually abused the victim inmate: (a) If aware, the accused inmate is in any way charged with a crime related to the sexual abuse that occurred within the facility; and (b) If aware, the accused inmate is convicted on a charge related to the sexual abuse that occurred within the facility.” Collectively, these policies guide facility practice regarding reporting to inmates.

12 investigations were completed during the past 12-month audit period. Six of these investigations were selected by the auditor for review. Investigation documents were reviewed and retained for audit purposes. None of the investigations pertained to an instance of inmate on inmate sexual abuse; therefore, notification was not required.

Based on the above, the facility has demonstrated compliance with provision 115.73(d).

#### **115.73(e)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.73(e) verbatim. The manual states, “All such notifications or attempted notifications shall be documented.”

*Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05H(3) regarding victim notification states, “A record of a notification made under §§.05H(1) and (2) of this directive shall be maintained in the victim inmate’s base file and include the following information: (a) Case number; (b) Content of the notification; (c) Date of the notification; (d) Location where the notification was made; (e) Printed name and signature of the employee making the notification; and (f) The inmate’s signature acknowledging notification or, if the inmate refuses to sign for the notification, “Refused to Sign” and the employee’s signature.”

*Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .05H(3) states, “The investigator shall document victim notification under §.05H(2) of this directive in the investigative report recording: (a) The name of the individual who notified the victim; (b) The date, time, and location that the victim was notified; and (c) How the victim was notified.” Collectively, these policies guide facility practice regarding reporting to inmates.

12 investigations were completed during the past 12-month audit period. Six of these investigations were randomly selected for review. These documents were reviewed and retained for audit purposes. A review of this documentation indicates that notification of investigation findings is provided on the *Prison Rape Elimination Act Investigation Inmate Notification* form. A copy of the *Prison Rape Elimination Act Investigation Inmate Notification* form is placed in the investigation file. Furthermore, a notation is made in the investigation report indicating the date of notification. As indicated above none of the investigations reviewed required such notification. Notification is also tracked via an investigation spreadsheet. A review of this document indicates that notifications were provided even in instances where the investigation was determined to be unfounded.

Based on the above, the facility has demonstrated compliance with provision 115.73(e).

#### **115.73(f)**

The auditor is not required to audit this provision.

#### **Recommendations:**

- None

#### **Corrective Action:**

- None

## **DISCIPLINE**

## Standard 115.76: Disciplinary sanctions for staff

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

#### 115.76 (a)

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

#### 115.76 (b)

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

#### 115.76 (c)

- Are disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories? ☒ Yes ☐ No

#### 115.76 (d)

- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Law enforcement agencies (unless the activity was clearly not criminal)? ☒ Yes ☐ No
- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Relevant licensing bodies? ☒ Yes ☐ No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

**Documentation:**

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *COMAR 12.11.01 Internal Investigation Division*
- Investigation documentation

**Interviews:**

- Warden's designee
- Investigative staff

**Site Review:**

- None

**115.76(a)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.76(a) verbatim. *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .05I(2) disciplinary sanctions for staff states, "An employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to: (a) A penalty under the Standards of Conduct, up to and including termination of employment with the Department; (b) Criminal prosecution; and (c) If applicable, notification of a relevant licensing authority. Likewise, section .05I(3) regarding contractors states, "A contractor determined to have committed sexual misconduct is: (a) 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; (b) Subject to sanctions according to provisions of the contract or agreement; (c) Is subject to criminal prosecution; and (d) If applicable, notification of a relevant licensing authority." Collectively, these policies guide facility practice regarding disciplinary sanctions for staff.

12 investigations were completed during the past 12-month audit period. The auditor randomly selected six of these investigations for review. These documents were reviewed and retained for audit purposes. During the review it was noted that four investigations alleged staff sexual abuse. All but one of the investigations was determined to be unfounded. There is one instance of an employee who allegedly sexually abused an inmate. However, that employee voluntarily terminated employment prior to the investigation being completed and the state's attorney office did not choose to prosecute the case.

The facility did not have any substantiated cases of staff on inmate sexual abuse or sexual harassment in the past 12 months. As a result, there was no documentation to review. Based on the above, the facility has demonstrated compliance with provision 115.76(a).

**115.76(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.76(b) verbatim. *Executive Directive OPS.050.0001 Sexual*

*Misconduct – Prohibited* section .05I(2) disciplinary sanctions for staff states, “An employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to: (a) A penalty under the Standards of Conduct, up to and including termination of employment with the Department; (b) Criminal prosecution; and (c) If applicable, notification of a relevant licensing authority. Likewise, section .05I(3) regarding contractors states, “A contractor determined to have committed sexual misconduct is: (a) 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; (b) Subject to sanctions according to provisions of the contract or agreement; (c) Is subject to criminal prosecution; and (d) If applicable, notification of a relevant licensing authority.” Collectively, these policies guide facility practice regarding disciplinary sanctions for staff.

12 investigations were completed during the past 12-month audit period. Six of these investigations were selected for review. These documents were reviewed and retained for audit purposes. A review of the investigation documents noted that four investigations alleged staff sexual abuse. All but one investigation was determined to be unfounded. There is one instance where an employee was alleged to have sexually abused an inmate. However, that employee voluntarily terminated employment prior to the investigation being completed and the state’s attorney office did not prosecute the case.

The facility did not have any substantiated cases of staff on inmate sexual abuse or sexual harassment in the past 12 months. As a result, there was no documentation to review. Based on the above, the facility has demonstrated compliance with provision 115.76(b).

#### **115.76(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.76(c) verbatim. *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .05I(2) disciplinary sanctions for staff states, “An employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to: (a) A penalty under the Standards of Conduct, up to and including termination of employment with the Department; (b) Criminal prosecution; and (c) If applicable, notification of a relevant licensing authority. Likewise, section .05I(3) regarding contractors states, “A contractor determined to have committed sexual misconduct is: (a) 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; (b) Subject to sanctions according to provisions of the contract or agreement; (c) Is subject to criminal prosecution; and (d) If applicable, notification of a relevant licensing authority.” Collectively, these policies guide facility practice regarding disciplinary sanctions for staff.

12 investigations were completed during the past 12-month audit period. The auditor randomly selected six of these investigations for review. These documents were reviewed and retained for audit purposes. During the review, four investigations alleged staff sexual abuse. All but one investigation was determined to be unfounded. There is one instance whereby an employee was alleged to have sexually abused an inmate. However, that employee voluntarily terminated employment prior to the investigation being completed and the state’s attorney office did not prosecute the case.

The facility did not have any substantiated cases of staff on inmate sexual abuse or sexual harassment (i.e. sexual misconduct) in the past 12 months. As a result, there was no documentation to review. Based on the above, the facility has demonstrated compliance with provision 115.76(c).

#### **115.76(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.76(d) verbatim. The manual states, “All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.”

*Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .05G(1) 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: (a) Collecting and preserving evidence; (b) Interviewing victims, witnesses, and suspected perpetrators; (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.”

