

**PREA AUDIT REPORT**    ☐ Interim    ☒ Final  
**ADULT PRISONS & JAILS**

**Date of report:** December 3, 2017

<b>Auditor Information</b>			
<b>Auditor name:</b> James Schiebner			
<b>Address:</b> Ionia Correctional Facility 1576 W. Bluewater Hwy., Ionia, MI 48846			
<b>Email:</b> <a href="mailto:schiebnerj@michigan.gov">schiebnerj@michigan.gov</a>			
<b>Telephone number:</b> (616) 902-7498			
<b>Date of facility visit:</b> April 3 – April 5, 2017			
<b>Facility Information</b>			
<b>Facility name:</b> Eastern Correctional Institution and Annex			
<b>Facility physical address:</b> 30420 Revells Neck Road, Westover MD, 21890			
<b>Facility mailing address:</b> <i>(if different from above)</i> Click here to enter text.			
<b>Facility telephone number:</b> 410-845-4000			
<b>The facility is:</b>	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> State	<input type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
<b>Facility type:</b>	<input checked="" type="checkbox"/> Prison	<input type="checkbox"/> Jail	
<b>Name of facility's Chief Executive Officer:</b> Warden Ricky Foxwell			
<b>Number of staff assigned to the facility in the last 12 months:</b> 723			
<b>Designed facility capacity:</b> 3444			
<b>Current population of facility:</b> 3334			
<b>Facility security levels/inmate custody levels:</b> Medium and Minimum			
<b>Age range of the population:</b> Adults 18-81			
<b>Name of PREA Compliance Manager:</b> Rose Beteck/Donald Gallagher			<b>Title:</b> Social Worker / Captain
<b>Email address:</b> <a href="mailto:rose.beteck@maryland.gov">rose.beteck@maryland.gov</a> <a href="mailto:donald.gallagher@maryland.gov">donald.gallagher@maryland.gov</a>			<b>Telephone number:</b> 410-845-4000 ext 6349 or 5548
<b>Agency Information</b>			
<b>Name of agency:</b> Maryland Department of Public Safety & Correctional Services			
<b>Governing authority or parent agency:</b> <i>(if applicable)</i> State of Maryland			
<b>Physical address:</b> 300 E. Joppa Road, Towson Maryland, 21286			
<b>Mailing address:</b> <i>(if different from above)</i>			
<b>Telephone number:</b> 410-339-5000			
<b>Agency Chief Executive Officer</b>			
<b>Name:</b> Stephen Moyer			<b>Title:</b> Secretary
<b>Email address:</b> <a href="mailto:stephen.moyer@maryland.gov">stephen.moyer@maryland.gov</a>			<b>Telephone number:</b> 410-339-5005
<b>Agency-Wide PREA Coordinator</b>			
<b>Name:</b> Dave Wolinski			<b>Title:</b> Agency PREA Coordinator
<b>Email address:</b> <a href="mailto:dave.wolinski@maryland.gov">dave.wolinski@maryland.gov</a>			<b>Telephone number:</b> 410-339-5033

## **AUDIT FINDINGS**

### **NARRATIVE**

A certified PREA audit was conducted at the Eastern Correctional Institution (ECI) located in Westover, Maryland. The audit team consisted of certified PREA auditors James Schiebner (author), Kris Steece, Barbra Storey and Christine Wakefield; all from the Michigan Department of Corrections. The audit began in late February with the delivery, via CD and emails, of the agency documentation. The facility provided the Pre Audit Questionnaire (PAQ) in mid-March. The facility did not send any facility documentation prior to the on-site audit. The auditor requested the items on numerous occasions, but never received the requested documentation. The standards were divided among the auditors with each reviewing the documentation available for their assigned standards and using the auditor tool as a guide.

Six weeks prior to the onsite visit, the facility was provided with contact information to post throughout the facility for inmates to write the audit team. Three letters were received prior to the visit. Two of the letters contained relevant information for the purposes of the audit and those two inmates were interviewed during the on-site audit. One additional letter was received post-audit and contained a PREA complaint. This letter was scanned and emailed to the facility PREA Compliance Manager to ensure that an investigation was completed. Follow up indicated that the complaint was also made to the facility and was already being investigated.

#### **DAY 1 OF ONSITE AUDIT:**

The onsite facility audit and tour began Monday, April 3, 2017 with all four auditors at ECI. There was a facility greeting from Assistant Warden Walter West, and PREA Compliance Manager Rose Beteck. Once we entered the facility we completed an entrance introduction with various managers, supervisors and administrators. The audit team introduced themselves, explained the purpose and outline of the audit process and the facility tour was then explained, along with the audit team's expectations and requirements for a successful audit.

After the introduction meeting the tour of ECI began. Auditor James Schiebner and Chris Wakefield completed the facility tour while auditors Kris Steece and Barb Storey completed staff and inmate interviews. Schiebner and Wakefield split the tour into two parts with Schiebner touring ECI East and West while Wakefield toured the Annex and all of the support areas outside the secure perimeter of ECI.

Schiebner was escorted by Lt. P. Ziolkowski for the duration of the tour. Schiebner visited all housing units, including administrative segregation, disciplinary segregation, protection, general population, and the infirmary unit, food service, medical and mental health, library, education building, vocational classrooms, gymnasium, chapel, Maryland Correctional Enterprises (MSE), recreation yard, laundry, visiting area, control center and intake. All of the areas visited were well staffed and staff were making rounds/tours and monitoring key areas. Doors were locked and off limits areas were maintained. No areas observed presented any sexual safety or security concerns. PREA information throughout the facility was clearly posted, both in English and Spanish. Posters listed the steps that could be taken to report sexual abuse or sexual harassment incidents, provided contact information for the inmates to report these incidents and also cited Maryland DPSCS's zero tolerance policy related to sexual abuse and sexual harassment. In the units the PREA hotline number was also painted on the wall next to the phones. The number was checked from one unit and determined to be working as required.

Privacy walls were in place in all shower areas allowing for privacy while using showers, and toilets were in cells only, with no direct view into the cells unless making security rounds. Privacy areas were available where strip searches were conducted giving inmates ample privacy. Log books were reviewed and showed evidence of supervisory rounds on all three shifts at random times. Staff and inmates both stated they were not made aware in advance when supervisors were making rounds. It was also evident that female staff were announcing their presence prior to entering the male housing units. Their presence is not only announced on the housing unit public address system but logged in the log books as well. Announcements were being made at the beginning of the shift when logged and also at other times when new female staff were entering the units, these instances were logged as well. The only cameras noted during the tour were in housing unit dayrooms, some select areas such as visiting areas and the education building areas with limited staffing. The MCE buildings had a significant amount of camera coverage to supplement the staff levels due to the amount of blind spots contained within the buildings. The camera coverage provides excellent coverage of the areas that do not have constant staff coverage between regular staff rounds. The support areas of each compound consisting of food service, gymnasium, visiting room, administration building, education and vocational buildings all had adequate

staffing and private toileting facilities for the inmates. All of the support areas had PREA posters posted in prominent areas for all inmates to see. Schiebner completed his tour and began reviewing necessary documentation to complete the audit process.

Wakefield was escorted by Case Management Supervisor John Scramlin and Major Holmes during her portion of the tour. The ECI Annex is a minimum security satellite facility outside the secure perimeter of the main compound with 4 housing units. The only cameras present at ECI Annex are in the visiting room and in Dorchester Unit. The facility is slated to have cameras installed in the remainder of the facility over the next 3 years. Wakefield started her tour in the Support Building which includes the visit/intake room, master control center, case management wing, Shift Command offices, programs/library, medical, chaplain office, property room, and the kitchen. The property room employs 2 inmate workers at a time who are supervised by a property room officer. Just outside of the property room sits the Support Building Officer, who is responsible for keeping track of all inmates coming and going from the various areas of the Support Services Building as well as conducting routine rounds of the area to ensure the safety of both staff and inmates. There were no blind spots or problematic areas observed in this building during her tour. This building houses many staff that work normal business hours Monday-Friday. The Medical room has one nurse and a doctor that conduct routine exams of ECI Inmates, and if at any time a doctor or nurse need to conduct a private exam of an inmate, the person doing the exam must be accompanied by another health care staff person. Closed door exams are never completed on a one on one basis. All areas of the support building provided good visibility and overall good staff coverage.

From the Support Building she was escorted to Dorchester Housing unit which is a Dorm Style, open bay housing unit which houses minimum security inmates. PREA postings in both English and Spanish were plentiful and staff announced female presence each time when entering this unit. Log books were reviewed and supervisory unannounced rounds were being conducted several times throughout the day and logged in red ink. ECI Annex also logs each time female staff are announced coming into the unit. There were two correctional officers and a case manager present at the time of her tour. There are two wings that are separated by the officer pod and a dayroom. Each wing has locker room/group style showering facilities and provides privacy for inmates to shower without being viewed by the opposite sex. Each wing also provides a separate bathroom area with walls that provide privacy for inmates using the toilet. The laundry rooms are out in the open in each side of the unit. Both unit wings and the dayroom have good visibility from the Officer pod. The units are wide open due to the open bay setting, therefore, it is the inmates responsibility to ensure that when in a state of undress, he is changing his clothing in either the shower or bathroom area. The Dorchester dayroom has phones with the PREA Hotline posted at each phone. There were also classrooms and social worker offices located in the dayroom area which provide good visibility of both staff and inmates and present no blind spots.

Wakefield also toured Somerset, Wicomico and Worchester Housing Units. Each unit is a mirror image of one another, houses 156 inmates, has zero video surveillance cameras, has three separate wings and a dayroom, with an officer pod in the middle of the unit with good visibility into the entire unit, each provides individual cells which allow inmates to change clothing and use the toilet in private and without cross gender viewing. The showers are positioned at the top of each wing and allow privacy. The laundry is also positioned at the front of each wing and is out in the open. PREA postings in both English and Spanish were plentiful and staff announced female presence each time when entering this unit. Log books were reviewed and supervisory staff unannounced rounds were being conducted several times throughout the day and logged in red ink.

Also outside of the secure perimeter of the ECI main facility was the central kitchen that supplies prepared food for ECI East and West, also ECI Annex, Poplar Hill Pre Release Unit and the Somerset Sheriff's Office and detention center. In addition to the central kitchen were separate buildings that housed a central laundry facility, warehouse, regional maintenance, gun range, and the training building. All of these areas had PREA postings in both English and Spanish. Wakefield spoke with inmates that were working in every area and all were aware what PREA was and indicated they had received education about PREA. There were blind spots in many of the outer support buildings where the minimum security inmates worked but these were all supplemented by numerous supervisors and employees working in those areas.

