

# Prison Rape Elimination Act (PREA) Audit Report Adult Prisons & Jails

Interim       Final

Date of Report    May 25, 2018

## Auditor Information

Name:    Barbra A. Storey	Email:    storeyb@michigan.gov
Company Name:    Michigan Department of Corrections	
Mailing Address:    5086 West M-80	City, State, Zip:    Kincheloe, Michigan 49788
Telephone:    906-495-5045	Date of Facility Visit:    April 9, 2018

## Agency Information

Name of Agency:		Governing Authority or Parent Agency (If Applicable):	
Maryland Dept. of Public Safety and Correctional Services		Maryland State Government	
Physical Address:    300 East Joppa Road		City, State, Zip:    Towson, Maryland 21286	
Mailing Address:    300 East Joppa Road, suite 1000		City, State, Zip:    Towson, Maryland 21286	
Telephone:    410 339-5033		Is Agency accredited by any organization? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
The Agency Is:		<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Military	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
<input type="checkbox"/> Municipal			
Agency mission:    To protect the public by incarcerating sentenced criminals.			
Agency Website with PREA Information: <a href="http://www.dpscs.state.md.us/prea/index.shtml">www.dpscs.state.md.us/prea/index.shtml</a>			

## Agency Chief Executive Officer

Name:    Stephen T. Moyer	Title:    Secretary of Corrections
Email:    Stephen.moyer@maryland.gov	Telephone:    410-339-5005

## Agency-Wide PREA Coordinator

Name:    David Wolinski	Title:    PREA Coordinator
Email:    david.wolinski@maryland.gov	Telephone:    410-339-5033

<b>PREA Coordinator Reports to:</b> Deputy Secretary of Corrections	<b>Number of Compliance Managers who report to the PREA Coordinator</b> 23
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### Facility Information

**Name of Facility:** Maryland Correctional Institution- Jessup

**Physical Address:** Maryland House of Correction Road, Jessup, Maryland 20794

**Mailing Address (if different than above):** Post Office Box 249, Jessup, Maryland 20794

**Telephone Number:** 410-540-6705

**The Facility Is:**  Military  Private for profit  Private not for profit

Municipal  County  State  Federal

**Facility Type:**  Jail  Prison

**Facility Mission:** The Maryland Correctional Institution Jessup is a medium security institution which serves the public, staff, and inmates by providing a safe, secure, and humane environment with effective and efficient programming and services that encourage inmate's successful re-entry to society while recognizing the rights of victims.

**Facility Website with PREA Information:** www.dpscs.gov

### Warden/Superintendent

**Name:** Philip Morgan **Title:** Warden

**Email:** Philip.morgan@maryland.gov **Telephone:** 410-540-6700

### Facility PREA Compliance Manager

**Name:** Cynthia Briscoe **Title:** Assistant Warden

**Email:** Cynthia.briscoe@maryland.gov **Telephone:** 410-540-6701

### Facility Health Service Administrator

**Name:** chidi Oriaku **Title:** Assistant Director of Nursing

**Email:** chidi.oriaku@maryland.gov **Telephone:** 410-540-6776

### Facility Characteristics

**Designated Facility Capacity:** 1068 **Current Population of Facility:** 892

**Number of inmates admitted to facility during the past 12 months** 747

**Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:** 747

Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:		747	
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:		117	
Age Range of Population:	Youthful Inmates Under 18: 0	Adults: 19-76	
Are youthful inmates housed separately from the adult population?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input checked="" type="checkbox"/> NA	
Number of youthful inmates housed at this facility during the past 12 months:		0	
Average length of stay or time under supervision:		89 months	
Facility security level/inmate custody levels:		Medium, minimum, Pre-Release	
Number of staff currently employed by the facility who may have contact with inmates:		250	
Number of staff hired by the facility during the past 12 months who may have contact with inmates:		3	
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:		100	
<b>Physical Plant</b>			
Number of Buildings: 14		Number of Single Cell Housing Units: 0	
Number of Multiple Occupancy Cell Housing Units:		9	
Number of Open Bay/Dorm Housing Units:		2	
Number of Segregation Cells (Administrative and Disciplinary):		61	
Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):			
<p>There are 37 cameras in various areas of the institution to include common areas in housing units, recreation, visiting, vocational and inmate service areas with at least 60 days of retention period for video coverage. In addition, there is a documented plan for further camera installation throughout the facility to enhance coverage.</p>			
<b>Medical</b>			
Type of Medical Facility:		Clinic/dispensary	
Forensic sexual assault medical exams are conducted at:		Mercy Medical Center	
<b>Other</b>			
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:		272	
Number of investigators the agency currently employs to investigate allegations of sexual abuse:		30	

# Audit Findings

## Audit Narrative

A Prison Rape Elimination Act (PREA) Audit of the Maryland Correctional Institution-Jessup (MCI-J) was conducted Monday, April 9, 2018 and Tuesday, April 10, 2018 to determine compliance with the Prison Rape Elimination Act standards. The PREA Auditors and support staff consisted of Barbra Storey, Lead auditor, Christine Wakefield, Matt Silsbury and Charles J. Carlson.

Maryland Correctional Institute-Jessup was well prepared and displayed professionalism throughout the institution. The facility PREA Compliance Manager, Cynthia Briscoe, and facility Audit Officer, Fateema Mobley, worked very diligently during the facility visit in order to present requested documentation and ensure that auditors were escorted to all areas of the institution in a timely and efficient manner. During the tour, all staff were professional and willing to accommodate the auditors requests and needs with regard to completing the on-site portion of the audit. Overall the audit process went very smoothly and efficiently, due to the hard work and dedication of Officer Fateema Mobley and the facility audit officers.

### **Pre-Audit Process**

The audit began in late February with the delivery, of the agency and facility documentation via CD and emails, and the required Pre-Audit Questionnaire from the facility. The standards were divided amongst the auditors with each reviewing the documentation for their assigned standards and using the auditor tool as a guide. Six weeks prior to the on-site visit, the facility was provided with *Audit Notices*, in both English and Spanish, which included auditor contact information, for posting throughout the facility for inmates to write the audit team. No letters were received prior to the visit to MCI-J.