*COMAR 12.11.01 Internal Investigation Division* section .03A regarding scope of the IIU investigative authority states, “The Director, or a designee, shall investigate: (1) An alleged violation of criminal law committed by an employee while on duty; (2) An alleged violation of criminal law committed by an employee while off duty if that violation impacts, or has the potential to impact, negatively on the Department; (3) An alleged violation of criminal law committed by an inmate, a visitor, a nonagency employee, or another individual that may affect the safety or security of a Department facility; (4) An alleged violation of Maryland Public Ethics Law, State Government Article, Title 15, Annotated Code of Maryland, by an employee or nonagency employee; and (5) Other alleged violations that have a negative impact on the Department. B. The Director, or a designee, shall perform other duties and investigative responsibilities assigned by the Secretary.” Section regarding .06 Police Authority states, “When performing duties associated with the IIU, an investigator who is certified as a police officer according to requirements under COMAR 12.04.01 may exercise the authority of a police officer under Correctional Services Article, §10-701(b) and (c), Annotated Code of Maryland.” Collectively, these policies guide facility practice regarding disciplinary sanctions for staff.

A total of 12 investigations were completed during the past 12-month audit period. The auditor randomly selected six of these investigations for review. These documents were reviewed and retained for audit purposes. There is one instance where an employee was alleged to have sexually abused an inmate. However, that employee voluntarily terminated employment prior to the investigation being completed and the state’s attorney office did not prosecute the case. A review of the information noted that reporting the incident to a relevant licensing body was not appropriate in this instance.

The agency has policy in place to ensure that sexual abuse and sexual harassment are referred to a law enforcement agency. IID has law enforcement authority; therefore, all allegations referred to IID have been effectively referred to a law enforcement agency. Based on the above, the facility has demonstrated compliance with provision 115.76(d).

**Recommendations:**

- None

**Corrective Action:**

- None



## Standard 115.77: Corrective action for contractors and volunteers

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

### 115.77 (a)

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

### 115.77 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *COMAR 21.07.01.22 Compliance with Law*
- Investigation documentation

### Interviews:

- Warden's designee

**Site Review:**

- None

**115.77(a)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.77(a) verbatim. *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .04B(6) defines an employee as any individual assigned to or employed by the Department in a full-time, part-time, temporary, or contractual position regardless of job title or classification. Section .05I(2) disciplinary sanctions for staff states, “An employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to: (a) A penalty under the Standards of Conduct, up to and including termination of employment with the Department; (b) Criminal prosecution; and (c) If applicable, notification of a relevant licensing authority.”

Likewise, section .05I(3) regarding contractors states, “A contractor determined to have committed sexual misconduct is: (a) 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; (b) Subject to sanctions according to provisions of the contract or agreement; (c) Is subject to criminal prosecution; and (d) If applicable, notification of a relevant licensing authority.” *COMAR 21.07.01.22 Compliance with Law* 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. Collectively, these policies guide facility practice regarding corrective action for contractors and volunteers.

12 investigations were completed during the past 12-month audit period. The auditor randomly selected six of these investigations for review. These documents were reviewed and retained for audit purposes. None of the investigations reviewed involved a contractor or volunteer. Therefore, DRCF did not report any contractors or volunteers to law enforcement agencies or relevant licensing bodies during the audit period.

Based on the above, the facility has demonstrated compliance with 115.77(a).

**115.77(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.77(b) verbatim. *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .04B(6) defines an employee as any individual assigned to or employed by the Department in a full-time, part-time, temporary, or contractual position regardless of job title or classification. Section .05I(2) disciplinary sanctions for staff states, “An employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to: (a) A penalty under the Standards of Conduct, up to and including termination of employment with the Department; (b) Criminal prosecution; and (c) If applicable, notification of a relevant licensing authority. Likewise, section .05I(3) regarding contractors states, “A contractor determined to have committed sexual misconduct is: (a) 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; (b) Subject to sanctions according to provisions of the contract or agreement; (c) Is subject to criminal prosecution; and

(d) If applicable, notification of a relevant licensing authority.” Collectively, these policies guide facility practice regarding corrective action for contractors and volunteers.

A total of 12 investigations were completed during the past 12-month audit period. The auditor randomly selected six of these investigations for review. These documents were reviewed and retained for audit purposes. None of the investigations reviewed involved a contractor or volunteer. Therefore, DRCF did not report any contractors or volunteers to law enforcement agencies or relevant licensing bodies during the audit period.

The warden’s designee reported that if a contractor or volunteer violated department sexual abuse or sexual harassment policy it would be reported according to policy. Additionally, a “ban letter” would be issued and the contractor or volunteer would not be allowed in the facility.

Based on the above, the facility has demonstrated compliance with 115.77(b).

**Recommendations:**

- None

**Corrective Action:**

- None

## **Standard 115.78: Disciplinary sanctions for inmates**

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

#### **115.78 (a)**

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

#### **115.78 (b)**

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

#### **115.78 (c)**

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

#### **115.78 (d)**

- If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, does the facility consider whether to require

the offending inmate to participate in such interventions as a condition of access to programming and other benefits? ☒ Yes ☐ No

#### 115.78 (e)

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

#### 115.78 (f)

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

#### 115.78 (g)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *COMAR 12.03.01 Inmate Discipline*
- Investigation documentation

### Interviews:

- Warden's designee
- Medical and mental health staff

**Site Review:**

- None

**115.78(a)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.78(a) verbatim. *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05I(2) states, “An inmate: (a) Determined to have committed sexual conduct is subject to: (i) A penalty established under Inmate Disciplinary Process; and (ii) If applicable, criminal prosecution.”

*COMAR 12.03.01 Inmate Discipline* outlines the inmate disciplinary process and sanctions related to the disciplinary process. Section .05B(1) regarding reporting an inmate rule violation states, “Upon completion of the investigation under §A of this regulation, when staff determines that an inmate allegedly violated an inmate rule or rules under this chapter, staff shall use a Notice of Inmate Rule Violation form to report the inmate rule violation.” Therefore, inmates are subject to a formal administrative process and a criminal process followed regarding inmate discipline.

12 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. These documents were reviewed and retained for audit purposes. There were no substantiated reports of inmate-on-inmate sexual abuse.

Based on the above, the facility has demonstrated compliance with provision 115.78(a).

**115.78(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.78(b) verbatim. *COMAR 12.03.01 Inmate Discipline* outlines the inmate disciplinary process and sanctions related to the disciplinary process. Agency Directive does not specifically state that 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 details of the directive appear to adhere to the overall intent of the standard in the way the agency enforces rules and regulations and administers disciplinary sanctions.

12 investigations were completed during the past 12-month audit period. Six of these investigations were randomly selected by the auditor for review. These documents were reviewed and retained for audit purposes. There were no substantiated reports of inmate-on-inmate abuse.

The warden's designee reported that inmates would be subject to the institutional disciplinary process and/or action for violating the department’s sexual abuse and sexual harassment policy. Additionally, inmates who are mentally ill will undergo a competency review at an administrative hearing.

Based on the above, the facility has demonstrated compliance with provision 115.78(b).

### **115.78(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.78(c) verbatim. *COMAR 12.03.01 Inmate Discipline* outlines the inmate disciplinary process and sanctions related to the disciplinary process. Section .08D states, “Whether or not the defendant is currently under the care of mental health staff, if there is cause to believe that the defendant may not be mentally competent and is unable to participate in the inmate disciplinary process, the hearing officer shall postpone the disciplinary proceeding and the facility representative or other facility staff shall refer the defendant to the Department’s mental health staff to: (1) Assess the defendant’s mental health status; and (2) Determine whether the defendant is competent to participate in the disciplinary process. Section .20B(8) states, “If the defendant enters a plea of Not Competent, the hearing officer or facility representative, if designated, or facility staff shall postpone the case, if necessary, and contact the facility’s mental health staff and request that staff determine whether the defendant is competent to participate in the disciplinary proceeding and whether the defendant was competent to understand and control the alleged behavior at the time of the offense.” Collectively, these policies guide facility practice regarding disciplinary sanctions for inmates.