#### **INTERVIEWS:**

Simultaneously as the facility tour was being completed, Barb Storey and Kris Steece commenced with staff and inmate interviews. The auditors randomly selected and spoke with a combined total of 117 inmates and 86 staff members.

Both inmates and staff were asked specific PREA questions, derived from the PRC interview template for the tour, random and specialized interviews. Everyone interviewed participated willingly and appeared to have a good understanding of the PREA standards or rights provided by them. During the tour, the audit team interviewed 103 randomly selected inmates and 60 randomly selected staff members. Formal interviews were conducted with an additional 14 inmates and 26 staff members with all formal interviews being conducted in a selected single and private location. The random/specialized inmates and staff that were interviewed in this single location were selected by reviewing the facility inmate roster and staffing roster for that day. They were then chosen by ensuring that each area of the facility was represented by both inmates housed and staff working in those areas. Conducting the interviews in this manner ensured that the auditors were able to gather sufficient information throughout ECI to help make a definitive determination of each standard.

During the tour, the auditors randomly selected 103 inmates and 60 staff to interview as they were walking around. These interviews were conducted in specific locations and both inmates and staff were asked the specific questions from the PRC tour template. Other interviews were conducted in an open and sometimes group setting. The majority of inmates interviewed indicated they had received some sort of PREA educational material, either a pamphlet or watched a video, and were aware of the information on the PREA posters that were posted throughout the facility. The majority of the randomly interviewed also acknowledged signing for their PREA education and completing the screening tool during intake. For those inmates that have been at the facility since the inception of PREA indicated that they remembered being screened in 2014 when all inmates had to receive PREA education and screening. Some inmates initially reported knowing nothing about PREA or indicated they received no education. When the auditors probed further into this it was discovered that the inmates were aware of the postings and simply chose not to read them. It was also discovered they were aware of the PREA video that is played at ECI on the facility television system on a regular loop. This was not a reflection on the facility's efforts to educate and provide inmates with PREA information. All inmates felt they had enough privacy to change and shower without being viewed by the opposite gender. All inmates indicated that female staff did announce their presence when entering the unit. All inmates reported feeling safe from sexual abuse/harassment at ECI and knew how to report abuse or harassment if needed. All staff interviewed was knowledgeable about PREA and the agency's zero tolerance policy. They knew how to appropriately respond to a sexual assault and their mandatory requirement to report all allegations, notifications or suspicions of abuse or harassment. All staff indicated they had been trained on PREA, which included cross-gender/transgender pat searches. Staff was able to cite specific steps that needed to be taken in the event they were first responders to a sexual abuse incident. Some staff simply indicated that they would contact their supervisor for further direction, which as discovered during the documentation review, is in line with the facility's directives. More information on this issue is discussed under §115.64. All staff responded that they absolutely could not strip search a inmate to verify sexual identification.

#### **Off-Site Formal Agency Interviews:**

During a previous audit, Todd Butler, MDOC PREA Coordinator, was escorted by Maryland PREA Coordinator, David Wolinski, to the agency's Internal Investigative Division (IID) in order to review the 14 investigations conducted into allegations of sexual abuse and sexual harassment. Investigative detectives who are sworn peace officers staff the IID. Because they are peace officers, the IID detectives conduct both criminal and administrative investigations on behalf of the agency. Formal Interviews were conducted and staff indicated, among other things, that they had received appropriate training regarding investigating sexual abuse and sexual harassment, articulated Miranda, Garrity, and Preponderance of the Evidence sufficiently, and covered in detail the process of conducting investigations in sexual abuse and sexual harassment. The agency provided the audit team with all of the investigations conducted in the past 12 months regarding sexual abuse and sexual harassment. The investigations appear to be conducted thoroughly with appropriate outcomes. The only investigation in question appeared, by a reading of the investigative summary, to fit a finding of unsubstantiated. However, the investigator indicated a finding of unfounded. Todd addressed this concern with the IID staff. Nonetheless, the agency is more than substantially compliant with its investigative process.

#### **Files Reviewed**

Following the IID visit, Mr. Wolinski took Todd to visit the agency's head human resources office. During the tour of HR, Todd was able to randomly review 23 current employee personnel files in order to verify criminal background checks are being conducted prior to employing staff and the agency affirmatively asks applicants about sexual abuse and sexual harassment during their application process. The agency keeps documentation verifying this in each employee's personnel file. While in HR, Todd was able to conduct an interview with the senior HR employee present at this time. During the interview, the agency's stance regarding hiring well-qualified staff, as well as the agency's process

for screening applicants was articulated. When asked questions regarding specific facility practices, it was indicated the local HR office assigned to each facility would be the appropriate area to answer those questions. Todd was unable to discuss these issues any further because he was unable to meet with the facility's local HR staff despite repeated requests. I spoke with a local HR representative and she directed me back to the agency HR and indicated that all employee hiring and promotional information is maintained at the agency HR office.

During the tour of the agency HR office, Todd also interviewed Martha Danner. Ms. Danner is the Administrative Assistant to the agency head, Deputy Secretary John Michael Zeigler. During Todd's interview with Ms. Danner, it is apparent the agency head is well aware of the agency's efforts toward zero tolerance of sexual abuse and sexual harassment. Ms. Danner was able to articulate the agency's efforts to mitigate abuse and harassment through its use of technology and the open layout of its facilities. She discussed in detail the efforts of the agency's IID to conduct thorough and comprehensive investigations of sexual abuse and sexual harassment allegations, the agency's newest facility scheduled to go online later this year, and how the agency conducts reviews of cases in order to determine if there are trends that need to be addressed across the agency.

#### **DAY 2 OF ONSITE AUDIT:**

On April 4, 2017 the entire audit team returned to the facility and began collecting and reviewing supportive documentation for each standard. This portion of the audit was a daunting task for several reasons. ECI failed to provide adequate supportive documentation and in a timely manner for the pre-audit. It was very difficult to support compliance with many standards based on the documentation received prior to the audit. This caused the auditors to have to review documentation for each section of each standard while onsite. All of the staff during the onsite audit was tremendously helpful in tracking down the necessary documentation to complete this task. Staff who were available and assisting us did their best to answer questions and obtain the documentation requested and required, even though they did not directly deal with PREA issues as part of their normal duties. However, as noted in response to standard 115.11, the facility PREA Compliance Manager clearly does not have the time, resources or authority needed to effectively ensure that PREA standards are being met and inmate sexual safety is a priority. PCM Beteck is a Social Worker at the facility and is not normally included in the meetings or discussions necessary to complete the duties of the PCM. In addition to not being included, she does not have sufficient authority in her position to mandate compliance in the areas necessary to ensure compliance with PREA standards. This was noticeably evident in the amount of standards found to be in non-compliance during this audit.

#### **EXIT INTERVIEW:**

The audit team returned to the facility on April 5, 2017 to conduct an exit interview. Present during the exit interview was Warden Foxwell, Assistant Warden West, PCM Beteck and various other ECI staff, supervisors and managers. Agency PREA Coordinator David Wolinski attended via conference call for the exit interview. The overall audit process was explained and an overview of the auditor's findings was presented. An explanation of the preliminary findings of non-compliance with each standard was given with the recommended action to correct. The audit team remained in state until April 7, 2017 and collectively reviewed and shared notes, documentation, interview results and report templates from the ECI audit. Contact by phone and/or email with ECI staff and agency staff was made to clarify a few questions and request a few additional pieces of documentation, all of which was answered and provided. The team returned to Michigan and individually concluded each of their assigned standards, which were then compiled into this final report.

## DESCRIPTION OF FACILITY CHARACTERISTICS

The Eastern Correctional Institution complex is located on 620 acres in Westover, MD in rural Somerset County. The complex consists of the East and West medium compounds with a total population of 2836, the ECI Minimum Annex with a population of 608 inmates, and the ECI Poplar Hill Pre-Release Unit which houses up to 192 inmates. Poplar Hill Pre-Release Unit is addressed in a separate PREA audit completed during this same trip. The medium unit consists of an East and West compound which are essentially mirror images of each other. Each compound has three general population housing units, and one special management unit. ECI's original design was for single inmate cells, but all general population cells and some special management cells have been double-bunked. The general population housing units have a centrally located control room with four, two level wings (A, B, C, and D) where inmates are housed. The control rooms located in each housing unit are strategically positioned so that officers have a clear view of dayroom activities and other movements. Each level has 24 two-man cells for a total capacity of 96 inmates on each wing, or 384 inmates in each housing unit. One level on Housing Unit 6 on the East Compound is designated for inmates undergoing reception and orientation as well as in-transit inmates who have court appearances scheduled in the local area. As previously stated, there is a special management unit on each compound with a control room, and three wings each which house a combination of pre-hearing segregation, disciplinary segregation, protection, and inmates awaiting transfer. Also present on each compound are a gymnasium/multi-purpose building where inmate activities such as, recreation, religious, and self-help programs take place. The inmate barbershops and visiting areas are also located in this building.

A support building located on both the East and West Compounds house the case management department, commissary, inmate and staff dining areas/finishing kitchen, education/vocational shops, inmate identification/property, medical, psychology, social work/addictions, as well as administrative staff offices. Maryland Correctional Enterprises (MCE) has a textile operation on the East Compound and furniture restoration on the West side. Both compounds have large outside recreation areas consisting of basketball/multi-purpose courts and a ball field.

Each compound is surrounded by a razor-ribbon covered double-perimeter fences creating a 115 foot wide corridor between the East and West compounds. There are vehicle and pedestrian entrances at both ends of this corridor complemented by an armed tower on each end.

There are two additional armed towers on each compound. Perimeter security is enhanced through the use of roving security vehicles, and a microwave system located behind each housing unit which, if breached, alerts Central Control. Staff and visitor entrance into the facility is accomplished through the Central Control area located at the South end of the compounds with security features including x-rays of personal property, a walk-through metal detector, followed by a pat search. The team was also required to present a picture ID in exchange for a visitor badge which was clipped to our outer garments. Staff were found to be both diligent and consistent in performing these required duties on all shifts at all times of the day.

Located outside the secure perimeter are the administration building, central kitchen, warehouse, central laundry, training, and maintenance/power plant. Supporting ECI's daily operations and emergency plans are a State Police detachment, Fire Department, and ambulance service in nearby Princess Anne, MD. The Somerset Sheriff's Office and detention center are located within a mile of the facility and two hospitals are available to service the facility located within twenty minutes drive.

ECI has approximately 723 employees who may have contact with inmates. They reported having 140 volunteers and contractors who also may have contact with inmates. Their staffing levels in all areas appeared appropriate for the amount of inmates, programs, activities and physical layout at the facility. Staff are assigned and deployed throughout the facility which allows ECI to ensure that all areas are effectively monitored and the observation, safety and security of inmates is effective. There was no evidence of staffing pressures affecting housing or programming decisions or having an impact on inmate sexual safety.