### **Entrance Interview Monday, April 9, 2018:**

The on-site facility audit and tour began at MCI-J on Monday, April 9, 2018. There was a facility greeting from Warden Philip Morgan and Assistant Warden/PREA Compliance Manager, Cynthia Briscoe. Also attending was the Chief of Security and the facility audit officer team. There was an introduction of the PREA audit team, along with an audit overview, explaining the purpose and outline of the audit process, as well as the expectations and requirements necessary for a successful audit. The audit plan for the on-site phase of the audit was explained prior to the conclusion of the Entrance Meeting and the facility tour followed.

### **Facility Tour**

After the Entrance Meeting, the audit team was given a tour of all areas of the facility; including the Administration building, visitation, warehouse, food service, dining facilities, all general population housing units, segregation housing, educational/vocational building, library, school, control rooms, medical, mental health, recreation yard, and maintenance. The *Audit Notices* were posted throughout the facility, in common areas and in each housing unit on bulletin boards and in areas that staff and inmates could clearly see.

During the tour, 45 informal interviews were conducted with inmates in various areas and 25 informal interviews were conducted with correctional staff throughout the entire facility. It was evident throughout the tour that staff and inmates were very well aware of the Prison Rape Elimination Act and the various available reporting processes that accompany it. All inmates who were spoken with had an obvious understanding of PREA, expressed feeling safe at MCI-J and also knew that they or a

representative could report an incident if the need ever arose. Informal 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 well posted throughout the facility. All inmates felt they had enough privacy to change and shower without being viewed by the opposite gender and also indicated that female staff announce "female on the tier" when entering the housing units.

All of the areas visited were well staffed. Staff was busy making rounds and clearly present, monitoring key areas of the facility. Doors were locked and off limits areas were well posted and maintained. No areas observed presented any sexual safety or security concerns. PREA information throughout the facility was clearly posted in both 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 zero tolerance policy related to sexual abuse and sexual harassment. In the housing units, the PREA hotline number was also posted on the wall near the phones, as well as near the entrance to the tier. The PREA hotline number was operational upon testing.

All staff interviewed during the tour 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 site specific steps that needed to be taken in the event they were first responders to a sexual abuse incident. All staff responded that they absolutely could not strip search a prisoner to verify sexual identification.

In the Housing Units, privacy curtains were in place in all shower areas, toilets were in cells only, with no direct view into the cells. Cameras are placed in the housing units for enhanced coverage of the tier and common areas and security rounds are made often and recorded in the housing unit log book, as well as observed during the tour. Auditors observed that strip searches were conducted for visits in a room with 4 walls which allowed for inmate privacy and gave no concern that cross gender or inappropriate viewing could occur. Log books were reviewed in each of the areas visited and showed evidence of unannounced supervisory rounds being conducted on all three shifts. Staff and inmates both stated they were not made aware in advance when supervisors were making rounds and the rounds are staggered and conducted at different times each day. It was also evident that female staff were announcing their presence over the PA system and again verbally upon entering the tier, giving sufficient notice to inmates that a female was entering the housing area.

### **Formal Interview Process**

At the Entrance Meeting, the audit officer presented an audit packet that included a complete list of all inmates housed at MCI-J as well as staffing lists, including corrections staff assigned to each shift. The random inmates and staff who were interviewed 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 and from various ethnicities.

MCI-J staff helped to direct auditors toward LGBTI and special needs (deaf population) inmates in order to conduct specialized interviews. Conducting the interviews in this manner ensured that the auditors were able to gather sufficient information from the facility to help make a definitive determination of each standard. During the formal interview phase of the audit, the auditors randomly selected and spoke with a combined total of 33 inmates.

Specialized inmate interviews related to Disabled and Limited English Proficient Inmates (2) , LGBTI Inmates (2), Inmates Who Reported Sexual Abuse and Inmates Who Disclosed Sexual Victimization During Risk Assessment Screening were conducted (3), MCI-J does not house youthful inmates, nor did they have any inmates who were placed in segregation for PREA related instances, therefore these interviews were not conducted. 34 random staff members were formally interviewed. Specialized interviews were also conducted including at least 1 staff person for each of the specialized interview categories: Warden (1), Facility PREA Manager (1), Agency Contract Administrator (1), Intermediate or Higher Level Facility Staff (6), Medical and Mental Health Staff (2), Human Resources Staff (1), SANE/SAFE Staff (2), Volunteers and Contractors (3), Investigative Staff (3), Staff Who Screen for Risk of Victimization and Abusiveness (2), Staff who Supervise Inmates in Segregated Housing (2), Incident Review Team (4), Designated Staff Member Charged with Monitoring Retaliation (1) and Security Staff Who Have Acted As First Responders (10). Both inmates and staff were asked specific PREA questions, derived from the PRC interview templates. Everyone interviewed participated willingly and appeared to have a good understanding of the PREA standards, or rights provided by them. As stated above, staff was very knowledgeable with PREA and inmates painted a clear picture that the MCI-J staff are doing an exceptional job of making PREA well known. Inmates shared that not only during the intake process are they being asked questions related to their PREA and their sexual safety, but they are also interviewed for a reassessment and there are postings up throughout the facility with information regarding PREA which included the PREA Hotline number. Youthful inmates are not housed at MCI-J and a telephone interview was conducted with the supervisor in charge of the SANE/SAFE Program at Mercy Medical Center, who indicated that any inmates who were brought in for forensic examination would be treated.

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

An interview at the agency's Internal Investigative Division (IID) was conducted in order to review the investigations of the reported 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 results. It is evident through IID staff interviews and review of the investigations and the investigative process, that the agency is compliant with the requirements as set forth in the standards.

While at the Agency's Headquarters, an interview was conducted with Ms. Martha Danner, Administrative Assistant to Agency Head/Deputy Secretary, John Michael Zeigler. During the interview with Ms. Danner, it was evident that 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 sexual 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 most recently constructed facility, and the process in which the agency conducts reviews of cases in order to determine if there are trends that need to be addressed across the agency.