12 investigations were completed during the past 12-month audit period. Six of these investigations were selected at random by the auditor for review. These documents were reviewed and retained for audit purposes. A review of these documents noted that there were no substantiated reports of inmate-on-inmate abuse.

During an interview the warden’s designee confirmed that inmates who are mentally ill will undergo a competency review at an administrative hearing. Based on the above, the facility has demonstrated compliance with provision 115.78(c).

### **115.78(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.78(d) verbatim. *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05I(2)(b) states, “If therapy, counseling, or other intervention designed to address and correct underlying reasons or motivation for sexual conduct is available, may be required to participate in available therapy, counseling, or other intervention as a condition of participation in other forms of programming or inmate benefits that are otherwise subject to sanctioning under the Inmate Disciplinary Process.” Collectively, these policies guide facility practice regarding disciplinary sanctions for inmates.

12 investigations were completed during the past 12-month audit period. Six of these investigations were randomly selected by the auditor for review. These documents were reviewed and retained for audit purposes. There were no substantiated reports of inmate-on-inmate abuse.

Medical and mental health care staff reported that it’s mandatory for both the victim and abuser to be referred to mental health services. Based on the above, facility has demonstrated compliance with provision 115.78(d).

### **115.78(e)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.78(e) verbatim and uses the term “Department” in place of the term

“Agency.” The manual states, “The Department may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.” *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05I(2)(c) states inmates, “May be disciplined for sexual conduct with staff only if it is determined that the staff did not consent to the sexual conduct.” Collectively, these policies guide facility practice regarding disciplinary sanctions for inmates.

12 investigations were completed during the past 12-month audit period. The auditor randomly selected six of these investigations for review. These documents were reviewed and retained for audit purposes. There were zero allegations of sexual contact between an inmate and staff where the staff member did not consent to such contact.

Based on the above, the facility has demonstrated compliance with 115.78(e).

#### **115.78(f)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.78(f) verbatim. *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* .05I(5) 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 of sexual misconduct.” *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05I(4) states, “A complaint of alleged inmate on inmate sexual conduct made in good faith based upon a reasonable belief that the alleged inmate on inmate sexual conduct occurred may not be considered a false report or lying, even if the required investigation does not establish sufficient evidence to substantiate the allegation of inmate on inmate sexual conduct.” Collectively, these policies guide facility practice regarding disciplinary sanctions for inmates.

12 investigations were completed during the 12-month audit period. The auditor randomly selected six of these investigations for review. These documents were reviewed and retained for audit purposes. Five of the investigations reviewed were ultimately determined to be unfounded. One investigation was determined to be unsubstantiated. None of the unfounded or unsubstantiated investigation reports indicated disciplinary action taken against the inmates as a result of the investigation findings. There is no indication that inmates are disciplined for making allegations. Based on the above, the facility has demonstrated compliance with 115.78(f).

#### **115.78(g)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.78(g) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05A(1) states, “An inmate may not: Commit, participate in, support, or otherwise condone sexual conduct;” which prohibits all sexual activity between inmates. Additionally, *COMAR 12.03.01 Inmate Discipline* section .02 also prohibits sexual activity between inmates. Collectively, these policies guide facility practice regarding disciplinary sanctions for inmates.

Per policy, the agency does prohibit all sexual activity between inmates and does discipline inmates for such activity. Based on the above, the facility has demonstrated compliance with 115.78(g).

#### **Recommendations:**

- None

**Corrective Action:**

- None

## MEDICAL AND MENTAL CARE

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

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

#### 115.81 (a)

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

#### 115.81 (b)

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

#### 115.81 (c)

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

#### 115.81 (d)

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

#### 115.81 (e)



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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness*
- *COMAR 10.12.02 Rape and Sexual Offense – Physician and Hospital Charges*
- Risk assessment documentation
- *PREA Follow Up*

### Interviews:

- Inmates who disclosed victimization at risk screening
- Staff responsible for risk screening
- Medical and mental health staff

### Site Review:

- Records Office

### 115.81(a) and (c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.81(a) and (c) verbatim. *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05E(2)(c) states, "Whenever 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 initial PREA screening;" with regard to offering a follow up meeting. *Facility Directive DRCF.050.0030.2 Sexual Misconduct Prohibited* section .05J(3) states in part, "Case management will ensure that copies of completed screening forms for those inmates having a history of being sexually abused or being a sexual abuser are forwarded immediately to the Mental Health Dept. Mental Health Staff shall offer a follow-up meeting with that inmate within 14 days of the screening." Collectively, these policies guide facility practice regarding Medical and mental health screenings; history of sexual abuse.

Upon arrival to DRCF inmates are processed through the traffic office. Part of the traffic office process includes completion intake screening. If risk screening results indicate that an inmate experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, the inmate is offered a follow up meeting with medical or mental health care. Referrals are documented on a *PREA Follow Up* form. The form itself gives the inmate the option to accept or refuse the follow up meeting. Inmates are asked to sign and date the form acknowledging that they either want to be scheduled for a follow up meeting or want to decline the follow up meeting.

The PAQ indicated that seven referrals were made in the past 12 months. A review of inmate *PREA Intake Screening* forms was conducted. Upon review, the documentation noted that inmates are referred within 14 days. Additionally, a total of three inmates who disclosed sexual victimization during risk screening were interviewed. All three inmates reported that they were asked about meeting with a medical or mental health practitioner.

Employees responsible for risk screening reported that inmates are referred within 14 days. Interviews indicate that the referral sheet is completed and forwarded to the PREA compliance manger. Additionally, it was reported that inmates are seen within 14 days and as early as the next day.

Based on the above, the facility has demonstrated compliance with provision 115.81(a) and (c).

#### **115.81(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.81(b) verbatim. *Facility Directive DRCF.050.0030.2 Sexual Misconduct Prohibited* .05J(3) states in part, "Case management will ensure that copies of the completed screening forms for those inmates having a history of being sexually abused or being a sexual abuser are forwarded immediately to the Mental Health Dept. Mental Health Staff shall offer a follow-up meeting with that inmate within 14 days of screening." Collectively, these policies guide facility practice regarding Medical and mental health screenings; history of sexual abuse.

Upon arrival to DRCF inmates are processed through the traffic office. Part of the traffic office process includes completion intake screening. If risk screening results indicate that an inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, the inmate is offered a follow up meeting with mental health care. Referrals are documented on a *PREA Follow Up* form. The form itself gives the inmate the option to accept or refuse the follow up meeting with health care. Inmates are asked to sign and date the form acknowledging that they either would like to be scheduled for a follow up meeting or decline the follow up meeting. DRCF policy indicates that the mental health department offers the follow-up meeting. The offer is provided at intake and the mental health department has 14 days to process the referral.

Per the PAQ, DRCF had zero referrals to mental health care due to screening results that indicated that an inmate had previously perpetrated sexual abuse in the past 12 months. A review of inmate *PREA*

*Intake Screening* forms was conducted. Upon review, none of the screening documentation reviewed warranted a referral under provision 115.81(b).