The facility has 65 video security cameras, with 30 of them capable of retaining video for 45 days and the remaining 20 cameras as live feed only for security monitoring of activities. Security camera coverage is adequate to assist in areas needing more than intermittent rounds coverage by staff in areas such as; visiting rooms, chapels, dining halls, medical areas, intake areas, and various locations in all of the housing units. Camera footage is monitored by both female and

male staff. Cameras were checked during the tour and no cameras were in observation cells, showers or areas where inmates may be in a state of undress and viewed by the opposite gender. The facility is in the early stages of doing a facility wide camera upgrade project to enhance the safety of the facility.

Through the utilization of community and in-house resources, ECI offers an assortment of programs addressing issues such as self-improvement, problem solving, social skill development, cognitive self-change, family reunification, victim awareness, and educational opportunities. Programs and services are well integrated into institutional operations. Social Worker Programs offered include Thinking Deciding Changing (TDC), Communications, Relationships, Inside Out Dads (IOD), Domestic Violence, Re-entry and for disciplinary segregation only, Reach One Teach One. Programs and Services offered include, employment, readiness workshop, Cognitive Behavior Program, Breaking Bad Habits (BBH), Anger Management and Addiction Programs. The Volunteer Activities Department offers the following programs, Alternative Directions Civil Legal Workshops, Veterans, Jaycees, Alternatives to Violence Project, Conflict Resolution, Reentry Mediation, Narcotics Anonymous, Alcoholics Anonymous, Personal Interest Groups (Rap Group, Guitar Clinic, Chess Club), and Special Interest Groups (Art, Band, Talent Shows, Sports Festival, Black History Month Programs). various religious services and GED classes are also offered as well.

ECI is accredited by the American Correctional Association (ACA). An ACA audit was last conducted on September 22-24, 2014. ECI received 100% compliant on mandatory standards and 99.1% on non-mandatory standards.

## **SUMMARY OF AUDIT FINDINGS**

115.11: ECI PREA Compliance Manager does not have sufficient time or authority to address or ensure PREA standards are being met. This is evident by the number of non-compliant standards.

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

115.17: ECI did not have documentation to support that criminal background checks or past sexual abuse or sexual harassment checks for new employees are being conducted.

115.22: ECI is not ensuring all allegations are being investigated. IID returned two allegations for the facility to investigate and those two allegations were never investigated.

115.41: ECI is not conducting reassessments of inmates within 30 days of their arrival at the facility.

115.42: ECI is not using the risk assessment screening information to make decisions on work assignments for inmates.

115.53: ECI inmates and staff were not aware of outside confidential services available to inmates. The facility did not provide documentation to show how inmates were provided with outside victim advocates, mailing address, phone numbers or contact information for any agency to provide these services.

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

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

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

115.71: ECI staff are conducting investigations and have not been properly trained to conduct PREA related investigations. Maryland DPSCS does not include the requirement to interview suspected perpetrators within appropriate agency directives.

115.73: ECI did not provide documentation to support that inmates are being notified of outcomes of investigations.

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

115.81 Maryland DPSCS policy complies with sections a-d of this standard. However, agency policy did not speak of informed consent until very recently due to another recent audit finding. ECI staff are not aware of the new requirement and will need to be educated/trained to demonstrate compliance with section (e) of this standard.

115.86: ECI is not conducting Incident Reviews as required.

## **SUMMARY OF CORRECTIVE ACTION PERIOD**

ECI and DPSCS were placed into a Corrective Action Period and provided with direction and recommendations in order to comply with each standard that was non-compliant. During the Corrective Action Period, the agency completed all the required updates and changes to their policies and procedures and forwarded all supportive documentation to the audit team for review. During a statewide Warden's meeting, the agency PREA Coordinator presented a PREA overview and specifically addressed issues that arose during the DPSCS PREA audits, including changes to policies. ECI made



significant changes; the most notable was appointing a new PREA Compliance Manager and ensuring they have enough time dedicated to comply with all PREA standards. ECI submitted all requested documentation showing the actions they took to ensure the sexual safety of their inmates is maintained. At this time, the Eastern Correctional Institute is in full compliance with all standards. Refer to each individual standard in this report for the details and specifics on how each standard was found to be compliant, including those initially under corrective action.

Number of standards exceeded: 0

Number of standards met: 43

Number of standards not met: 0

Number of standards not applicable: 0

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

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

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

(a): Maryland Department of Public Safety and Correctional Services (MDPSCS) does have written policies and operating procedures in place mandating zero tolerance toward all forms of sexual abuse and sexual harassment. MDPSCS practices are precise in outlining the agency's approach to preventing, detecting and responding to sexual abuse and sexual harassment. MDPSCS has implemented Secretary's Directive DPSCS.020.0026, effective August 19, 2016 which states "this directive continues policy for the Department of Public Safety and Correctional Services concerning sexual abuse and sexual harassment of an inmate. Furthermore, the directive continues to state the Department does not tolerate sexual abuse or sexual harassment of an inmate and in section 5-G, the Department shall continue an aggressive approach to preventing, detecting, and responding to acts of sexual abuse and sexual harassment involving an inmate. Section 5-F requires the Department to ensure that existing efforts and new strategies to prevent, detect, and respond to acts of sexual abuse and sexual harassment involving an inmate comply with applicable national standards established under the authority of PREA. Additionally, MDPSCS has provided a copy of Executive Directive OSPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015 which states the Department does not tolerate sexual misconduct by an employee, by either omission or commission, and does not consider alleged or actual consent as a defense to an allegation of sexual misconduct. Executive Directive OSPS.200.0004, Inmate on Inmate Sexual Conduct-Prohibited, effective November 13, 2015 also prohibits inmate-on-inmate sexual conduct of any sort.

The Eastern Correctional Institution (ECI) provided Institutional Directive ECI- 124.0000 which supports and upholds all agency standards for ECI. The directive clearly explains that ECI has a zero tolerance for any acts of sexual abuse, assault, misconduct or harassment. The directive is well detailed and provides information regarding prohibited behaviors, and requirements for training and education of staff and inmates. It also covers inmate screening for risk, reporting and responding duties and treatment for victims of sexual abuse and sexual harassment.

(b): MDPSCS provided the agency's organizational chart identifying David Wolinski as a Special Assistant to the Deputy Secretary for Operations for the MDPSCS. Mr. Wolinski is the agency's PREA Coordinator. As an assistant to the number two position within the MDPSCS, Mr. Wolinski is in a position to have the authority and impact necessary to carry out the duties of a PREA Coordinator as required by this standard. Upon interviewing Mr. Wolinski, he indicated he has sufficient time and authority to manage his PREA related responsibilities on behalf of the agency. Furthermore, Mr. Wolinski stated he has the authority to make changes and implement policy on behalf of the agency in order to improve PREA efforts. Mr. Wolinski also stated he and a Major are actively involved in the annual staffing plan reviews of each correctional facility within the DPSCS. In addition to Mr. Wolinski's PREA compliance duties, he is responsible for gathering aggregate data in order to assess and improve efforts toward sexual abuse and sexual harassment prevention. Specifically, Mr. Wolinski reviews the information gathered in order to look for trends or pockets of allegations to determine whether changes need to be made to policy or practice within a particular location or facility. Mr. Wolinski indicated there are 22 PREA Compliance Managers within the MDPSCS. He regularly interacts with them through email and telephone calls, as well as during site visits to the facilities.

The agency has Policy Directives in place supporting section (b) of this standard. Secretary's Directive DPSCS.020.0026, effective August 19, 2016 mandates, under section 5-A that the Secretary shall designate a Department PREA Coordinator. Section 5-B mandates the PREA Coordinator shall have sufficient time and appropriate

authority to develop, implement, and oversee Department activities taken to comply with PREA standards in Department correctional and detention facilities. At a minimum, the PREA Coordinator is responsible for oversight of Department prevention, detection, and response activities designed to support the Department's zero tolerance policy for sexual abuse and sexual harassment of an inmate, ensuring the Department PREA-related activities comply with federal PREA standards, authorizing procedures for the Department related to prevention, detection, and response to acts of sexual abuse and sexual harassment involving an inmate, and ensuring preparation and submission of PREA-related reports.

(c): ECI provided documentation indicating that Rose Betek, who is a social worker, has been designated as the PREA Compliance Manager for ECI. Ms. Rose Betek reports to the facility Warden. During an interview with Ms. Betek, she indicated that PREA is very time consuming and she does not have sufficient time to complete her duties as a social worker, along with assuring that the facility is compliant with PREA. In addition, she stated that given her position as a social worker, she does not have the authority to ensure facility compliance with PREA standards.

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

Due to the PREA Compliance Manager not having sufficient time or authority to ensure facility compliance with PREA standards, the facility does not meet the requirements of this standard.

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

ECI will not only need to ensure sufficient time and resources are being afforded to the facility PREA Compliance Manager, but that the PCM duties are assigned to a staff member with sufficient authority to coordinate the facility's efforts to comply with the PREA standards.

#### **Corrective Action:**

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

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

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

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

(a): Maryland Department of Public Safety and Correctional Services (MDPSCS) contracts with "Threshold, Inc." for its pre-release services. MDPSCS provided a July 2016 copy of the contract with "Threshold, Inc." as documentation of meeting this standard. The contract, under sections 25.3 and 25.4, requires "Threshold, Inc." to comply with all

Federal, State and Local laws, regulations, and ordinances applicable to its activities and obligations under this contract, and; shall fully comply with the standards set forth in the Prison Rape Elimination Act of 2003, and with all applicable regulations issued by the U.S. Department of Justice.

(b): Under the inspections and evaluations portion of the contract (2.10.1), the Contractor shall permit the Contract Monitor or authorized representatives to conduct audits, physical inspections, and evaluations of the Center at any time during the contract period. The Department's Contract Monitor or authorized representatives may enter the Center at any time without prior notice to the Contractor. Additionally, MDPSCS provided a copy of the most recent PREA audit completed at "Threshold, Inc." The audit report, dated September 24, 2015 shows "Threshold, Inc." is in full compliance with PREA. This is the only agency contracted by the MDPSCS and complies with the requirements of the standard.

The contract administrator interview with the agency PREA Coordinator, David Wolinski, was previously conducted on March 1, 2017 during a previous audit. The interview revealed that Maryland DPSCS has assigned an agency staff member as the PREA Compliance Manager/Contract Monitor at each contracted facility to ensure continued compliance with the contract and with PREA. Mr. Wolinski has regular intermittent conversations with the contractor and with the Contract Monitors regarding the facility's continued compliance. The final report for the contracted facility's audit has been posted on the agency's website.