In addition, the Agency's Human Resources office was visited. An interview was conducted with the Head Human Resource Officer. During the interview, the agency's stance regarding hiring well-qualified staff, as well as, the agency's process for screening applicants was articulated as all employee hiring and promotional information is maintained at the agency HR office. During the tour of Human Resources, a random review of 25 current employee personnel files was conducted 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.

### **Exit Interview**

When the audit was completed, the audit team conducted an exit briefing on April 10, 2018. The audit team gave an overview of the entire audit process and thanked the staff for all their hard work and commitment to the Prison Rape Elimination Act.

### **Post Audit Process**

Auditors maintained contact with MCI-J audit staff, as well as the Agency's PREA Coordinator, in order to request further documentation and address additional concerns. Staff was extremely accommodating and provided auditors with all necessary documentation and addressed further questions in a timely manner in an effort to support compliant findings with PREA standards.

## **Facility Characteristics**

MCI-J is a medium security level facility that houses adult male inmates. The facility has been in operation since April 1981 and is located in Jessup, Maryland on approximately 35 acres. The rated capacity for this facility is 1068 inmates. MCI-J houses only male adults ranging in age from 19-76 years old with an average length of stay of 89 months. Currently, there are 892 inmates housed in the facility and 250 staff employed who may have contact with inmates; in addition, there are currently 272 authorized volunteers and individual contractors. All staff, volunteers, and contractors have been provided with the appropriate PREA training and information.

There are nine multiple occupancy cell housing units, each unit has 128 beds arranged in pods of 64 cells, housing two inmates each. There are also two dormitory housing units which house 50 inmates.

Within the compound, MCI-J has a large outdoor recreation area, as well as an indoor gymnasium and exercise area.

There is a Chapel which contains a sanctuary, a meeting room, choir practice room, and offices for the chaplains. An education/vocation building includes vocational and graphic arts shops, an auto mechanic shop, eight classrooms, staff offices, and a library. The Maryland Correctional Enterprises (MCE) operates a print shop, bindery/envelope, and quick copy shops. K building is a two level building used for case management, social work, inmate art shop, and inmate newsletter office which are on the lower level and on the upper level the custody staff offices. The Medical and Dental departments, dispensary, and psychological offices are also on the upper level; however, there is a separate entrance for these services.

The entrance to the main building is through a perimeter security gate that leads to a partially glass enclosed vestibule. This building also serves as the Administration building including the Master Control and Visiting areas. The other side of this building contains the warehouse, storage rooms, Maintenance shop, various offices, and a loading dock. Adjacent to this area is the Main Dining room for inmates, officer dining room, kitchen and dishwashing area, food preparation room and food service staff offices.

A double fence topped with razor wire provides the security perimeter, which includes intrusion, microwave and camera alarms systems. In addition, there are six observation towers and high mass lighting. The compound has a vehicular sally port on the perimeter road and two separate outer perimeter parking areas to provide parking for employees and visitors.

MCI-J was recently accredited by the Maryland Commission on Correctional Standards in 2017. MCI-J received recognition for the achievement in meeting 100% compliance with the standards for adult correctional facilities.

## Summary of Audit Findings

**Number of Standards Exceeded:** 0

**Number of Standards Met:** 45

- 115.11, Zero Tolerance of sexual abuse and sexual harassment; PREA Coordinator
- 115.12, Contracting with other entities for the confinement of inmates
- 115.13, Supervision and monitoring
- 115.14, Youthful inmates
- 115.15, Limits to cross-gender viewing and searches
- 115.16, Inmates with disabilities and inmates who are limited English proficient
- 115.17, Hiring and promotion decisions
- 115.18, Upgrades to facilities and technologies
- 115.21, Evidence protocol and forensic medical examinations
- 115.22, Policies to ensure referrals of allegations for investigations
- 115.31, Employee training
- 115.32, Volunteer and contractor training
- 115.33, Inmate education
- 115.34, Specialized training: Investigations

- 115.35, Specialized training: Medical and mental health care
- 115.41, Screening for risk of victimization and abusiveness
- 115.42, Use of screening information
- 115.43, Protective Custody
- 115.51, Resident reporting
- 115.52, Exhaustion of administrative remedies
- 115.53, Inmate access to outside confidential support services
- 115.54, Third-party reporting
- 115.61, Staff and agency reporting duties
- 115.62, Agency protection duties
- 115.63, Reporting to other confinement facilities
- 115.64, Staff first responder duties
- 115.65, Coordinated response
- 115.66, Preservation of ability to protect residents from contact with abusers
- 115.67, Agency protection against retaliation
- 115.68, Post-allegation protective custody
- 115.71, Criminal and administrative agency investigations
- 115.72, Evidentiary standard for administrative investigations
- 115.73, Reporting to inmates
- 115.76, Disciplinary sanctions for staff
- 115.77, Corrective action for contractors and volunteers
- 115.78, Disciplinary sanctions for inmates
- 115.81, Medical and mental health screenings; history of sexual abuse
- 115.82, Access to emergency medical and mental health services
- 115.83, Ongoing medical and mental health care for sexual abuse victims and abusers
- 115.86, Sexual abuse incident reviews
- 115.87, Data collection
- 115.88, Data review for corrective action
- 115.89, Data storage, publication, and destruction
- 115.401, Frequency and scope of audits
- 115.403, Audit contents and findings

**Number of Standards Not Met:** 0

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

None

## PREVENTION PLANNING

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

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

#### 115.11 (a)

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

#### 115.11 (b)

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

#### 115.11 (c)

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

#### Auditor Overall Compliance Determination

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

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

(b): MDPSCS provided the agency's organizational chart identifying David Wolinski as a Special Assistant to the Deputy Secretary for Operations for the MDPSCS. Mr. Wolinski is the agency's PREA Coordinator. As an assistant to the number two position within the MDPSCS, Mr. Wolinski is in a position to have the authority and impact necessary to carry out the duties of a PREA Coordinator as required by this standard. Upon interviewing Mr. Wolinski, he indicated he has sufficient time and authority to manage his PREA related responsibilities on behalf of the agency. Furthermore, Mr. Wolinski stated he has the authority to make changes and implement policy on behalf of the agency in order to improve PREA efforts. Mr. Wolinski also stated he and a Major are actively involved in the annual staffing plan reviews of each correctional facility within the DPSCS. In addition to Mr. Wolinski's PREA compliance duties, he is responsible for gathering aggregate data in order to assess and improve efforts toward sexual abuse and sexual harassment prevention.