Employee interview responses indicated that inmates who previously perpetrated sexual abuse are referred within 14 days. Interviews indicate that the referral sheet is completed, forwarded to the PREA compliance manager, and inmates are seen within 14 days. It was reported that inmates maybe seen as early as the next day.

Based on the above, the facility has demonstrated compliance with provision 115.81(b).

#### **115.81(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.81(d) verbatim. *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05E(2)(e) requires the facility PREA compliance manager to ensure the confidentiality of screening information. *Facility Directive DRCF.050.0030.2 Sexual Misconduct Prohibited* .05J(3) states in part, “Case management will ensure that copies of the completed screening forms for those inmates having a history of being sexually abused or being a sexual abuser are forwarded immediately to the Mental Health Dept. Mental Health Staff shall offer a follow-up meeting with that inmate within 14 days of screening.” Collectively, these policies guide facility practice regarding Medical and mental health screenings; history of sexual abuse.

Upon completion the *PREA Intake Screening* form is placed in the inmate file. Inmate files are secured in the file room located in the administrative building. The file room is a secure room, staffed by records personnel, and is capable of being locked. Case Management ensures that screening information is entered into the Offender Case Management System (OCMS). OCMS is password protected and confined to user profile access.

Per policy risk assessment results are provided on an as needed basis. Documentation is both physically and electronically secured. Based on the above, the facility has demonstrated compliance with provision 115.81(d).

#### **115.81(e)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.81(e) verbatim. The manual states, “Medical and mental health practitioners shall obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18.” DRCF does not house anyone under the age of 18. Therefore, informed consent is required of medical and mental health practitioners in every instance before reporting information regarding prior sexual victimization that did not occur in an institutional setting.

Medical and mental health staff were interviewed. During the interview it was evident that informed consent was not being obtained prior to reporting information about prior sexual victimization that did not occur in an institutional setting.

Based on the above, the facility has not demonstrated substantial compliance with provision 115.81(e). The facility shall provide medical and mental health care employees instruction regarding the requirements of informed consent.

## Recommendations:

- *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05E(2)(c) states, “Whenever 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 initial PREA screening;” with regard to offering a follow up meeting. This speaks only to those inmates who have experienced prior sexual victimization. It is recommended that *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* be revised to indicate the obligation to ensure that inmates who have previously perpetrated sexual abuse, whether it occurred in a facility or in the community, be offered a follow-up meeting with a mental health practitioner within 14 days which is consistent with the standards.

## Corrective Action:

- 115.81(e) During interviews medical staff lacked knowledge of the requirements for obtaining informed consent from inmates prior to reporting information about prior sexual victimization that did not occur in an institutional setting. The facility shall provide medical and mental health care employees instruction regarding the requirements of informed consent. These instructions shall be signed and acknowledged by health care staff.

## Corrective Action Verification:

- 115.81(e) The facility provided documentation indicating that all medical staff were advised and trained in the requirements for obtaining informed consent from inmates prior to reporting information about prior sexual victimization that did not occur in an institutional setting. Documentation indicated that all medical staff were advised of informed consent requirements during a staff meeting. This was verified via the health care administrators meeting minutes and meeting attendance signature sheet. Based on the above, the facility has demonstrated substantial compliance with provision 115.81(e).

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

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

#### 115.82 (a)

- Do inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment?  
☒ Yes ☐ No

#### 115.82 (b)

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

- Do security staff first responders immediately notify the appropriate medical and mental health practitioners? ☒ Yes ☐ No

#### 115.82 (c)

- Are inmate victims of sexual abuse offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate? ☒ Yes ☐ No

#### 115.82 (d)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident? ☒ Yes ☐ No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Medical Evaluations Manual Chapter 13*
- Investigation documentation

### Interviews:

- Security staff and non-security staff first responders
- Medical and mental health staff

### Site Review:

- Health Care

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

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.82(a) verbatim. Executive *Directive OPS.050.0001 Sexual Misconduct – Prohibited* .05B(5) states in part, “The head of a unit, or a designee, is responsible for ensuring that: Appropriate medical and mental health services and support services are made available to a victim of sexual misconduct.” Executive *Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05I(4) states, “The head of a unit, or a designee, is responsible for ensuring that: Appropriate medical and mental health services and support services are made available to a victim of inmate on inmate sexual conduct.” Collectively, these policies guide facility practice regarding access to emergency medical and mental health services.

Medical staff reported inmate victims of sexual abuse would receive immediate access to health care services. An initial assessment would be conducted at the facility upon completion the inmate would be transported to a local hospital for additional treatment. In the past 12 months, there were no inmates who reported sexual abuse still housed at the facility. Therefore, inmate interviews pertaining to this standard were not conducted.

The medical area was observed during the tour. Based on observations and conversations with employees it is evident that facility medical staff do provide general medical care services and basic emergency care services. However, any significant medical procedure would have to be performed off-site at a local hospital.

Based on the above, the facility has demonstrated compliance with provision 115.82(a).

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

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.82(b) verbatim. Executive *Directive OPS.050.0001 Sexual Misconduct – Prohibited* 05D(2)(ii) states, “If applicable, immediately, if qualified, providing medical attention or arranging for appropriate medical attention.” Executive *Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05D(2)(ii) states, “If applicable, immediately, if qualified, providing medical attention or arranging for appropriate medical attention.” Collectively, these policies guide facility practice regarding access to emergency medical and mental health services.

It was noted that medical or mental health staff are always available on-site. In the past 12 months, there have been zero incidents of sexual abuse that required either security or non-security employees to act as first responders. However, it should be noted that per agency policy all security employees are trained to act as first responders. Therefore, a security employee was interviewed utilizing the first responder protocol. This employee demonstrated knowledge in the separation of the alleged victim and abuser and the preservation and protection the scene of the incident. Likewise, the employee also indicated that the alleged victim would be requested not to take any actions that could destroy evidence and steps would be taken to ensure the alleged abuser not take any actions that could destroy evidence.

Based on the above, the facility has demonstrated compliance with provision 115.82(b).

#### **115.82(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.82(c) verbatim. The *Medical Evaluation Manual Chapter 13* section F7-8 states, “All follow-up testing related to Sexually Transmitted Infections (STI), pregnancy, HBV, RPR shall be reviewed with the inmate within 5 business days, including any additional testing or required treatment. All of the PREA related post assault follow-up clinical activities for medical, and mental health care must be completed whether or not an off-site visit was indicated including testing and prophylactic treatment for STIs and pregnancy (if female).” Collectively, these policies guide facility practice regarding access to emergency medical and mental health services.

In the past 12 months, there have been zero incidents of sexual abuse. Investigation documents were reviewed. None of the reported allegations would have required timely information or access to emergency contraception and sexually transmitted infections prophylaxis.

Medical staff reported that victims of sexual abuse are provided this information almost immediately. It was learned that emergency contraception and prophylaxis is conducted at the local hospital and STD testing can be performed on-site.

Based on the above, the facility has demonstrated compliance with provision 115.82(c).

#### **115.82(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.82(d) verbatim. Executive *Directive OPS.050.0001 Sexual Misconduct – Prohibited* 05G(3)(a); Executive *Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05D(2)(ii) states, “If applicable, immediately, if qualified, providing medical attention or arranging for appropriate medical attention.” The *Medical Evaluation Manual Chapter 13* section O states, “All treatment services shall be provided to both parties (the victim, and the alleged abuser) without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.” Collectively, these policies guide facility practice regarding access to emergency medical and mental health services.