#### **Standard 115.13 Supervision and monitoring**

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

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

(a): MDPSCS Staffing Analyst and Overtime Management establishes a staffing plan for the facilities to comply with on a regular basis and states that all facility staffing plans are reviewed annually. Maryland Executive Directive OPS.115.0001, effective September 4, 2015 assigns responsibilities and authorizes a procedure manual for the MDPSCS to manage security staffing and overtime at a correctional and detention facility. While the agency policy does not specifically address all of the sub-sections of this standard, it is evident that ECI has developed, documented and continues to make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing. In addition, the policies provided do not specifically address items 1-11 of section (a) of this standard. ECI did provide their June 13, 2016 completed facility staffing plan and annual review and it does incorporate some of the factors from this section, but does not address all of them. ECI also provided documentation outlining their enhanced coverage with video monitoring throughout most of the institution. The Facility Administrator indicated during an interview that there is a video monitoring plan which Administration is in current discussions with regard to installation of new cameras. Through interviews of ECI administration and review of the staffing plan and bi-annual reviews, it is evident that ECI makes a good effort to comply with a staffing plan that provides for adequate levels of staffing; However, the staffing plan and annual review documentation does not sufficiently address all 11 components outlined in the standard.

(b): During an interview with the Assistant Warden, he reported that "collapsed positions" are considered based on the safety and security of the facility and inmates; in addition, he provided a detailed explanation from the Facility Staffing Plan Summary outlining the information that is considered and the steps which are followed to ensure enough staff are assigned to cover essential areas where inmates are housed and active, ensuring the sexual safety of the

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

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

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

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

1. The number of days each week the post is staffed;
2. The rank of the correctional officers assigned to the post;
3. The operational staffing level (OSL) for the post; and
4. The designation as an emergency response post.

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

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

While the agency policy does not require a review of the Facility Staffing Plan be conducted with the agency PREA Coordinator, OPS.115.0001, section .05, does require a review of a facility staffing plan be conducted and reported to the Executive Director's Office using the required form (agency directive attachment) for review and approval by the Executive Director or designee. The agency PREA Coordinator, Mr. David Wolinski indicated that he and the Major assigned to assist each facility within the agency with the annual review of the facility's staffing plan discuss each of the facility staffing plans. He then sends an email to the facility indicating he has reviewed the staffing plan and provides comments and/or direction when necessary. The Assistant Warden and PREA Compliance Manager indicated that Mr. Wolinski sends an email with regard to his review of the Facility Staffing Plan and he is in contact with the administration regarding PREA compliance.

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

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

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

ECI will need to review their current staffing plan and make changes to ensure they consider: (1) generally accepted detention and correctional practices; (2) any judicial findings of inadequacy; (3) any findings of inadequacy from Federal investigative agencies; (4) any findings of inadequacy from internal or external oversight bodies; (5) all components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated); (6) The composition of the inmate population; (7) the number and placement of supervisory staff; (8) institution programs occurring on a particular shift; (9) any applicable State or local laws, regulations, or standards; (10) the prevalence of substantiated and unsubstantiated incidents of sexual abuse; and (11) any other relevant factors, and ensure that this annual review is conducted in consultation with the agency PREA Coordinator. The updated staffing plan will need to be submitted to the audit team for review, along with documentation showing that the annual review which considers all 11 factors has been conducted in consultation with the agency PREA Coordinator.

#### **Corrective Action:**

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

### Standard 115.14 Youthful inmates

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

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

ECI houses male inmates ranging in age from 18-81; no youthful inmates are housed at ECI. As per MDPDS Directive 100.0003, Separation of Adult and Juvenile Detainees, all youthful offenders are housed at a juvenile institution or a housing unit designated for juvenile offenders. This was confirmed during the onsite visit by interviewing the Warden and PREA Compliance Manager, who stated that no juvenile inmates were housed at ECI. This was also verified through general observation during the site tour, the inmate and staff interviews and inmate file reviews. The agency PREA Coordinator also confirmed that no juvenile inmates were housed at ECI. There are no youthful inmates being housed at ECI, nor are their housing units designated for youthful inmates at ECI.

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

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

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

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

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

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

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

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

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

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

(e): During interviews of random staff, it was clear that staff knew they could not conduct a search or examine a transgender inmate for the sole purpose of determining the inmate’s genital status. Staff also indicated that this was part of their annual training. During an interview with the PREA Compliance Manager, it was stated that there has never been a Transgender inmate housed at ECI, however if they ever do intake a Transgender inmate, appropriate PREA standard requirements will be followed by ECI staff.

ECI does show support of this practice in facility policy, ECI-124.0000, Sexual Misconduct-Prohibited, which states, “(13-14) Transgender inmates and inter-sex inmates will be verified through the Medical Department. Should it become necessary to pat search a transgender or inter-sex inmate, the supervisor will contact medical for verification. Once the inmate is verified by medical as being transgender or inter-sex the officer will ask the inmate if he prefers to be pat searched by a male or female officer. The transgender inmate will document his choice on an inmate statement form prior to the pat search. The pat search shall only be conducted by the gender choice of the inmate. The inmate statement form will be forwarded to case management. At no time will a transgender or inter-sex inmate be strip searched to ascertain their sexual orientation.”

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

(f): ECI Training staff presented the PREA training module which is given annually to all staff. This module demonstrated that it does train staff in how to conduct cross-gender pat down searches and searches of transgender and intersex inmates professionally and respectfully. As further evidence to show support of this standard the Maryland Police and Correctional Training Commissions Lesson Plan for Security Custody and Control, dated November 2, 2015 was presented. This lesson plan covers searches of inmates, including cross-gender and



transgender inmates. The lesson plan gives clear and detailed instruction on how to conduct these searches and includes a video on transgender searches. Training records were reviewed for randomly selected staff. Of those selected, all have had training covering PREA, LGBTI inmates and training covering searches of inmates, including cross-gender and transgender inmates. All staff interviewed also confirmed that they have had this training and complete it annually.

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

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

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

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

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

(c): ECI reported no instances of interpreters being utilized in the last 12 months; however, the PREA Compliance Manager provided a list of interpreter services that will be utilized in the event an interpreter is needed. Statewide language interpretation services contracts have been awarded to Telephonic Language Interpretation, Vital Written Documents Translation, and Onsite Language Interpretation. ECI inmate files were reviewed and signed acknowledgements were present.

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

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

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

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

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

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

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

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

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

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

(b) Was convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or

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

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

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

(c): During the interview it was verified that background checks are performed on every applicant before offering a position, and they do consider pertinent civil or administrative judgments when determining whether or not to hire or promote anyone who may have contact with inmates, including contractors. Furthermore, DPSCS utilizes a system titled the "State Rap Act" which continuously monitors all staff for law enforcement contact. If contact is made, the agency is immediately notified of the contact and the details surrounding the incident. The facility reported they have had twelve new employees within the last 12 months; those on-site files were reviewed and on-site Human Resource staff were interviewed. Of the twelve files reviewed it was found that two of them had both completed PREA questionnaire and a completed background check. Four of the files had only the completed PREA questionnaire; however no evidence of a background check was present. The remaining six files did not have the PREA questionnaire or evidence of a completed background check present in the file. When the facility Human Resource staff were questioned on this they indicated that all the hiring and background checks are completed by their headquarters and that they only have what they send them in the files. They further indicated that we would need to get those documents from their headquarters. When asked by the auditors if they could contact their main Human Resources office and have the documents faxed or emailed to them to be placed in the files to demonstrate compliance, they refused.

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

(d): MDPSCS and ECI do require that a criminal background check is completed prior to enlisting the services of any contractor. This was confirmed during the interview with the Headquarters' Human Resource Officer. Executive directive DPSCS.020.0026, Prison Rape Elimination Act-Federal Standards Compliance, effective August 7, 2015, in section F(3)(c) states before enlisting a contractor to perform services that involve contact with an inmate, the HRSD shall conduct a criminal background records check of the contractor's employees who may have contact with an inmate.

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

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

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

(g): The interview with the Headquarters' Human Resource Officer confirmed that employment would be terminated if it was ever discovered an employee falsified an application or gave false information during the application process. Executive directive DPSCS.020.0026, Prison Rape Elimination Act-Federal Standards Compliance, effective August 7, 2015 states, in section F(5) a material omission regarding conduct described in this directive or providing materially false information shall be grounds for termination of employment.

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

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

ECI will need to provide documentation to support that all twelve new hires had an initial criminal background check completed along with the PREA questionnaire.

#### **Corrective Action:**

ECI provided documentation to support that all twelve new hires had an initial criminal background check completed along with the PREA questionnaire. They also provided documentation for newly hired staff during the corrective action period to ensure background checks and the PREA questionnaires were completed for each one.

#### **Standard 115.18 Upgrades to facilities and technologies**

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

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

(a-b): The Agency Head interview was conducted with Ms. Martha Danner, who is the Special Assistant to Deputy Secretary John Michael Ziegler. Ms. Danner indicated there have been no new facilities or substantial expansions or modifications of existing facilities. MDPPSCS provided a PREA Audit Compliance report submitted by PSA--DEWBERRY + PENZA BAILEY ARCHITECTS regarding the new BCDC Youth Detention Center. The report indicates that the facility was designed in accordance with the PREA, Prisons and Jail Standards, United States Department of Justice Final Rule, National Standards to Prevent, Detect, and Respond to Prison Rape Under the Prison Rape Elimination Act (PREA), 28 C.F.R. Part 115.

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

ECI reported there have been no substantial expansions or modifications to buildings on the premises; this was also apparent during the audit tour. During interviews, Administrative staff indicated that they are in the process of planning for security upgrades to their video monitoring system; there are currently cameras in place in the facility and, as provided by the Chief of Security, plans for more video surveillance will be placed throughout the facility as needed to enhance security and the sexual safety of the inmates.

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

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

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

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

Detective assigned to the unit has received the agency's specialized training for investigators.

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

#### TRAINING FOR INVESTIGATORS:

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

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

ECI staff are required to take immediate action once staff has been made aware of an incident of sexual assault, abuse or misconduct to ensure physical evidence is not destroyed. Directive OSPS.050.030, Sexual Misconduct, provides steps that shall be taken to ensure that evidence is preserved and the victim is protected. The PREA in-service training curriculum also trains staff on responding responsibilities, which includes preserving and protecting a crime scene until appropriate steps can be taken to collect any evidence. Formal and random interviews with staff indicate that they are aware of evidence preservation and all stated in some manner that the crime scene would be secured, supervisors and medical and mental health staff notified, forensic exams completed by SANE/SAFE staff as necessary, and the incident referred to IID for investigation. Staffs were also aware that IID would be the one to conduct investigations related to sexual abuse and sexual harassment incidents.