Specifically, Mr. Wolinski reviews the information gathered in order to look for trends or pockets of allegations to determine whether changes need to be made to policy or practice within a particular location or facility. Mr. Wolinski indicated there are 23 PREA compliance managers within the MDPSCS. He regularly interacts with them through email and telephone calls, as well as during site visits to the facilities.

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

sexual harassment of an inmate, ensuring the Department PREA-related activities comply with federal PREA standards, authorizing procedures for the Department related to prevention, detection, and response to acts of sexual abuse and sexual harassment involving an inmate, and ensuring preparation and submission of PREA-related reports.

MCI-J provided specific documentation which indicates that Cynthia Briscoe, who is the assistant warden (AW) at MCI-J, has been designated as the PREA compliance manager for MCI-J. Assistant Warden Briscoe reports to the Warden Philip Morgan. During an interview with AW Briscoe, she indicated that a thorough system has been developed that allows MCI-J to uphold each PREA standard and the many processes that are necessary for compliance with the standards. AW Briscoe stated she has sufficient time and authority to assure that MCI-J is in compliance with PREA standards.

The agency/facility provided 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, to 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. In addition, both documentation and practice supports zero tolerance toward all forms of sexual abuse and sexual harassment, plan and processes to preventing, detecting, and responding to sexual abuse and sexual harassment, and designation of both an agency-wide and facility PREA coordinator who has sufficient time and authority to develop, implement, and oversee efforts to comply with the PREA standards.

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

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

#### **115.12 (a)**

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

#### **115.12 (b)**

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

### **Auditor Overall Compliance Determination**

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

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

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

(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.

During the Contract Administrator Interview with the agency PREA Coordinator, David Wolinski, it was stated that Maryland DPSCS has assigned an agency staff member as the PREA Compliance Manager/Contract Monitor at each contracted facility to ensure continued compliance with the contract and with PREA. Mr. Wolinski has regular intermittent conversations with the contractor and with the Contract Monitors regarding the facility's continued compliance. The final report for the contracted facility's audit has been posted on the agency's website.

## Standard 115.13: Supervision and monitoring

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

### 115.13 (a)

- Does the agency ensure that each facility has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse?  Yes  No
- Does the agency ensure that each facility has documented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the generally

accepted detention and correctional practices in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No

- Does the agency ensure that each facility's staffing plan takes into consideration any judicial findings of inadequacy in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from Federal investigative agencies in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from internal or external oversight bodies in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration all components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated) in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the composition of the inmate population in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the number and placement of supervisory staff in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the institution programs occurring on a particular shift in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No  NA
- Does the agency ensure that each facility's staffing plan takes into consideration any applicable State or local laws, regulations, or standards in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No

### 115.13 (b)

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

### 115.13 (c)

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

### 115.13 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

(a): MDPSCS Staffing Analysis 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 April 24, 2017, assigns responsibilities and authorizes a procedure manual for the MDPSCS to manage security staffing and overtime. The agency policy specifically addresses all of the sub-sections of this standard, and it is evident that MCI-J 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. MCI-J administration also provided the October 25, 2017 completed facility staffing plan and the enhanced coverage with video monitoring throughout the facility was evidenced during the facility tour. During the interview and discussions with Warden Philip Morgan and Assistant Warden Briscoe, and review of the staffing plan and annual reviews, it is evident that the facility is in compliance with all sections of this standard.

During an interview with the Warden Morgan, 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 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 MCI-J does review staffing plans at least on an annual basis. During an interview with Warden Morgan, he indicated that he does communicate 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 MCI-J inmates’ 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 April 24, 2017, 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 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. During Warden Morgan's interview, he stated that MCI-J conducts annual reviews of the Facility Staffing Plan 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. Warden Morgan also provided documentation which supports the annual review of MCI-J's facility staffing plan.

During the audit tour, it was evident that staff was present and available to inmates and rounds were made throughout the facility; in addition, video cameras were placed in appropriate areas of the facility and monitored to ensure the safety and security of the inmates. Random interviews with inmates also helped to support that staff and supervisors are available if needed and to affirm that inmates feel safe at MCI-J.

## Standard 115.14: Youthful inmates

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

#### 115.14 (a)

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

#### 115.14 (b)

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

### 115.14 (c)

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

### Auditor Overall Compliance Determination

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

MCI-J houses adult male inmates ranging in age from 19-76; no youthful inmates are housed at MCI-J. 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 on-site visit by interviewing the warden and PREA compliance manager, who stated that no juvenile inmates were housed at MCI-J. 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 MCI-J. There are no youthful inmates being housed at MCI-J, nor are their housing units designated for youthful inmates at MCI-J.

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

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

### 115.15 (a)

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

### 115.15 (b)

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

#### 115.15 (c)

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

#### 115.15 (d)

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

#### 115.15 (e)

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

#### 115.15 (f)

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

## Auditor Overall Compliance Determination

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

(a): MCI-J 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. OPS.110.0047 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." The agency directives specifically prohibit cross-gender strip searches and visual body cavity searches.

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

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

MDPSCS, executive directive OPS.110.0047, Search Protocol-Inmates, effective April 15, 2015 was provided as support for this section of the standard. These directives provide detailed information regarding personal searches of inmates which supports that MCI-J 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 MCI-J.

(d): During the tour of MCI-J, it was evident that the female staffs announce their presence prior to entering the housing units. There is an announcement made over the intercom system and then the female staff announces her presence once she is on the tier. While conducting interviews with staff and inmates, they also confirmed that "knocking and announcing" is occurring on all three shifts, each time a female staff enters the 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 MCI-J:

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.

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 F(3b) 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.