Investigation documents were reviewed. None of the documentation indicated that inmates were charged for any services. Based on the above, the facility has demonstrated compliance with provision 115.82(d).

#### **Recommendations:**

- None

#### **Corrective Action:**

- None

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

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

#### **115.83 (a)**

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

#### 115.83 (b)

- Does the evaluation and treatment of such victims include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody? ☒ Yes ☐ No

#### 115.83 (c)

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

#### 115.83 (d)

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

#### 115.83 (e)

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

#### 115.83 (f)

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

#### 115.83 (g)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident? ☒ Yes ☐ No

#### 115.83 (h)

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

#### Auditor Overall Compliance Determination

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



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

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Medical Evaluations Manual Chapter 13*
- *Medical Administrative Manual Chapter 9*
- Investigation documentation

### Interviews:

- Medical and mental health staff

### Site Review:

- Health Care

### 115.83(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.83(a) verbatim. *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .05D(2)(ii) states, "If applicable, immediately, if qualified, providing medical attention or arranging for appropriate medical attention." *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05D(2)(ii) states, "If applicable, immediately, if qualified, providing medical attention or arranging for appropriate medical attention."

The *Medical Evaluation Manual Chapter 13* section II F6 states, "All inmates shall be seen for medical follow-up within the first 24 hours following the initial offsite medical visit regarding the allegations of sexual assault." Likewise, section IIH states, "A Mental Health Professional will see the patient within 24 (twenty-four) hours of his or her return to evaluate for any treatment needs, and document findings in the patient's medical record." Collectively, these policies guide facility practice regarding ongoing medical and mental health care for sexual abuse victims and abusers.

During the past 12 months the facility did not have any substantiated incidents of sexual abuse. Based on the above, the facility has demonstrated compliance with provision 115.83(a).

#### **115.83(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.83(b) verbatim. The *Medical Evaluation Manual Chapter 13* section II F5 states, “Within 4 (four) hours of return to the DPSCS facility, a clinician will review the emergency room notes, and write appropriate orders for care in the patient’s medical record. If the provider is off site, the ER protocol for review will be conducted and the disposition of care executed.” Additionally, section II F4 states, “Nurse will make a referral to the mental health vendor for follow up of the patient upon his or her return to the facility along with state psychology.” Section II F6 states, “All inmates shall be seen for medical follow-up within the first 24 hours following the initial offsite medical visit regarding the allegations of sexual assault.” Likewise, section II H states, “A Mental Health Professional will see the patient within 24 (twenty-four) hours of his or her return to evaluate for any treatment needs, and document findings in the patient’s medical record.”

The *Medical Administrative Manual Chapter 9* provides guidance regarding follow-up treatment for inmates leaving the Department of Public Safety and Corrections facilities (Pre-Trial, Sentenced, and Home Detention Units). The manual notes that follow up treatment will be provided. Inmates are provided with information and access to systems that will enable them to continue care for diagnosed disease processes that were received while the inmate was incarcerated. Collectively, these policies guide facility practice regarding access to ongoing medical and mental health care for sexual abuse victims and abusers.

Medical staff reported that follow up treatment consists of mental health referrals, treatment plans, and STD testing. Additional treatment plans are dependent on the results of initial follow up testing. During the past 12 months, the facility did not have any substantiated incidents of sexual abuse. Based on the above, the facility has demonstrated compliance with provision 115.83(b).

#### **115.83(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.83(c) verbatim. *Medical Evaluations Manual Chapter 13 section I* states, “Detainees/inmates reporting to have been sexually assaulted while in DPSCS custody shall be managed using guidelines consistent with the Prison Rape Elimination Act (PREA). An initial medical evaluation and subsequent intervention focused solely upon injury or trauma sustained during the assault shall be conducted. DPSCS medical vendors will not participate in or conduct a forensic examination. All specimen collection for forensic examinations will be done after the patient is transferred to an approved off-site medical facility for assessment by an independent provider or nurse who conducts forensic examinations.”

The *Medical Administrative Manual Chapter 9* provides guidance regarding follow-up treatment for inmates leaving the Department of Public Safety and Corrections facilities (Pre-Trial, Sentenced, and Home Detention Units) will be provided with information and access to systems that will enable them to continue care for diagnosed disease processes received while the inmate was incarcerated. Collectively, these policies guide facility practice regarding access to ongoing medical and mental health care for sexual abuse victims and abusers.

Medical staff reported that forensic exams are conducted at the local hospital. Facility staff perform initial evaluation duties and follow up treatment upon return to the facility. All medical and mental health staff are licensed and free to exercise professional judgement regarding the treatment of inmates.

The facility did not have any substantiated incidents of sexual abuse that required on-going treatment in the past 12 months. Based on the above, the facility has demonstrated compliance with provision 115.83(c).

#### **115.83(d)**

The facility reported they did not house female inmates. This was verified during the onsite review by the audit team. Therefore, this provision does not apply to the facility.

#### **115.83(e)**

The facility reported they did not house female inmates. This was verified during the onsite review by the audit team. Therefore, this provision does not apply to the facility.

#### **115.83(f)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.83(f) verbatim. *Medical Evaluations Manual Chapter 13* section II F7 states, “All follow-up testing related to Sexually Transmitted Infections (STI), pregnancy, HBV, RPR shall be reviewed with the inmate within 5 business days, including any additional testing or required treatment.” Section II F8 requires, “All of the PREA related post assault follow-up clinical activities for medical, and mental health care must be completed whether or not an off-site visit was indicated including testing and prophylactic treatment for STIs and pregnancy (if female).” Additionally, section II M states, “The patient and alleged abuser shall be offered follow-up STI testing within 60-90 days of initial testing to include HIV, HCV, and syphilis serology.” Collectively, these policies guide facility practice regarding ongoing medical and mental health care for sexual abuse victims and abusers.

The facility did not report any substantiated incidents of sexual abuse during the past 12 months. Therefore, the facility did not provide the auditor with any documentation verifying that victims of sexual abuse were offered tests for sexually transmitted infections. Based on the above, the facility has demonstrated compliance with provision 115.83(f).

#### **115.83(g)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.83(g) verbatim. *Medical Evaluations Manual Chapter 13* section II O states, “All treatment services shall be provided to both parties (the victim, and the alleged abuser) without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.” Collectively, these policies guide facility practice regarding ongoing medical and mental health care for sexual abuse victims and abusers.

The facility did not have any substantiated incidents of sexual abuse reported during the past 12 months. Investigation documents were reviewed and none of the documentation indicated that inmates were charged for any services. Based, on the above, the facility has demonstrated compliance with provision 115.83(g).

### 115.83(h)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.83(h) verbatim. *Medical Evaluations Manual Chapter 13* section II K states, “The alleged abuser shall be offered mental health evaluation by a mental health professional within 30-60 days of the alleged assault or abuse.” Collectively, these policies guide facility practice regarding ongoing medical and mental health care for sexual abuse victims and abusers.

The facility did not have any substantiated incidents of inmate-on-inmate sexual abuse reported during the past 12 months. Therefore, the facility did not provide the auditor with any documentation verifying that the facility attempted to conduct a mental health evaluation of all known inmate-on-inmate abusers. Based, on the above, DRCF has demonstrated compliance with provision 115.83(h).