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

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

As further evidence showing support of this standard the following directives were presented: Maryland DPSCS directive IIU.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, section .05(D)(2), states when the possibility for recovery of physical evidence from a victim exists or otherwise is medically appropriate, coordinate with appropriate Department facility staff to arrange for the victim to undergo a forensic medical examination that is

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

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

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

Maryland DPSCS directive IIU.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, section .05(D)(3) states, if the victim requests, coordinate with the managing official, or a designee, to arrange for a victim advocate to accompany the victim to provide support for the victim through the medical forensics examination and investigatory interviews.

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

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

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

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

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

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

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

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

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

(a): During the past 12 months, ECI reported there were 56 allegations of sexual abuse/sexual harassment received. IID investigation logs, along with the interview with the PREA Compliance Manager, as well as the IID sergeant, confirmed there were 56 allegations reported at ECI. IID investigation logs were reviewed and the records verified the same. However, it was discovered that not all of the allegations were investigated. IID sent some allegations back to the facility for investigation and two of them were never investigated. ECI does not meet this section of the standard due to the two allegations being left uninvestigated.

Todd Butler, PREA Auditor, conducted the agency head interview with Martha Danner, Special Assistant to the Deputy Secretary, John Michael on February 27, 2017. Regarding allegations referred for investigation, the agency head stated that absolutely all allegations are investigated for administrative violations and criminal acts as appropriate. She further indicated that every investigation is tracked by the agency investigation division, IID. When asked how an investigation is completed, the agency head responded that when an allegation is received by the agency, it is assigned to the agency's IID who then determines whether to investigate criminally or to assign it to the facility as an administrative investigation. The investigation is then conducted with a final determination detailed in the report which is retained by the agency.

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

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

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

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



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

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

**Corrective Action Plan:**

ECI will need to ensure that the two allegations which were found to be left uninvestigated are assigned to be investigated. IID or ECI will need to ensure that documentation is provided to the auditor confirming the investigation of those two allegations. In addition, IID and/or ECI will need to provide the auditor with a plan of action which will ensure that all allegations that are reassigned to the facility are investigated and a check system at both the IID and facility level to ensure all investigations are completed.

**Corrective Action:**

PCM Gallagher provided documentation with the completed investigations for the two allegations which were found to be left uninvestigated during the audit. All provided documentation met the standards of a proper investigation. PCM Gallagher also provided a memo authored by Warden Foxwell issued to all staff indicating that indicating that all investigation returned to the facility from IID will be returned to Captain Gallagher in order for him to properly assign the investigation to a trained investigator in order to ensure a proper investigation is conducted.

**Standard 115.31 Employee training**

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

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

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

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

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

Maryland DPDS Executive Directive OSPS.200.0004 continues policy for the DPSCS, prohibiting inmate on inmate sexual conduct and assigns responsibility and procedures for reporting, responding to, investigating, processing, and resolving a complaint of inmate on inmate sexual conduct. Section .05, paragraph B of the directive indicates that the head of a unit, or designee, is responsible for ensuring that, among other requirements, that each supervisor, manager, shift commander and contractor who has contact with an inmate under the authority of the unit head is familiar with Department policy prohibiting inmate on inmate sexual conduct. Paragraph C of the same section requires that an employee attends approved training related to preventing, detecting, and responding to acts of inmate on inmate sexual conduct. Paragraph G Investigating, Documenting, and Resolving a Complaint requires that an IID Investigator, or an investigator designated by the IID, shall conduct a prompt, thorough and objective investigation of every complaint of alleged inmate on inmate sexual conduct according to applicable statutory, regulatory, case law, contract, Department or agency procedures, or other reasonably accepted standards.

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

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

(b): DPSCS has an approved lesson plan titled, "Managing the Female Offender". This training is tailored towards staff working at a facility that houses female inmates. The ECI Facility Directive.124.0000- Sexual Misconduct Prohibited indicates: the facility training department offers annual PREA training to all facility staff to include staff, all non-

custody staff and any staff having contact with inmates. ECI's training is tailored to the gender of the inmates that are housed at the facility. In interviews with training staff, line staff and after reviewing facility training curriculum, it was clear that ECI staff are receiving the training tailored towards Male offender. However, if an ECI employee were reassigned to other facilities housing the opposite gender, staff are also given additional training and custody staff will receive training on conducting cross-gender pat-down searches and searches of transgender and intersex inmates. ECI houses male inmates. ECI staff receives PREA Training on an annual basis.

(c): ECI reported that in the past 12 months 723 staff who have contact with inmates received the necessary PREA Training. ECI's Training Officer presented me with training records showing that all ECI staff were in fact PREA trained. The Agency presented the following directive showing further support of this standard: Code of Maryland Regulations (COMAR), Title 12 DPSCS, subtitle 10 Correctional Training Commission requires in section 12.10.01.16 "Mandated Employee In-Service Training and Firearms Training and Qualifications that each employee completes 18 hours of Commission approved mandated employee in-service training by December 31 of each calendar year.

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

#### **Standard 115.32 Volunteer and contractor training**

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

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

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

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

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

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

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

### Standard 115.33 Inmate education

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

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

(a): ECI reported that 509 inmates who were admitted to ECI in the past 12 months received PREA information at intake. Inmates who were interviewed randomly and formally indicated they are receiving information on the zero tolerance policy and are also receiving PREA education by way of pamphlets and a PREA video. Upon reviewing the files of 66 random inmates, each file showed signed inmate documentation indicating receipt of the PREA education. During formal interviews of inmates that had arrived at the facility in the last 12 months, each inmate indicated that he had received PREA education upon the day of arrival at ECI and this education included the facility's zero tolerance policy and how to report sexual abuse and sexual harassment.

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

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

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

Maryland DPSCS Executive Directive OSPS.050.0030 "Sexual Misconduct-Prohibited" covers the applicable definitions and elements as covered in standard 115.33. Section 05, paragraph C. The directive indicates that the head of a unit, or a designee, responsible for the custody and security of an inmate, in addition to responsibilities under .05B of this directive, shall ensure that, among other requirements, department and agency policy prohibiting sexual misconduct, procedures for filing a complaint, and inmate rights related to sexual misconduct are effectively communicated to an inmate as part of inmate orientation, orientation paperwork and the facility's handbook.

Maryland DPDS Executive Directive OSPS.200.0004 continues policy for the DPSCS prohibiting inmate on inmate sexual conduct and assigns responsibility and procedures for reporting, responding to, investigating, processing, and resolving a complaint of inmate on inmate sexual conduct.

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

(b): Intake staff were interviewed and reported that upon arrival at ECI, each inmate received at ECI is provided with PREA Education and shown the PREA video before leaving the intake area. The inmate education was reviewed and covers PREA education as indicated. The video was also viewed and covers PREA, including inmate rights and processes to report instances of abuse very well. Before leaving the intake area, inmates sign an acknowledgement form indicating they have received information on PREA. To further support this standard, the facility presented ECI's Facility Directive ECI.124.0000, which indicates at intake inmates will view the PREA video and sign off on the PREA Acknowledgment Form, which will be placed in the inmate's base file. The acknowledgment form indicates that an ECI staff member has counseled the inmate about PREA and ECI's zero tolerance policy regarding sexual harassment and explains prevention, reporting and response to sexual abuse and harassment.

(c): Sixty six randomly selected inmate files were reviewed. All files contained PREA education/training acknowledgement forms. All inmates interviewed reported they received some sort of PREA information.

(d): All staff interviewed at ECI were aware that interpreter services were available and provided for inmates at ECI if needed. ECI reported no instances where these services were utilized in the past 12 months. ECI Facility Directive ECI 124.0000 requires that if the inmate declares illiteracy, the inmate handbook will be read to the inmate, or as appropriate, other orientation tools may include the showing of videos (in English and Spanish as required). Non-English speaking inmates will be provided with interpretive services. A signed acknowledgement form is to be obtained from the inmate and forwarded to case management for inclusion in his base file. Statewide language interpretation services contracts have been awarded to Astria, which is utilized by ECI, if needed.

(e): All inmate files reviewed while at ECI did contain signature sheets of inmates indicating the inmate received PREA Education. ECI Facility Directive ECI 124.0000 requires that PREA education/training acknowledgement forms are placed in the inmate's base file.

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

(e) ECI Facility Directive ECI 124.0000 requires that PREA education/training acknowledgements forms are placed in the inmate's base file. All files reviewed while onsite contained these forms.

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

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

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

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

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

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

Ms. Nicodemus was able to articulate the definition and appropriate application of Miranda and Garrity and had a clear understanding of how preponderance of the evidence is used to determine the outcome of an investigation. There was some confusion initially regarding whether the agency utilizes an evidentiary standard of "preponderance of the evidence" or "beyond a reasonable doubt" when conducting criminal investigations. However, this was clarified by the IID Captain who assured all investigations conducted by the IID utilize preponderance of the evidence to determine the outcome of their investigations and that "beyond a reasonable doubt" comes in to play only if the case goes to trial.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

During a tour of the intake area auditors were able to observe the actual intake process. Auditors observed incoming inmates going directly through intake, and it was confirmed through the interview process of intake staff that this is the normal occurrence upon arrival to the facility. The intake sergeant detailed the process that each inmate follows upon arrival; during the process, each inmate is interviewed and educated with regard to PREA. PREA educational material is given to each inmate and a PREA Intake Screening is completed for each inmate as well; the educational pamphlet and PREA Intake Screening form was reviewed by the auditor and includes all criteria required by this standard. Once the intake process is complete, each inmate's PREA Intake Screening is then forwarded to the appropriate case manager, who then reviews the form for necessary programming and placement. Auditors were not able to verify that the facility was conducting the 30 day reassessment. Eastern Correctional Facility's Annex did start the 30 day reassessment process on March 10<sup>th</sup>, 2017 however there was no evidence to show the rest of the institution was adhering to this section of the standard or that the Annex will in fact follow through with the change since it had not been more than 30 days to show supporting documentation to support compliance. The auditor reviewed 24 files at ECI West, of which only 6 had the 30 day reassessment completed, and 19 files at ECI East, of which none had the 30 day reassessment completed. Ten files were reviewed at ECI Annex. The files at each compound were filed in alphabetical order in filing cabinet drawers. The files reviewed were drawn at random by simply reviewing files from almost every letter of the alphabet, with more files used from the most common portions of the alphabet with a higher concentration of files.