(f): MCI-J 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 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 MCI-J staff. Training for all staff covering PREA, LGBTI inmates and training covering searches of inmates, including cross-gender and transgender inmates is required and offered annually. Training records, along with an interview of the assistant warden, confirmed that all staff has fulfilled their training requirements. All staff interviewed also confirmed that they have had PREA training, to include how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, and are required to complete the training annually.

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

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

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

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

and respond to sexual abuse and sexual harassment, including: inmates who are blind or have low vision?  Yes  No

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

#### 115.16 (b)

- Does the agency take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient?  Yes  No

- Do these steps include providing interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary?  Yes  No

### 115.16 (c)

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

### Auditor Overall Compliance Determination

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

(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 corrections 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. MCI-J requires that upon entry as a inmate at MCI-J, each inmate is interviewed and provided with an orientation to the facility. Inmates are provided orientation material in English or Spanish (whichever applies) for information and orientation purposes. Also available to hearing impaired inmates, is a tablet with Video Relay Interpreting and a hearing impaired pager system. Both of these enable the hearing impaired population to receive orientation material, as well as much other facility specific information which they will need. Each inmate signs for receipt of all orientation materials. In addition, there is a video, which includes PREA information and postings regarding PREA readily available to inmates in both English and Spanish. There are staffs on-site to interpret for the hearing impaired population and, at times, other staffs are on-site who are able to assist in language interpretation when available. If there are no staffs available at the facility, there are interpreter services available within close proximity in the Baltimore area through the MDPSCS.

(c): MCI-J 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.

During the tour of the facility, both English and Spanish PREA documents were present and available. Interviews with facility staff confirmed that inmates would not be used as interpreters and that interpreter services were available, and there would not be a need to ever use inmates as interpreters. There are hearing impaired inmates currently housed at MCI-J and a staff interpreter specifically for the hearing impaired when needed; in addition, there are appropriate tools available for these disabled inmates in order to promote effective communication.

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

## Standard 115.17: Hiring and promotion decisions

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

### 115.17 (a)

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

the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse?  Yes  No

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

#### 115.17 (b)

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

#### 115.17 (c)

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

#### 115.17 (d)

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

#### 115.17 (e)

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

#### 115.17 (f)

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

### 115.17 (g)

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

### 115.17 (h)

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

### Auditor Overall Compliance Determination

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

(a): Upon interviewing the human resources officer, it was indicated that 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 being implemented.

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 Checks -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 past. During the interview with the human resource officer, she 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): Additionally, during the interview, the human resource officer 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. A review of new employee applications verifies each employee has undergone an initial criminal background check. MCI-J reported 3 individuals were background checked for criminal history and then hired in the last 12 months.

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 MCI-J 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 human resource officer. Executive directive DPSCS.020.0026, Prison Rape Elimination Act-Federal Standards Compliance, effective August 7, 2015 states, in section F(3)(c) states before enlisting a contractor to perform services that involve contact with an inmate, the HRSD shall conduct a criminal background records check of the contractor's employees who may have contact with an inmate.

(e): MDPSCS and MCI-J 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.

A review of new employee applications did verify each employee has undergone an initial criminal background check. Also, during an interview with AW Briscoe, she did state these background checks are being completed and then showed further proof that this action did occur in the past five years at MCI-J. The human resource officer also acknowledged this practice is occurring during her interview. In further support of this standard, I reviewed executive directive DPSCS.020.0026, Prison Rape Elimination Act-Federal Standards Compliance, effective August 7, 2015 which 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. The human resource officer confirmed in her interview 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 human resource officer also confirmed that employment would be terminated if it was ever discovered an employee lied on an application or 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 Human Resources Officer, she indicated that if an employee applies for work at another institution, the departing facility would accommodate any requests for information related to a former employee being investigated for substantiated allegations of abuse or sexual harassment from another institution.

## Standard 115.18: Upgrades to facilities and technologies

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

### 115.18 (a)

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

### 115.18 (b)

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

### Auditor Overall Compliance Determination

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

(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. MDPSCS provided a PREA Audit Compliance report submitted by PSA--DEWBERRY + PENZA BAILEY ARCHITECTS regarding the new BCDC Youth Detention Center. The report indicates that the facility was designed in accordance with the PREA, Prisons and Jail Standards, United States Department of Justice Final Rule, National Standards to Prevent, Detect, and Respond to Prison Rape Under the Prison Rape Elimination Act (PREA), 28 C.F.R. Part 115. Specifically, the facility incorporates best practices: Sight and sound separation; Design which minimizes blind spots, and maximizes direct supervision; all housing units incorporate direct supervision; access to recreation; access to education; classrooms are designed with glazing to the corridor to allow for full visibility into classroom; correctional officers continually patrol education corridors during school hours; glazed doors and walls where visibility and control is critical; showers are locker room style with a small frosted window to permit visual supervision without violating privacy; Strategically located supervision control and nursing stations; provision of normalized environment through effective and extensive daylighting and proper material and color choices.

MCI-J reported there have been no substantial expansions or modifications to buildings on the premises; this was also apparent during the audit tour. As evidenced during the facility tour, there are video cameras in place and auditors were able to review the video monitoring system which clearly supported the enhanced coverage of the facility. Additionally, MCI-J provided a camera listing which showed 37 cameras in various areas of the institution to include common areas in housing units, recreation, visiting, vocational and inmate service areas which aids in the safety and security of the inmates and the facility. MCI-J also provided a documented plan for further camera installation throughout the facility to enhance coverage as funds become available.

## RESPONSIVE PLANNING

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

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

#### 115.21 (a)

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

#### 115.21 (b)

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

#### 115.21 (c)

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

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

#### 115.21 (d)

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

#### 115.21 (e)

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

#### 115.21 (f)

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

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

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

### Auditor Overall Compliance Determination

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

(a): Maryland DPSCS utilizes a specialized unit within its Department to conduct such investigations. Staff assigned to the Internal Investigative Unit (IIU), or temporarily assigned to assist the IIU, are tasked with conducting investigations into allegations of sexual abuse and sexual harassment. MDPSCS does follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The IIU secretary provided the auditors with a report verifying that every investigative Detective assigned to the unit has received the agency's specialized training for investigators. The following directives and training modules were provided to show support of this standard: Maryland DPSCS directive IIU.110.0011, Investigating Sex Related Offenses, effective April 1, 2014 states the Department shall promptly, thoroughly, and objectively investigate each allegation of employee or inmate misconduct involving a sex related offense according to a uniform protocol based on recognized investigative practices that maximize evidence collection to support effective administrative dispositions and, if appropriate, criminal prosecution of the identified perpetrator. Furthermore, IIU.110.0011 continues to require, in paragraph B, that personnel assigned to conduct an investigation of alleged employee or inmate misconduct involving a sex related offense shall be trained in techniques related to conducting investigations of sex related offenses in the correctional setting.