#### Recommendations:

- None

#### Corrective Action:

- None

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

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

#### 115.86 (a)

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

#### 115.86 (b)

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

#### 115.86 (c)

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

#### 115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse? ☒ Yes ☐ No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility? ☒ Yes ☐ No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse? ☒ Yes ☐ No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts? ☒ Yes ☐ No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff? ☒ Yes ☐ No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager? ☒ Yes ☐ No

#### 115.86 (e)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

#### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review*

- *Executive Directive IIU.110.0011 Investigating Sex Related Offenses*
- Investigation documentation

**Interviews:**

- Warden's designee
- PREA compliance manager
- Incident review team

**Site Review:**

- None

**115.86(a)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.86(a) verbatim. *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* states, “Except for sex related offenses that are investigated and determined to be unfounded, a facility incident review team shall, within 30 days after an investigation of a sex related offense is concluded shall review the incident.” The agency defines “sex related offense” as any behavior or act of a sexual nature by an employee directed toward another inmate or directed toward an inmate’s personal contact or associate who believes the employee exercises influence or authority over the inmate. Sex related offenses also includes behavior or acts of a derogatory or offensive sexual nature by an inmate directed toward another inmate. This includes kissing, hugging, and handholding for the sexual arousal or gratification of an individual, or for the abuse of either party; sexual abuse; indecent exposure; voyeurism; sexual harassment; request for a sexual favor; and retaliation. Also included under “sex related offense” is solicitation or attempt to commit any of the acts listed above; action or the lack of action on the part of an employee that contributed to an incident involving a sex related offense; and any sexual crime identified under Criminal Law Article, §§3-301 — 312, 3-314, and 3-324, Annotated Code of Maryland. Collectively, these policies guide facility practice regarding sexual abuse incident reviews.

The facility reported one incident of unsubstantiated sexual abuse in the past 12 months. Based on facility records this would be the only incident whereby a sexual abuse incident review is required. A review of the documentation demonstrates that an incident review was conducted. The facility uses a standardized agency form to conduct the incident review.

Agency policy requires that a sexual abuse incident review be concluded for any sex related offense that is not determined to be unfounded. Documentation demonstrates that sexual abuse incident reviews are completed. Based on the above, the facility has demonstrated compliance with provision 115.86(a).

**115.86(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.86(b) verbatim. *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* states, “Except for sex related offenses that are investigated and determined to be unfounded, a facility incident review team shall, within 30 days after an investigation of a sex related offense is concluded shall review the incident.” Collectively, these policies guide facility practice regarding sexual abuse incident reviews.

The facility reported one incident of unsubstantiated sexual abuse in the past 12 months. Based on facility records this would be the only incident whereby a sexual abuse incident review was required. A review of the documentation demonstrates that a sexual abuse incident review was completed within 30 days of the conclusion of the investigation. The investigation was completed on March 4, 2019 and the sexual abuse incident review was completed on March 28, 2019.

Agency policy requires that a sexual abuse incident review be conducted within 30 days after an investigation of a sex related offense is concluded. Documentation indicates that sexual abuse incident reviews are completed within the 30-day time limit. Based on the above, the facility has demonstrated compliance with provision 115.86(b).

#### **115.86(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.86(c) verbatim. *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05E states in part, “The facility incident review team shall: Consist of upper-level facility management officials designated by the facility managing official after consultation with the facility PREA Compliance Manager. (2) Have input from or access to line supervisors, investigators, and medical or mental health practitioners concerning the incident being reviewed.” Collectively, these policies guide facility practice regarding sexual abuse incident reviews.

The facility reported one incident of unsubstantiated sexual abuse in the past 12 months. Based on facility records this would be the only incident whereby a sexual abuse incident review was required. A review of the documentation demonstrated that the sexual abuse incident review team consisted of case management staff, the chief of security, the PREA compliance manager, medical staff, the assistant warden, shift command, key control staff, and the ARP coordinator. Attendance was verified via a review of an attendance sheet signed by all participants.

Documentation indicates that sexual abuse incident review teams do consist of upper level-management officials, with input from line supervisors, investigators, and medical or mental health practitioners. Based on the above, the facility has demonstrated compliance with provision 115.86(c).

#### **115.86(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.86(d) verbatim. *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05E(3) requires the sexual abuse incident review team to consider if the incident or allegation indicates a need to change policy or procedure to better prevent, detect or respond to sexual abuse. Likewise section .05E(4) states the incident review team shall, “Consider if the incident or allegation was motivated by: (a) Race; (b) Ethnicity; (c) Gender identity; (d) Lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; (e) Gang affiliation; or (f) Other group dynamics at the correctional facility.” Collectively, these policies guide facility practice regarding sexual abuse incident reviews.

The team shall also examine the location where the incident allegedly occurred to determine if there are physical plant issues that may have contributed to the incident, assess staffing levels in the area, and the need for monitoring technology to augment or supplement staffing in these areas. Section .05E(6) states, “Prepare a report of findings for the managing official and PREA compliance manager, which includes, but is not limited to: (a) Identifying problem areas; (b) Necessary corrective action; and (c) Recommendations for improvement.”

The facility reported one incident of unsubstantiated sexual abuse in the past 12 months. Based on facility records this would be the only incident whereby a sexual abuse incident review is required. A review of the documentation demonstrates that an incident review was conducted using a standardized agency form. The form is required to be signed by the facility PREA compliance manager and a copy is subsequently forwarded to the warden or facility administrator.

Interviews demonstrated that a sexual abuse incident review is conducted. The warden's designee reported that sexual abuse incident reviews are utilized to determine ways to deter incidents and come up with corrective measures in areas where incidents occur. The PREA compliance manager reported that incident review teams are assembled, any recommendations are recorded, and a report is generated. Furthermore, the report and any meeting minutes are forwarded to the warden.

A review of the documentation noted that incident reviews are conducted using the standardized agency sexual abuse incident review form. The form contains most of the required elements for conducting a sexual abuse incident review in accordance with provision 115.86(d). However, the form does not demonstrate consideration for all the elements outlined in 115.86(d). Specifically, the form does not demonstrate consideration for an inmate's lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status. Nor is there any narrative that would suggest these elements were considered during the conduct of the sexual abuse incident review. Consideration for these elements is explicitly stated in provision 115.86(d).

Based on the above, the facility has not demonstrated compliance with provision 115.86(d).

#### **115.86(e)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.86(e) verbatim. *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05F states, "(1) The managing official shall: (1) Work with the facility's PREA Compliance Manager to: (a) Implement the facility incident review team's recommendations for improvement from the review team; or (b) If a recommendation is not implemented, document the reason for not adopting the recommendation." Collectively, these policies guide facility practice regarding sexual abuse incident reviews.

The facility reported one incident of unsubstantiated sexual abuse in the past 12 months. Based on facility records this would be the only incident whereby a sexual abuse incident review is required. A review of the documentation demonstrates that an incident review was conducted using the standardized agency sexual abuse incident review form. The sexual abuse incident review form did not indicate any recommendations improvements.

Based on the above, the facility has demonstrated compliance with provision 115.86(e).