All of the random inmate interviews also indicated that they were seen within hours of their arrival at ECI and assessed, however there was no indication that a reassessment was taking place within 30 days of arrival by their assigned case manager. Auditors were not able to prove that PREA reassessments were being completed following a referral, request, incident of sexual abuse, or if additional information received bore on the inmate's risk of sexual



victimization or abusiveness; there were zero instances of reassessments indicated in the PAQ. During the tour, there were 103 inmates interviewed and all were aware of PREA and indicated that they were asked questions related to PREA during intake.

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

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

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

Overall, a review of the intake process, screening tools, staff interviews, and agency and facility directives supports that all sections as required in standard 115.41 are being met and in some instances exceeded as indicated above.

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

For any new inmates that have arrived at ECI within the last 30 days and through the 180 day corrective action period, the facility will need to provide the auditor with copies of all assessment forms proving that the reassessments are taking place within 30 days of arrival. These will need to be provided to the auditor on a monthly basis throughout the corrective action period.

#### **Corrective Action:**

PCM Gallagher provided the auditor with copies of 287 assessment forms throughout the corrective action period proving that the reassessments are taking place within 30 days of arrival. In every instance the document supports the facility is now completing the assessments and reassessments within the required time limits upon an inmates arrival at ECI.

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

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

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

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

(b): Case Management staff indicated if an inmate comes in with obvious signs of vulnerability, staff will ensure the inmate is properly placed in order to ensure the inmate's safety from becoming a victim of sexual abuse. The facility is conducting individual risk assessments on all inmates at the facility and this information is being uploaded into OCMS which is used to determine proper bed placement for each inmate.

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

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

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

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

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

ECI will need to demonstrate to the auditor that the facility uses the information produced from the screening tools to make work, education and program assignments. Specifically, due to the isolated nature of the Prisoner Observation

Aide (POA) assignment, the facility will need to ensure that inmates with opposing scores are not placed in a position to be in a one-on-one situation with a vulnerable inmate. In conversation with the Classification Supervisor, it was suggested that POA assignments only be filled with inmates that have a “No Designation” score for potential abusiveness or victimization in order to allow those assigned inmates to observe any inmate on observation status regardless of their assessment score. The Classification Director agreed this would be an adequate solution. The facility will need to provide the auditor with an updated POA assignment roster for ECI showing all inmates assigned have an ND score. The facility will also need to provide written documentation in the form of direction from the Warden or an updated Facility Directive indicating that this is a requirement to assign an inmate to a POA assignment.

#### **Corrective Action:**

ECI supplied the auditor with a copy of Facility Directive ECI.124.0000 Change Notice 10-17 with an effective date of June 7, 2017 indicating that when hiring IOA workers that only inmates with an “ND” score will be used to fill those positions. It also indicates that case managers are required to utilize the PREA Intake Screening form when hiring IOA workers for ASOA. PCM Gallagher also provided an updated roster showing that only inmates with an “ND” score are employed as facility IOA workers. This was completed by checking the screens of all current IOA workers and removing any that did not have the correct score in order to ensure that no inmate with opposing scores are utilized to observe other inmates in potentially vulnerable circumstances.

#### **Standard 115.43 Protective custody**

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

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

(a-d): ECI has reported zero instances of victims being placed in segregation for the time frame of the audit period. ECI has the unique ability to relocate inmates from the east side of the facility to the west side, or vice versa. Each side is independent from one another. Furthermore, if the inmate is not able to be placed in a GP setting, protective housing is available. Inmates that are housed in PC receive the same privileges as GP inmates. During the interview with the Assistant Warden he did state that there is a process in place to separate the victim and the alleged abuser by placing them in housing in which the inmates would not have contact with each other; placing an inmate in involuntary segregation would only be used as a last resort to ensure the inmate’s safety. A review of housing placement, agency directives, and interviews with staff and inmates support this practice. If there should be an instance where it would be necessary to place an inmate in involuntary segregation to ensure the inmate’s safety, the inmate would have access to education, some programming, and privileges; however, this would be a very rare circumstance due to the other options available at ECI. The placement in segregation would only continue until alternative means of placement could be arranged and those inmates would be reviewed every thirty days as required by this standard.

In further support of this standard, ECI presented MDPSCS 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).

During an interview with Case Management it was stated that 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.

MDPSCS Case Management Manual DOC.100.0002, Section 18 "Special Confinement Housing", paragraph B(2)(a) indicates that staff shall provide the inmate a copy of the Notice of Assignment to Administrative Segregation, Appendix 1 to CMM-18, within 24 hours after the inmates placement in administrative segregation. This would indicate a review of placement is done within the required time frames prior to completing further assessment of alternative housing, such as protective housing. The form provided as supporting documentation has a section to indicate the reason for placement and two of the options are for pending investigation and that they are being considered for placement on voluntary or involuntary protective custody. This demonstrates that the review is completed and further assessments are made after the initial placement. The facility indicated that they have had zero instances of this taking place in the last 12 months.

MDPSCS Case Management Manual DOC.100.0002, Section 18 "Special Confinement Housing" Section F indicates what conditions of confinement are for an inmate placed in segregation. The manual covers supervision, housing, movement, hygiene, property, out of cell activity, health care, case management, education, library, legal, religion, food, mail commissary and segregation status. Staff shall use the Notice of Assignment to Administrative Segregation, Appendix 1 to CMM-18 when considering an inmate for placement on protective custody. The case management team documents the placement on the form.

(c-e): Interviews with the Assistant Warden/PREA Compliance Manager, and the Case Management Team all echoed agency directives and facility processes when it comes to placing an inmate in protective or any segregated housing. There are proper procedures in place to address placement in segregation for sexual safety; however, there have been no instances of such placement. MDPSCS Case Management Manual DOC.100.0002, Section 18 "Special Confinement Housing", paragraph B(2)(c)(i) mandates that an inmate be reviewed at least once every 30 days once placed in segregation.

## Standard 115.51 Inmate reporting

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

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

(a) Maryland DPSCS Executive Directives OSPS.0510.0030, effective date June 26, 2015, section 5(E) and OSPS.200.0004, effective date November 13, 2015, section 5(E), state that a complaint may be submitted by the victim, an individual with knowledge of an incident of sexual misconduct, or a "third party" on behalf of the victim. The complaint may be submitted in writing or verbally and may remain anonymous. An individual may file a complaint of

sexual misconduct, without the regard to chain of command with an employee; a supervisor manager, or shift commander; the head of a unit; the Intelligence and Investigative Unit (IID); the inmate grievance office. The MDPSCS Inmate Handbook (2007) informs inmates that they should report if they become a victim of sexual misconduct and instructs them that they can tell any correctional officer, case manager, Chaplin, medical practitioner, supervisor or any DPSCS employee. Facility Directive ECI .124.0000, section .06(B) also indicates that any ECI employee may receive a report of sexual misconduct from many different sources, including outside persons or agencies and that inmates shall also have access to a toll free hotline number which will refer any reports back to the institution for investigation.

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

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

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

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

All inmates interviewed reported feeling safe from sexual abuse/harassment at ECI and knew how to report abuse or harassment if needed. Inmates indicated they could report sexual abuse/harassment by calling the PREA hotline that is posted by the telephones, they could tell a staff member or a family member, and believed they could do so verbally or in writing. Postings were prevalent throughout the facility with reporting options as well as in the inmate handbook and intake processing paperwork. In addition to the posting, the PREA hotline number was painted above all the inmate phones and was in working order.

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

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

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

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

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

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

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

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

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

The agency/facility did not provide documentation to show how inmates were provided with outside victim advocates, mailing address, phone numbers or contact information for any agency to provide these services. The facility PREA Manager, Rose Betek, indicated that the facility contracts with Life Crisis Center which is a local organization in Salisbury, MD that is included in the statewide coalition MCASA, which provides support services to the entire State of Maryland. Even though the facility does in fact have an active contract with Life Crisis Center, their facility directive, ECI.124.0000, section .06(B)5 indicates that if an inmate victim is being sent to the hospital for a forensic exam, the medical provider shall ask the inmate if he wants a victim advocate to accompany him at the hospital during the exam.

If so, the hospital is notified to make arrangements for the victim advocate. However in parenthesis it states "Victim advocacy is not currently available".

(b): The facility did not provide the auditors with any documentation to indicate what level of confidentiality will be maintained while inmates utilize the outside support victim support services.

(c): The agency and facility provided the auditor with a copy of the current contract with the vendor Life Crisis Center entered into on 12/22/16 by David Wolinski, the agency PREA Coordinator, that extends the original agreement from 2013 for Life Crisis Center to supply victim support services to the Eastern Correctional Institute, Annex and Poplar Hill Pre Release Unit. Life Crisis Center is part of the Maryland Coalition Against Sexual Assault (MCASA). MCASA is a federally recognized state sexual assault coalition and its core members are the state's 17 rape crisis and recovery centers. MCASA provides policy advocacy, technical assistance, training outreach and prevention. The agency provided documentation showing an agreement with MCASA to provide support services. However, nothing was published at the facility and no contact information is provided to inmates on how to contact these agencies.

Interviews of staff and inmates all support that the facility has not provided any contact information for any type of victim's advocacy group and none of them had knowledge that the department had any type of agreement with Life Crisis Center.

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

The facility will need to provide the auditor with documented proof that the facility has provided the inmate population with information on how to contact Life Crisis Center and what services they provide. The facility will also need to show documented proof that they have updated their facility directive, ECI.124.0000, to indicate that the facility has in fact entered into a contract with the Life Crisis Center and remove the statement under the above referenced section that a victim advocacy is not currently available.

Given the fact that ECI staff was not aware of the contract with the Life Crisis Center and MCASA, it is recommended that the Maryland DPSCS confirm that all facilities it oversees are aware of this contract and provided with contact information for their inmates.

#### **Corrective Action:**

ECI submitted an inmate handbook as documentation showing that information regarding MCASA has been added to the handbook and posters have been posted throughout the facility in both English and Spanish notifying inmates of the correct hotline number for the Life Crisis Center. The facility issued a Facility Directive updating the inmate handbook with the information for the Life Crisis Center also indicating what services they offer. Information regarding MCASA was also provided and discussed at a statewide Warden's meeting in April 2017.

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

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

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

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

#### **Standard 115.61 Staff and agency reporting duties**

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

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

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

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

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

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



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

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

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

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

(e) Section F(1) states that a complaint of alleged sexual misconduct received anonymously shall be accepted and processed the same as a complaint received from an identified source. Section E, subsection 1(c) states a third party on behalf of the victim or other individual who has knowledge of the alleged sexual misconduct.