Maryland DPSCS utilizes an internal training course titled Specialized Training: The training was developed in May 2014 and is intended to identify the proper methods of investigating sex related offenses in a Maryland DPSCS correctional facility.

#### TRAINING FOR INVESTIGATORS:

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

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

MCI-J staff is 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. Interviews with MCI-J 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, fails to credit a comprehensive and authoritative protocol on which it is modeled. This standard requires that the agency evidence protocol be based on the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents."

(c): MDPSCS/MCI-J does offer all victims of sexual abuse access to forensic medical examinations off site at Mercy Medical Center (MMC) at no cost to the resident. These examinations are performed by SANE/SAFE staff. The SANE/SAFE Administrator at Mercy Medical Center was interviewed and stated that all forensic examinations are conducted for MCI-J and all other correctional facilities in and around Baltimore, Maryland. She also indicated that there is always a SANE/SAFE available during business hours and after hours there is always an on call SANE/SAFE available. MCI-J indicated on the PAQ that there was one forensic medical exam conducted in the past 12 months by a SANE/SAFE. This was confirmed after reviewing investigation files and interviews with MCI-J staff.

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

Maryland DPSCS directive IIU.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, section .05(D)(2), states when the possibility for recovery of physical evidence from a victim exists or otherwise is medically appropriate, coordinate with appropriate Department facility staff to arrange for the victim to undergo a forensic medical examination that is performed by a SAFE, SANE, or if documented attempts to obtain the services of a SAFE or SANE are unsuccessful, a licensed health care professional who has been trained to perform medical forensic examinations of sexual abuse victims. Additionally, MCI-J staff provided auditors with the SANE/SAFE Resource Listing for the MDPSCS, and as listed, inmates at MCI-J would be sent to Mercy Medical Center (MMC). 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 IJU.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, MCI-J provided documentation which listed Life Crisis Center as the rape crisis center they would contact in order to provide a victim advocate for a resident victim. Life Crisis Center is one of the rape crisis centers contracted through MCASA.

In addition, during a phone interview with Mercy Medical Center SANE/SAFE staff, it was indicated that there is always a victim advocate available at Mercy Medical; in addition, MMC works with Turnaround Rape Crisis Center, who also provides the victim advocates when requested.

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

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

(h): The facility has indicated they would utilize the services at the Mercy Medical Center who meet the qualifications to serve in this role. During a phone interview with hospital SANE/SAFE staff, she indicated that there is always a victim advocate available at MMC; however, Turnaround Rape Crisis Center may also be contacted when needed and a victim advocate will be provided if one is requested by the resident victim.

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

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

### 115.22 (a)

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

### 115.22 (b)

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

### 115.22 (c)

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

### 115.22 (d)

- Auditor is not required to audit this provision.

### 115.22 (e)

- Auditor is not required to audit this provision.

## Auditor Overall Compliance Determination

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

(a): During the past 12 months, MCI-J reported that there were 11 allegations of sexual abuse/sexual harassment received. MCI-J records, along with the interview of the assistant warden/PREA compliance manager confirmed there were 11 allegations reported at MCI-J.

During the agency head interview with Martha Danner, Special Assistant to the Deputy Secretary, it was stated 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, MCI-J 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 or inmate sexual abuse or sexual harassment shall report that knowledge according to Department procedures for reporting employee misconduct or inmate rule violations.

Further, Maryland DPSCS directive IIU.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, states the Department shall promptly, thoroughly, and objectively investigate each allegation of employee or inmate misconduct involving a sex related offense according to a uniform protocol based on recognized investigative practices that maximize evidence collection to support effective administrative dispositions and, if appropriate, criminal prosecution of the identified perpetrator.

(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 IIU with the responsibilities specified under the Correctional Services Article, §10-701(a)(3), Annotated Code of Maryland. Maryland Correctional Services Code Ann. §10-701 establishes the Internal Investigative Unit (IIU). Subsection (b) of the code states in part, an investigation of the IIU may exercise the powers of a peace or police officer in the State on property that is owned, leased, operated by, or under the control of the Department. The agency employs investigators who are sworn police officers who are authorized under Maryland law to conduct both administrative and criminal investigations. DPSCS website was reviewed and the policy was posted on the website. Investigative staff did indicate during the interview process that all reports of sexual abuse and sexual harassment must be referred immediately to IID for investigation and if it rises to possible felonious behavior it is then referred for prosecution by IID, who are sworn Peace Officers.

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

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

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

## TRAINING AND EDUCATION

### Standard 115.31: Employee training

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

#### 115.31 (a)

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

### 115.31 (b)

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

### 115.31 (c)

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

### 115.31 (d)

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

### Auditor Overall Compliance Determination

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

(a): All staff interviewed during the on-site audit at Maryland Correctional Institution - Jessup (MCI-J) indicated they receive annual PREA training. It was clear during random and formal interviews that the MCI-J 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.

MCI-J provided the following directives and training curriculums showing further support of this standard: DPDS.03.0001 Pre-Service and In-Service Training establish 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 MDPSCS. 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 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, and 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, among other requirements, 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 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. MCI-J’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 MCI-J staff is receiving the training tailored towards Male offender. However, if an MCI-J 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. MCI-J houses male inmates. MCI-J staff receives PREA Training on an annual basis.