#### **Recommendations:**

- None

#### **Corrective Action:**

- 115.86(d): A review of the sexual abuse incident review documentation does not demonstrate consideration regarding whether the incident was motivated by the inmate's lesbian, gay,



bisexual, transgender, or intersex identification, status, or perceived status. The standards explicitly require a report of finding that includes but is not necessarily limited to determinations made pursuant to every element indicated in paragraphs (d)(1)-(d)(5) of this section. The sexual abuse incident review for should be revised to reflect consideration for whether the incident was motivated by the inmate's lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status.

#### **Corrective Action Verification:**

- 115.86(d): A review Agency policy specifically requires the incident review team to consider the inmate's lesbian, gay, bisexual, transgender, or intersex identification status. A review of the sexual abuse incident review documentation noted that none of the incidents appeared to be motivated by the inmate's status lesbian, gay, bisexual, transgender, or intersex identification status. However, there is a section within the form that allows for such analysis. A review of the documentation noted that the review team utilizes this space to note various motivations that are not specifically designated on the form. Furthermore, an incident review team reported that the inmate's status or perceived status is considered during the incident review process. Based on the above, the facility has demonstrated substantial compliance with provision 115.86(d).

### **Standard 115.87: Data collection**

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

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

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

##### **115.87 (b)**

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

##### **115.87 (c)**

- Does the incident-based data include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice? ☒ Yes ☐ No

##### **115.87 (d)**

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

##### **115.87 (e)**

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

#### 115.87 (f)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

#### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review*
- *Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2017*
- *Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2016*
- *Survey of Sexual Victimization, 2017*
- *Maryland Department of Corrections Website*

#### Interviews:

- None

#### Site Review:

- None

#### 115.87(a) and (c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.87(a) and (c) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05A states, “The Department’s Internal Investigative Division (IID) is 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.” Section .05B states IID shall, “(1) 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.” Collectively, these policies guide agency practice regarding data collection efforts.

The PREA and PBMS combined case tracking demonstrates that the agency does have tracking mechanisms in place to capture the required data. Upon review, it was noted that the data collected will assist in the completion of the Survey of Sexual Victimization (SSV). Based on the above, the department has demonstrated compliance with provision 115.87(a) and (c).

#### **115.87(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.87(b) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05C(1) “The PREA Coordinator, or a designee shall: Aggregate the incident-based sexual abuse data annually.” Collectively, these policies guide agency practice regarding data collection efforts.

The agency does aggregate incident-based sexual abuse data at least annually. Annual reports dating back to 2013 are published online and can be readily found on the agency’s website. A review of the Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2017 and Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2016 noted incident-based sexual abuse data was aggregated at least annually.

Based on the above, the Department of Police and Correctional Services has demonstrated compliance with provision 115.87(b).

#### **115.87(d)**

The Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual states the language of provision 115.87(d) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .03B(2) requires the PREA coordinator or designee to maintain, review, and collect data as needed from all available incident-based documents, including reports, investigative files, and sexual abuse incident reviews. Collectively, these policies guide agency practice regarding data collection efforts.

Investigation documents are maintained with the agency’s IID division. Contact with the IID division in order to request additional investigation documents verified that this information is at a minimum being warehoused by IID. Based on the above, the department has demonstrated compliance with provision 115.87(d).

#### **115.87(e)**

The Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual states the language of provision 115.87(e) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .03B states, “The Department shall uniformly collect accurate data for 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.” Collectively, these policies guide agency practice regarding data collection efforts.

The Maryland Department of Public Safety and Correctional Services (MDPSCS) contracts with “Threshold, Inc.” for its pre-release services. The agency does aggregate incident-based sexual abuse data for “Threshold, Inc.” at least annually. The annual reports dating back to 2013 contained aggregated data for “Threshold, Inc.” These annual reports are published online and can be found on the agency website.

Based on the above, the department has demonstrated compliance with provision 115.87(e).

#### **115.87(f)**

The Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual states the language of provision 115.87(f) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .03B states, “The IID shall: (4) By June 30 of each calendar year, report sexual violence data from the previous calendar year to the Department of Justice.” Collectively, these policies guide agency practice regarding data collection efforts.

A copy of the most recent *Survey of Sexual Victimization, 2017* was provided and reviewed. Based on the above, the department has demonstrated compliance with provision 115.87(f).

#### **Recommendations:**

- None

#### **Corrective Action:**

- None

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

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

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

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

practices, and training, including by: Taking corrective action on an ongoing basis?

☒ Yes ☐ No

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

#### 115.88 (b)

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

#### 115.88 (c)

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

#### 115.88 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review*

- *Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2017*
- *Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2016*
- *Maryland Department of Corrections Website*

#### **Interviews:**

- Agency head designee
- PREA coordinator
- PREA compliance manager

#### **Site Review:**

- None

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

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.88(a) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05C(3) states the PREA coordinator or designee shall, “Ensure that all aggregated sexual abuse data is included in an annual report that: (a) Includes an assessment of the Department’s sexual abuse prevention, detection, and response policies, practices, and training; (b) If applicable, identifies Department-wide problem areas or problems within specific correctional facilities (c) Is used to facilitate corrective action at the Department and correctional facility levels; (d) Compares the current calendar year’s data and activities with that available from previous years; (e) Assesses the Department’s progress in addressing sexual abuse;” with regard to data review for corrective action. Collectively, these policies guide agency practice regarding data review for corrective action.

The agency does aggregate incident-based sexual abuse data at least annually. Annual reports dating back to 2013 are published on the agency website and readily available for review. A review of the Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2017 and Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2016 does list aggregated incident-based sexual abuse and sexual harassment data for every facility under the jurisdiction of the Maryland Department of Public Safety and Correctional Services.

The report itself contains corrective action measures taken by the agency. These measures include an emphasis on PREA standards during the conduct of pre-service and in-service training. It was also noted that PREA compliance manager training was held and the focus of this training was PREA implementation at the facility level. Additionally, in an effort to reduce allegations arising out of strip searches, the agency has implemented strip search protocol that informs inmates of the proper conduct of a strip search.

Interviews indicate that every level is involved in the collection, review, and analysis of data. At the agency level, the agency head designee reported that monthly meetings are held. The focus of these meetings is the reduction violence agency wide. This includes sexual abuse or sexual harassment. During these meetings data is reviewed and recommendations are made relative to the issues at hand. Additionally, the PREA coordinator reported that data is collected and compiled at year end. The data is reviewed by

both the PREA Coordinator and the Deputy Secretary. Upon review the agency will attempt to resolve any identified issues. Data is also collected at the facility level to ensure compliance.

Based on the above, the department has demonstrated compliance with provision 115.88(a).

#### **115.88(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.88(b) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05C(3)(d)-(e) states the PREA coordinator or designee shall, “Ensure that all aggregated sexual abuse data is included in an annual report that: (d) Compares the current calendar year’s data and activities with that available from previous years; (e) Assesses the Department’s progress in addressing sexual abuse;” with regard to data review for corrective action.” Collectively, these policies guide agency practice regarding data review for corrective action.

The agency does aggregate incident-based sexual abuse data at least annually. Annual reports dating back to 2013 are published on the agency website and are readily available for review. A review of the Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2017 and Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2016 does compare current year data with data from prior years. A review of the agency’s most recent report revealed that several steps have been taken to comply with PREA in general. These efforts include updates to policy, implementation of internal compliance audits performed by the Office of Inspector General, and efforts to reduce allegations related to the conduct of strip searches.