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

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

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

#### **Standard 115.62 Agency protection duties**

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

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

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

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

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

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

Executive Directive Assessment for Risk of Sexual Victimization and Abusiveness OSPS.200.0005 – under inmates protected as a result of screening, Section C(1)a, when making decisions related to housing, bed, work, education, and program assignments with the goal of separating inmates who are determined to be at high risk of being sexually victimized from inmates who are determined to be at high risk of being sexually abusive. (b) When making individualized determinations as how to ensure the safety of each inmate. (c) When deciding to assign a transgender or intersex inmate to a facility for male or female inmates and in other housing and programming assignments and, on a case by case basis, determining if the placement or assignment: (i) Ensures the inmate's health and safety; and (ii) Presents management or security problems. (2) Placement and programming assignments for each transgender or intersex inmate shall be re-assessed at least twice each year to review threats to safety experienced by the inmate. (3) A transgender or intersex inmate's own views with respect to personal safety shall be seriously considered.

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

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

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

#### **Standard 115.63 Reporting to other confinement facilities**

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

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

(a) Maryland DPSCS Executive Directives OSPS.0510.0030, effective date June 26, 2015, section 5(E)(6) and OSPS.200.0004, effective date November 13, 2015, section 5(E)(6) states, if a complaint of alleged sexual misconduct is received by a supervisor, manager, shift commander, or head of the unit at a facility other than the facility where the alleged sexual misconduct occurred, the head of the unit responsible for the facility receiving the complaint shall immediately notify the Intelligence and Investigative Unit (IID) of the complaint. Section (7) states, an IID representative notified under .05E(6) of this directive shall immediately, if the facility where the alleged sexual misconduct occurred is not a Department facility, notify the official responsible for the facility where the alleged misconduct occurred and document the notification. If the facility where the alleged sexual misconduct occurred is a Department facility, notify the appropriate Department official with responsibility for the facility where the alleged sexual misconduct occurred.

Facility Directive ECI.124.0000, section .05(A)6 indicates that the Warden/designee is responsible for ensuring that a reported allegation which occurred at another facility is reported to the head or appropriate office of the agency where the alleged abuse occurred and that the notification must occur no later than 72 hours after receiving the allegation and must be documented.

The agency is not compliant with this section of the standard due to the contradiction of the Agency Directive to the PREA standard. If a complaint was received at a facility, the department head would be obligated by the standard to report the allegation to the facility head or appropriate office of the agency where the alleged incident occurred. If IID is making the notification to another agency on behalf of the facility head, this would not be in compliance with the standard. The standard does not allow for deviation from the facility head to make the report.

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

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

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

of the investigation.

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

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

#### **Corrective Action:**

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

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

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

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

(a) Maryland DPSCS Executive Directives OSPS.0510.0030, effective date June 26, 2015, section .05D(4) and OSPS.200.0004, effective date November 13, 2015, section .05D(4) states that a supervisor, manager, or shift commander shall: (4) Ensure the safety of a victim of sexual misconduct, through a coordinated response to a complaint of sexual misconduct that includes: (a) Immediately stopping an incident in progress; (b) If applicable, immediate medical attention; (c) Appropriate action to provide immediate and continued personal protection; (d) Referral for medical and mental health care follow-up; and (e) Non-medical or mental health related counseling and support services.

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

instruct the victim on the need to protect against the destruction of physical evidence; and (iv) Refer the victim for appropriate medical and mental health follow up services.

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

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

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

During the onsite audit, one inmate who had made a recent allegation of sexual abuse indicated that the officer placed the perpetrator in the dayroom temporarily after the allegation was made. He indicated that the same officer placed him in the dayroom as well while he went to report the situation to his supervisor. The inmate indicated that nothing happened further while he was in the dayroom with the other inmate but the action itself supports that some staff are not aware of their first responder duties. The officer did in fact follow the agency directive by contacting his supervisor for further direction.

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

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

#### **Corrective Action:**

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

### Standard 115.65 Coordinated response

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

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

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

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

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

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

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

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

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

Also submitted was Maryland State Personnel and Pension 3-302 Management Rights -stipulating management's rights as provided by law. 1 through 8 of this document specifically states that the Agency has the ability to manage

their staff in the event that an issue were to occur related to many different issues, of which (3) states, hire, direct, supervise, and assign employees, and (4) states, promote, demote, discipline, discharge, retain, and lay off employees.

During the interview with Martha Danner, Special Assistant to Deputy Secretary, John Michael Zeigler, she indicated the current agreements are active from January 2015 to December 2017. She also indicated management can re-assign staff at any time or place the staff member on leave pending investigation. This is outlined in Maryland law (COMAR: Code of Maryland).

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

#### **Standard 115.67 Agency protection against retaliation**

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

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

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

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

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

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

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

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

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

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

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

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

#### **Corrective Action:**

ECI submitted a memo authored by Warden Foxwell which indicates that the facility PREA Compliance Manager is responsible for assigning any retaliation monitoring that may happen as a result of reported incident. The memo also indicates the PCM will be responsible for ensuring all staff assigned monitoring duties will be trained in the process of completing the assigned monitoring. The new agency Retaliation Monitoring form was disseminated to all facilities, including ECI. ECI submitted 31 examples using the new form and conducting retaliation monitoring. An updated allegation/investigation log was received and reviewed, which verified that all required monitoring is being completed at this time.

#### **Standard 115.68 Post-allegation protective custody**

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

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



effort shall be made by case management staff and the managing official to find suitable alternatives to protective custody housing. Alternatives may include, but are not limited to:

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

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

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

The interview with The Assistant Warden indicated that they would separate the victim from the perpetrator and that they have multiple options for separation. He indicated that they also have protective housing that provides the same privileges as a general population inmate. He indicated segregation would be a last resort but that they would still receive as much privileges as possible while temporarily housed in segregation. He indicated that they have not had any instances of this within the last 12 months. This was supported by the PAQ for this audit.

#### **Standard 115.71 Criminal and administrative agency investigations**

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

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

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

Upon interviewing IID Detective William Justice, he indicated once an allegation is received at IID it is documented and a case number issued. It is then reviewed and assigned. The investigator will immediately begin the investigation and attempt to complete it within 30 days. An investigation is generally initiated within 24 hours of receiving the allegation. During a previous interview with IID Detective Sergeant Ann Nicodemus, she indicated in rare circumstances, an investigation may be delayed to day two or three if a detective is not readily available. However, she stated there is always an IID detective on call, 24/7 so there is rarely a time when a detective wouldn't be readily available.

Agency OSPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015, section(1)(c) states a complaint of alleged sexual misconduct may be submitted by a third-party on behalf of the victim or other individual who has knowledge of the alleged sexual misconduct. The agency indicated there have been no allegations received from a third-party regarding sexual abuse or sexual harassment. However, the auditor was able to review investigations the agency has conducted that did not relate to sexual abuse that were initiated by third-party reports. Based upon this review, the agency policy allowing it, and the interview conducted with the investigative division, the agency is in compliance with this portion of the standard.

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

During the facility visit, the IID Division Secretary provided a printout of all the IID investigative detectives who have completed the required investigative training regarding allegations of sexual abuse and sexual harassment. The documentation verified that all IID investigative detectives have completed the training. The investigators interviewed stated, per the training commission standards, they continuously have training on PREA and responding to sexual abuse incidents. The training covers policy, compliance with the complaints, initial response, interviewing and professionally dealing with the victims, evidence collection, witness and offender interviews and referrals for prosecution.

Most allegations of sexual abuse and sexual harassment, criminal and administrative, are conducted by the IID unit. The IID is quite large and has many detectives stationed throughout the state, and generally all detectives are former police officers with experience in conducting investigations prior to being hired as an IID detective. The agency provided the training module required of all IID detectives before conducting sexual abuse and sexual harassment investigations. However, several PREA allegations received at the IID unit are referred back to ECI to investigate. Reviewing training records of ECI staff and conducting interviews with staff assigned to conduct these investigations, determined that they have not been specially trained to conduct such investigations. Having improperly trained staff conducting investigations into sexual abuse and harassment surely has an impact on sexual abuse/harassment victims/survivors and the requirements mandated in other PREA standards. ECI is not compliant with this section of the standard.

(c) Maryland DPSCS Directive IIU.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, states throughout the directive that, if the incident is reported in a time frame that supports it, investigators shall ensure that the scene is protected to preserve evidence and the victim is advised against actions that would destroy evidence that may be present on the victim's body or clothing. Furthermore, in section .05(D)(2)-(4) states, in part, the investigator shall recover physical evidence from the victim or coordinate with appropriate Department facility staff to arrange for the victim to undergo a forensic medical exam performed by a SAFE or SANE, which includes the collection of DNA, if present. Subsection (7) requires the investigator to thoroughly describe physical, testimonial, and documentary evidence surrounding the case.

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

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

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

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

IID staff indicated during interviews that the credibility of all involved in an investigation is based upon the facts of the investigation and not upon the status of the individual as an inmate or employee. Det. Justice further stated this is one of the benefits of the agency hiring former police officers to work as IID detectives, because they don't have the history with correctional staff within the facility. This means they are better equipped to be objective in our investigations.

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

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

IID Detective Justice articulated during his interview that all aspects of an allegation are considered and documented during an investigation. This includes whether or not staff actions or inactions were the possible cause of an incident. The reports reviewed during the audit include complete descriptions of any physical evidence (when applicable) as well as testimonial evidence relied upon when making a final determination as to the merits of the investigation. There were fifty-six allegations of sexual abuse/harassment within the past 12 months at ECI. Nineteen investigations were reviewed.

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

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

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

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

(j) Subsection (F) of this same directive states an investigation under this directive may not be terminated based on victim or suspect departure from Department employment or custody. During the interview with IID Detective Justice, he indicated an investigation, once initiated, will be continued until completed regardless of the status of an employee or inmate within the DPSCS. There was one criminal investigation that was previously provided that demonstrated an instance where the agency's investigation continued after the employee (alleged aggressor) resigned from the agency. This particular investigation was later referred for prosecution. The former employee was prosecuted.

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

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

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

ECI will need to ensure that staff assigned to conduct sexual abuse/harassment allegations complete the agency specialized training for these investigations - *Specialized Training: Investigations PREA*. During the 180 day Corrective Action Period, ECI will need to submit training documentation verifying that staff have been trained and investigation logs verifying that only those staff are conducting training.

It is also recommended that the agency ensure that if the IID unit is sending investigations back to other facilities, that all facilities have staff trained to conduct these investigations. In addition, the agency will need to include the requirement to interview suspected perpetrators within appropriate agency directives.

#### **Corrective Action:**

ECI provided the auditor with a training document indicating that 8 staff received the proper PREA Investigators training required in order to conduct PREA investigation. The agency updated and submitted Executive Directive OPS.050.001 and OPS.200.0005 as evidence that the requirement to interview suspected perpetrators has been added. Investigations show that all suspects are being interviewed.