(c): MCI-J reported that in the past 12 months 250 staff who have contact with inmates received the necessary PREA Training. MCI-J’s Training Officer presented me with training records showing that all MCI-J staff was 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): MCI-J training documentation provided to auditors showed all staff from the Maryland Correctional Institution - Jessup completed the mandatory in-service training for PREA, as indicated by their personal signatures. During the on-site audit 53 staff files were selected at random and their training records reviewed. All staff reviewed had completed in-service training within the last 12 months. The agency uses a computer based program to track employee training records. The program was maintained only by approved staff and was very detailed and informative.

## Standard 115.32: Volunteer and contractor training

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

### 115.32 (a)

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

### 115.32 (b)

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

### 115.32 (c)

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

### Auditor Overall Compliance Determination

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

(a): MCI-J 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 staffs at MCI-J 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 MCI-J/Wexford Medical confirming that all medical staffs have completed PREA training.

An interview with a facility volunteer from an area college was conducted and they stated 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): MCI-J indicated that they have 205 volunteers/contractors that are cleared to provide services inside MCI-J. MCI-J Training records for volunteers/contractors were reviewed during the audit and showed that these volunteers were properly trained as indicated by their signature. 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): MCI-J 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. MCI-J maintains a volunteer/contractor PREA acknowledgement log and indicates the date PREA training/information was provided.

## Standard 115.33: Inmate education

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

#### 115.33 (a)

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

#### 115.33 (b)

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

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

#### 115.33 (c)

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

#### 115.33 (d)

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

#### 115.33 (e)

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

#### 115.33 (f)

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

#### Auditor Overall Compliance Determination

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

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

(a): MCI-J reported that 747 inmates who were admitted to MCI-J 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 42 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 he had received PREA education upon the day of arrival at MCI-J and this education included the facility's zero tolerance policy and how to report sexual abuse and sexual harassment.

MCI-J provided the Inmate Orientation Handbook 2016, page 11 which gives the definition of PREA and how inmates can report these incidents. Also presented was the 2007 Inmate Handbook pages 38-41 Inmate Orientation – Sexual Misconduct and 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 upon arrival at MCI-J, each inmate received at MCI-J is provided with PREA Education and shown the PREA video immediately upon entering into the facility and 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, MCI-J presented DPDS.180.0005 Detainee Orientation, .05 A, which indicates The Director of Case Management shall ensure the documented provision of detainee orientation is completed within 7 calendar days of intake. At MCI-J intake, inmates will view the PREA video and sign the PREA Acknowledgment Form, which will be placed in the inmate's base file. The acknowledgment form indicates that an MCI-J staff member has counseled the inmate about PREA and MCI-J's zero tolerance policy regarding sexual harassment and explains prevention, reporting and response to sexual abuse and harassment.

(c): 42 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): DOC.200.0001, C. requires that Special assistance shall be provided to inmates with language or reading problems. 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 AdAstris, Schreiber Translations and Language Line, which is utilized by MCI-J, if needed. All staff interviewed at MCI-J was aware that interpreter services were available and provided for inmates at MCI-J when needed. MCI-J does have an impaired hearing population and there are tablets with Video Relay Interpreting and other similar tools, to assist this population, as well as a staff interpreter specifically for the hearing impaired population.

(e): All MCI-J inmate reviewed files did contain signature sheets of inmates indicating the inmate received PREA Education. DPDS.180.0005 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) DPDS.180.0005 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 MCI-J 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

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

### 115.34 (a)

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

### 115.34 (b)

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

### 115.34 (c)

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

### 115.34 (d)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

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

During the interview with the IID detective, she was also able to articulate the definition and appropriate application of Miranda and Garrity and had a clear understanding of how preponderance of the evidence is used to determine the outcome of an investigation.

To further support this standard, MDPSCS presented auditors with the following directives and documentation: 12.04 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.

(c): MDPSCS provided documentation during the site visit that all IIU 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; Investigating Sex Related Offenses April 2014, PREA Lesson Plan – Investigators, PREA Specialized Training Lesson Plan.

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

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

### 115.35 (a)

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

### 115.35 (b)

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

### 115.35 (c)

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

### 115.35 (d)

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

### Auditor Overall Compliance Determination

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

(a)(c)(d): Maryland Correctional Institute - Jessup 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 MCI-J are full-time contractual employees. MCI-J 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 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.

## **SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS**

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

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

#### **115.41 (a)**

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

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

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

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

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

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

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

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

#### 115.41 (e)

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

#### 115.41 (f)

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

#### 115.41 (g)

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

#### 115.41 (h)

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

#### 115.41 (i)

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

#### Auditor Overall Compliance Determination

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

(a)-(g): All inmates transferring into the Maryland Correctional Institution - Jessup (MCI-J) 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 verified the facility is conducting the 30 day reassessment. The auditor randomly reviewed 42 files and all files had the 30 day reassessment completed. 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.

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 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.

A review of MCI-J's online Offender Management System (OMS) supports 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.

## Standard 115.42: Use of screening information

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

### 115.42 (a)

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

### 115.42 (b)

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

### 115.42 (c)

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

### 115.42 (d)

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

#### 115.42 (e)

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

#### 115.42 (f)

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

#### 115.42 (g)

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

#### Auditor Overall Compliance Determination

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

(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. MCI-J is using risk assessment information to determine proper placement for work, education and programming assignments.

(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): MCI-J reported having 2 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. DOC.100.0002 Case Management Manual, along with Case Manager and Case Manager Supervisor's interviews and documentation reviewed confirm the process would take place. During interviews with LGBTI inmates they also echoed this process and reported feeling safe at MCI-J.

(f): As observed during the tour, all showers in MCI-J housing units provide the privacy needed for inmates to shower, including the transgender inmates at MCI-J. *Both inmates* interviewed stated the showers available provided them with privacy, and this was 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.

## Standard 115.43: Protective Custody

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

#### 115.43 (a)

- Does the facility always refrain from placing inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been

made, and a determination has been made that there is no available alternative means of separation from likely abusers?  Yes  No

- If a facility cannot conduct such an assessment immediately, does the facility hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment?  Yes  No

#### 115.43 (b)

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

#### 115.43 (c)

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

#### 115.43 (d)

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

### 115.43 (e)

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

#### Auditor Overall Compliance Determination

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

(a-d): MCI-J has reported zero instances of victims being placed in segregation for the time frame of the audit period. MCI-J does not have protective custody. The facility has an East and West campus and if the need arises to separate prisoners, the institution has the ability to separate by using the opposite side of the campus. The only time a prisoner would go to segregation following a report of sexual abuse would be at the prisoners own request.