The report includes an assessment of the department’s overall progress towards the reduction of incidents of sexual misconduct. This analysis provides insight into overall incident reporting since the implementation of the standards in 2012. Early in implementation, the department experienced significant yearly increases in incident reporting; however, more recently the department has indicated that the number of reported incidents has started to level off. The report also provides insight into what the department has planned for future implementation. Based on the report, the department intends to complete contracts and agreements with outside victim advocacy organizations to provide services for inmate victims; continue participation in the interstate auditing agreement; produce an inmate education video with information that is unique to Maryland correctional facilities; complete a comprehensive PREA Manual for use in every facility; complete a successful audit at the Youth Detention Facility during its second year of operation. The agency also intends to complete a training program for staff working with youthful offenders; provide custom PREA handbooks to every staff member who has contact with inmates; and provide funding to the IID for additional equipment and supplies to improve investigative capabilities.

Based on the above, the department has demonstrated compliance with provision 115.88(b).

#### **115.88(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.88(c) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05C(3)(f) requires the annual report be approved by the secretary of the department and made available to the public through the department’s website. Collectively, these policies guide agency practice regarding data review for corrective action.

Annual reports dating back to 2013 are available on the agency website and are readily available for review. The Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2017 and Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2016 were reviewed. Annual reports were signed by the PREA coordinator, deputy secretary, and secretary. These reports are easily accessible and can be found through a basic internet search.

Based on the above, the department has demonstrated compliance with provision 115.88(c).

#### **115.88(d)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.88(d) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05C(3)(f)(i) regarding the annual report specifies that information that would present a clear and specific threat to the safety and security of a correctional facility be redacted prior to publishing the report. Collectively, these policies guide agency practice regarding data review for corrective action.

The PREA coordinator reported that it is not necessary to redact any information from the annual report. A review of the annual report did not indicate any personally identifying information or information that would present a clear and specific threat to the safety and security of the institution. Therefore, redaction of such material is unnecessary.

Based on the above, the department has demonstrated compliance with provision 115.88(d).

#### **Recommendations:**

- None

#### **Corrective Action:**

- None

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

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

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

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

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

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



### 115.89 (c)

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

### 115.89 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

### Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review*
- *Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2017*
- *Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2016*
- *Maryland Department of Corrections Website*

### Interviews:

- Agency head designee
- PREA coordinator
- PREA compliance manager

### Site Review:

- None

### **115.89(a)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.89(a) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05C(4) regarding the PREA coordinator or designee shall, “Securely maintain incident-based and aggregate data ensuring only authorized personnel have access to the information.” Likewise, .05B requires the IID to collect and maintain data for each reported allegation of sexual abuse at a correctional facility under the authority of the Department. Generally, data is maintained by IID who in turn provides information to the department PREA coordinator who reports to the deputy secretary. IID conducts all criminal and administrative PREA allegations within DPSCS. Therefore, IID’s control over data collection and maintenance is appropriate. Sharing this information with the department PREA coordinator, who in turn, will share this information with decision makers at the administrative level is also appropriate. Collectively, these policies guide agency practice regarding data storage, publication, and destruction.

The PREA coordinator confirmed that data is collected and maintained by IID. This data is also shared between IID, the department PREA coordinator, and administrative decision makers.

Based on the above, the department has demonstrated compliance with provision 115.89(a).

### **115.89(b)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.89(b) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05C(3)(f) guides departmental practice regarding publishing all aggregated sexual abuse data included in the annual report to the department’s public website annually.

Annual reports dating back to 2013 are available on the agency website and readily available for review. The Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2017 and Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2016 were reviewed. These reports include aggregated sexual abuse data for all facilities under direct control or contracted by DPSCS.

Policy requires the annual report to be published on the agency website. A review of the documentation and an internet search verified that the report is indeed posted on the agency website. Based on the above, the department has demonstrated compliance with provision 115.89(b).

### **115.89(c)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.89(c) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05C(3)(f)(ii) regarding the annual report requires that personal identifiers be redacted prior to publishing the annual report. Collectively, these policies guide agency practice regarding data storage, publication, and destruction.

The PREA coordinator reported that the annual report contains no personally identifying information. Therefore, it is unnecessary to redact any information from the annual report. A review of the annual reports for 2016 and 2017 did not indicate the presence of any personally identifying information.

Policy requires the removal of personally identifying information from the annual report. A review of the annual reports noted no personally identifying information contained within the reports. Based on the above, the department has demonstrated substantial compliance with provision 115.89(c).

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

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.89(d) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05C(5) requires the PREA coordinator or designee to, “Maintain sexual abuse data for at least 10 years from the date received.” Collectively, these policies guide agency practice regarding data storage, publication, and destruction.

The *Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2017* and the *Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2016* were reviewed. Upon review it was noted that annual reports did contain information regarding allegations from prior years for all facilities under the direct authority or contracted with the DPSCS.

Policy requires data maintenance for at least 10 years from the date received. A review of the audit documentation indicates that data is maintained in accordance with standard requirements. Based on the above, the department has demonstrated substantial compliance with provision 115.89(d).

#### **Recommendations:**

- None

#### **Corrective Action:**

- None

## **AUDITING AND CORRECTIVE ACTION**

### **Standard 115.401: Frequency and scope of audits**

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

#### **115.401 (a)**

- During the prior three-year audit period, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (*Note: The response here is purely informational. A "no" response does not impact overall compliance with this standard.*) ☒ Yes ☐ No

#### 115.401 (b)

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

#### 115.401 (h)

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

#### 115.401 (i)

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

#### 115.401 (m)

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

#### 115.401 (n)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

#### **115.401(a)(b)(h)(i)(m) and (n)**

All facilities under direct authority and contracted with the DPSCS were audited during the prior audit cycle. Currently, the DPSCS is in the third year of the second audit cycle. The department oversees 22 facilities. As of this report, two thirds of these facilities have been audited.

During the on-site audit, the auditor was able to tour all areas of the facility. Additionally, the auditor was able to request and receive relevant documents. Overall, the facility has been very responsive and accommodating to the needs of the auditor. The auditor has been able to request relevant documentation throughout the audit process.

Furthermore, the auditor was able to interview inmates in a setting that provided sufficient privacy. Most interviews were conducted in a closed office setting that allowed staff to maintain visual security and allow inmates to provide information without being overheard. Likewise, inmates were able to send confidential correspondence to the auditor without issue. However, please note the auditor did not receive any inmate correspondence from DRCF.

Based on the above, the facility has demonstrated substantial compliance with Standards 115.401.

### **Standard 115.403: Audit contents and findings**

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

#### **115.403 (f)**

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

#### **Auditor Overall Compliance Determination**

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

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

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

*The narrative below must include a comprehensive discussion of all 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 the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

This audit was conducted in accordance with a multi-state consortium agreement where the auditing agency conducts audits within the audited agency. A review of the department's website noted final reports conducted by this agency. To date, all final reports have been posted.

Based on the above, the facility has demonstrated compliance with Standard 115.403(f).

## AUDITOR CERTIFICATION

I certify that:

- ☒ The contents of this report are accurate to the best of my knowledge.
- ☒ No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and
- ☒ I have not included in the final report any personally identifiable information (PII) about any inmate or staff member, except where the names of administrative personnel are specifically requested in the report template.

### Auditor Instructions:

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

Matthew A. Silsbury

12/12/2019

**Auditor Signature**

**Date**

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

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