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

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

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

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

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

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

### **Standard 115.73 Reporting to inmates**

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

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

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

When reviewing the investigations conducted within the 12 months prior to this audit, the IID investigator indicated in the reports that the victim was notified of the outcome of the investigation, however, how the inmate was notified was not indicated. The auditor was not provided with any documentation to verify the inmates were actually notified. When asked to demonstrate how they are notified they could not. This does not discredit the integrity of the investigators, but simply makes it difficult as an auditor to confirm compliance. In addition, ECI staff are conducting investigations and from the files reviewed, does not appear that they are notifying the inmates at all.

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

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

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

The agency has indicated there were no instances of (c) and (d) occurring within the last 12 months requiring such notification. However, agency directive mandates such notifications and conversations with staff have demonstrated

an understanding of this requirement. Therefore, the agency appears to be compliant with these portions of the standard.

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

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

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

ECI will need to ensure they are notifying all inmates in investigations they complete. ECI and the agency will need to demonstrate how inmates are notified and provide documentation proving compliance over the next 180 days by providing copies of all notification forms along with a copy of the investigation log to cross reference to completed investigations.

#### **Corrective Action:**

PCM Gallagher created a PREA Outcome Notification Form that he is utilizing to ensure that all inmates are notified of the outcome of the PREA investigation. The form has a spot to indicate who notified the inmate of the outcome and a spot for both the inmate and staff person to sign. The facility provided 25 examples during the corrective action period showing all notifications were made and signed for by the inmate and staff.

#### **Standard 115.76 Disciplinary sanctions for staff**

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

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

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

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

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

nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories." However, the detail of the directive adheres to the overall intent of the standard in the way the agency enforces rules and regulations and administers discipline.

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

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

#### **Standard 115.77 Corrective action for contractors and volunteers**

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

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

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

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

ECI Facility Directive ECI.124.0000 Sexual Misconduct - Prohibited requires that every employee, contractor, and volunteer of ECI having contact with an inmate under the authority of the facility is familiar with the DPSCS policy and the ECI policy prohibiting sexual misconduct and follows procedure for handling all allegations. All facility volunteers/other contractors shall complete PREA education through the Volunteer Activities Coordinator.

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

## Standard 115.78 Disciplinary sanctions for inmates

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

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

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

ECI Directives do not contain any information regarding the discipline of inmates in regards to sexual abuse/harassment. ECI reported on the PAQ that there were no instances of administrative or criminal findings in the past 12 months of inmate on inmate sexual abuse.

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

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

(d) ECI Directives do not indicate if they offer therapy or counseling to determine the underlying reasons for sexual abuse. ECI did not indicate on the PAQ if they consider whether to require the offending inmate to participate in such interventions as a condition of access to programming or other benefits. Mental Health staff interviewed indicated they do determine what type of follow up service may be needed, if any, and see that perpetrators are made aware of these programs. Staff indicated they do not require participation, but they do encourage.

(e) DPSCS did not provide any documentation to support that the agency may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact. ECI Facility Directives contain no information regarding inmates being subject to formal disciplinary action following an administrative and/or a criminal finding that the inmate engaged in inmate-on-inmate coerced sexual abuse and/or non-consensual sexual conduct with staff. ECI reported no misconducts were written at in the past 12 months for any allegations investigated under PREA or against any inmate or sexual conduct with staff.

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

(g) Maryland DPSCS Directive OSPS.200.0004, Inmate on Inmate Sexual Conduct-Prohibited, effective November 13, 2015, states that an inmate may not commit, participate in, support, or otherwise condone sexual conduct. ECI staff indicated that there were no instances of inmate on inmate consensual sexual conduct in the past 12 months. Staff



reported that they would definitely respond to all instances as required under PREA standards and further investigate to determine if in fact it was consensual or sexual abuse.

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

The agency is not in compliance with section (e) of this standard. The agency will need to update their policy to address the discipline for inmates who engage in sexual contact with staff. Once this is complete and submitted for review the agency will be in compliance with this standard.

#### **Corrective Action:**

The agency updated and submitted Executive Directive OPS.050.0001 and COMAR 12.03.01 Operation Inmate Discipline as evidence to address the discipline of inmates who engage in sexual contact with staff. The Directive states an inmate may not be found guilty of committing a sexual act under the inmate disciplinary process if the involved staff member consented to the sexual act or conduct. The COMAR states if the hearing officer finds the staff member did consent to the sexual act or conduct the inmate may not be found guilty.

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

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

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

(a-c): Upon interviewing Intake and Case Management staff, it was stated that during the screening process, if an inmate discloses that he has ever experienced sexual victimization, or ever been the perpetrator of sexual victimization, he is automatically referred to either Medical or Mental Health immediately upon disclosure, and if the inmate agrees to see Medical or Mental Health, then he is seen generally within a day of the report. During the interview with intake staff, the intake sergeant stated that intake staff screens all intake assessments and specifically looks for any sexual abuse victimization or perpetration. The intake screens are sent to the Case Manager for placement and Medical/Mental health for referral, if necessary. The Case Manager provided multiple referrals to show that this process is in fact taking place at ECI. In further support of this standard, MDPSCS Executive Directive, COS.200.0005, was reviewed. The directive states that if screening indicates that an inmate has experienced prior sexual victimization, whether it occurred in a facility or in the community, the inmate is offered a follow-up with a medical or mental health practitioner within 14 days of the intake screening.

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

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

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

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

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

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

#### **Corrective Action:**

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

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

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

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

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

(b): MDPSCS Executive Directive- Sexual Misconduct-Prohibited (effective June 26, 2015) OSPS.050.0030, section .05F(3), states that while processing a complaint of alleged sexual misconduct, a supervisor, manager, shift commander or head of the unit, shall immediately protect the victim from further harm and arrange for emergency medical services; in addition, staff shall refer the victim for appropriate medical/mental health follow-up services. Interviews with staff first responders did show that ECI staff were well informed with what steps they are to take in the event that there are no available mental health or medical staff on duty at the time of a report of sexual abuse. Staff stated they would separate the victim and ensure that the on call medical or mental health staff was contacted. ECI staff stated that there are medical staffs available at Eastern Correctional Institution (ECI) 24 hours a day and the inmate would immediately be taken to medical for evaluation.

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

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

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

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

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

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

a known abuser and treatment is offered when deemed appropriate. All requirements of this standard have been met.

In further support of this standard, Maryland DPSCS Office of Clinical Services/Inmate Health, Medical Evaluations Manual, Chapter 13-Sexual Assault on an Inmate, was reviewed and requires that inmates reporting to have been sexually assaulted shall be provided with a medical evaluation and subsequent intervention focused solely upon the injury or trauma sustained during the assault. All inmates shall be seen for medical follow-up within the first 24 hours following the initial off-site medical visit and all follow-up testing related to STD, HBV, and RPR shall be reviewed with the inmate and the inmate will be offered additional testing and treatment within 5 business days. Additionally, post assault follow-up clinical treatment for medical and mental health must be completed, including further testing and prophylactic treatment for STD's. Also stated in the Medical Evaluations Manual in section O, both the victim and the alleged abuser shall be provided treatment services without financial cost, which exceeds the requirements of this standard.

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

#### **Standard 115.86 Sexual abuse incident reviews**

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

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

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

ECI Facility Directive ECI.124.0000 Sexual Misconduct - Prohibited states the Facility PREA Compliance Manger shall ensure an incident review is completed within 30 days of the conclusion of the investigation by IID. It goes on to state ECI shall conduct a sexual abuse incident review at the conclusion of each PREA investigation, unless it is determined to be unfounded. This review will be held in conjunction with the RIV meeting within 30 days of the conclusion of the investigation. The PCM will lead this review and complete the Sexual Abuse Incident Review form (Attachment C). The completed form is sent to the Warden with a copy kept in the PCM file for that incident.

Agency Directive DCD 110-22 Reduction in Violence indicates the Division of Correction has a zero tolerance of acts or threats of violence in its facilities. This zero tolerance policy means each and every act or threat of violence, regardless of the people involved and/or circumstances will bring forth a prompt investigation and an appropriate response to those findings. While certain behavior may lead to disciplinary sanctions, emphasis is on providing a safe and secure environment for both staff and inmates. Acts of violence will be vigorously prosecuted both administratively and criminally. The Directive states each Warden shall establish a Reduction in Violence committee for the purpose of reviewing and identifying strategies and initiatives to reduce levels of violence in the institution. The committee shall minimally be comprised of the following members: security chief, major, intelligence officer, training coordinator, case management, social worker, psychology, sergeant, CO II and chair of Incident Assessment Team. The Warden shall review and approve any recommended actions or strategies and report monthly to the Assistant Commissioner – Security Operations via the Regional Commissioner. Facilities may conduct PREA Incident Reviews during these Reductions in Violence meetings.

ECI indicated on the PAQ and confirmed during the site audit that they have not conducted any Incident Reviews in the past twelve months for any allegations, although they have had numerous allegations that would require a review. During staff interviews Assistant Warden West indicated that they meet within 30 days and that the facility PREA Compliance Manager is sometimes present. However, there is no indication that these PREA incident reviews are in fact being conducted and the facility PREA Compliance Manager indicated she has only been invited to one Violence Prevention Meeting, where PREA might be discussed. ECI is not conducting incident reviews as they should be and this could have a severe effect on survivors and protection from further abuse.

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

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

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

#### **Corrective Action:**

The agency created and submitted a new Sexual Abuse Incident Review form which was disseminated to all facilities. ECI submitted 61 examples of completed Incident Reviews, including from prior allegations from 2016 and 2017. ECI submitted an investigation log which verified that all incidents requiring a review since the audit have been conducted.

#### **Standard 115.87 Data collection**

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

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

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

(b),(c), (f) Subsection B of the above listed Directive states the IID shall uniformly collect and maintain data for each reported allegation of sexual abuse at correctional facility under the authority of the Department that, at a minimum, is necessary to respond to data reporting required by the Survey of Sexual Violence conducted by the Department of Justice. Subsection B-4 states by June 30 of each calendar year, report sexual violence data from the previous calendar year to the Department of Justice.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **corrective actions taken by the facility.**

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

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

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

### **AUDITOR CERTIFICATION**

I certify that:

- ☒ The contents of this report are accurate to the best of my knowledge.
- ☒ No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and
- ☒ I have not included in the final report any personally identifiable information (PII) about any inmate or staff member, except where the names of administrative personnel are specifically requested in the report template.

James Schiebner

December 3, 2017

Auditor Signature

Date