During the interview with the Assistant Warden, she 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. 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, MCI-J presented MDPSCS Case Management Manual DOC.100.0002. 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 Manager, 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.

## REPORTING

### Standard 115.51: Inmate reporting

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

#### 115.51 (a)

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

#### 115.51 (b)

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

#### 115.51 (c)

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

#### 115.51 (d)

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

#### Auditor Overall Compliance Determination

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

(a): Maryland 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) states that a complaint may be submitted by the victim, an individual with knowledge of an incident of sexual misconduct, or a “third party” on behalf of the victim. The complaint may be submitted in writing or verbally and may remain anonymous. An individual may file a complaint of sexual misconduct, without the regard to chain of command with an employee; a supervisor manager, or shift commander; the head of a unit; the Intelligence and Investigative Division (IID); the inmate grievance office. The MDPSCS Inmate Handbook (2007) informs inmates that they should report if they become a victim of sexual misconduct and instructs them that they can tell any correctional officer, case manager, Chaplain, medical practitioner, supervisor or any facility employee. Facility Directives .124.0000, section .06(B) also indicates that any 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): 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. Maryland 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” posted by all of the inmate phones and surrounding walls in the facility. The auditor did call the number from an inmate phone and the number was functioning properly and was answered by the Life Crisis Center. During the interviews with the facility staff, it was also confirmed the operation of the PREA Hotline and that the information is reported back to the facility head and IID for investigation. They 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 facility random staff, it was indicated that they could privately report sexual abuse/harassment of an inmates by telling their supervisor, calling the PREA hotline or telling someone from outside the facility of what occurred. Staff felt they could report such issues confidentially. Staff also 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 this facility and knew how to report abuse or harassment if needed. Inmates indicated they could report sexual abuse/harassment by calling the PREA hotline that is posted by the telephones, they could tell a staff member or a family member and believed they could do so verbally or in writing. Postings were prevalent throughout the facility with reporting options, as well as in the prisoner handbook and intake processing paperwork. In addition to the posting, the PREA hotline number was painted above all the inmate phones and was in working order.

## Standard 115.52: Exhaustion of administrative remedies

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

#### 115.52 (a)

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

#### 115.52 (b)

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

#### 115.52 (c)

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

#### 115.52 (d)

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

#### 115.52 (e)

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

#### 115.52 (f)

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

- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)  
 Yes  No  NA
- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA

### 115.52 (g)

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

### Auditor Overall Compliance Determination

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

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

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

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

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

### 115.53 (a)

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

### 115.53 (b)

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

### 115.53 (c)

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

### Auditor Overall Compliance Determination

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

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 provide a MCASA / Life Crisis document 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 compliance manager also indicated 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.

(b): MCI-J provided the auditors with a flyer as documentation to indicate that 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, which extends the original agreement from 2013 for Life Crisis Center to supply victim support services to MCI-J. 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. The MCASA/Life Crisis document is also provided to the inmates with the orientation information packet in order to inform inmates of the confidential emotional support services related to sexual abuse which is provided by Life Crisis.

Random interviews of staff and inmates all support that the facility provides contact information for the victim's advocacy group and the department resources for the MCASA/Life Crisis Center.

Inmates and staff were aware of outside confidential services available. These available services were posted throughout the facility. MCI-J also offered documentation to show that inmates were provided with outside victim advocate resources including mailing addresses and phone numbers to the agencies who provide these services.

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

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

### **115.54 (a)**

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

### Auditor Overall Compliance Determination

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

(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) states that a complaint may be submitted by a third party on behalf of the victim or other individual who has knowledge of the alleged sexual misconduct. The agency supplied a copy of the webpage from their agency website that had all the necessary PREA information, as well as the agency PREA Coordinator contact information for reporting purposes. The auditor personally went to the department's webpage and was able to easily navigate to the necessary information on their website.

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

### Standard 115.61: Staff and agency reporting duties

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

#### 115.61 (a)

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

#### 115.61 (b)

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

#### 115.61 (c)

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

#### 115.61 (d)

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

#### 115.61 (e)

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

#### Auditor Overall Compliance Determination

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

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

Operation Guidelines and Procedures in the Event of Sexual Assault are in place and states that Health Care will ensure that victims of sexual assault receive prompt and appropriate medical intervention. The guideline goes on to state that 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; Health Care 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 indicated that they do in fact go over informed consent with each inmate receiving treatment from either medical or mental health services. After review with the inmate, The Informed Consent form is explained to the inmate and provided to the inmate for signature.

Medical and mental health staff 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. 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 an interview with the PREA Manager, she 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 also 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 PREA compliance manager indicated during her 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. In addition, the PREA compliance manager provided documentation which supported these referrals.

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 health care staff, who all indicated they were aware of their reporting requirements.

## Standard 115.62: Agency protection duties

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

#### 115.62 (a)

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

#### Auditor Overall Compliance Determination

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

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

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

Executive Directive – Sexual Misconduct Prohibited OSPS.050.0030 – section B(3) states an individual (staff or inmate) reporting, participating in the investigation or resolution of, or who is a victim of alleged sexual misconduct is monitored for a minimum of 90 days from the date the incident was reported to detect actual, or feared, retaliation and if retaliation is identified or feared take action to stop the actual or feared retaliation that may include: a medical mental health counseling, change in assignment and staff work assignments and, continued monitoring as deemed appropriate. Section D, (1) thru (4) states a supervisor, manager, or shift commander shall: 1) Take reasonable actions to eliminate

circumstances that may result in or contribute to an incident of sexual misconduct that include conducting and documenting security rounds to identify and deter staff sexual abuse and harassment that are performed: randomly on all shifts, prevention of cross gender viewing, at a frequency established by the managing official. (2) If aware of an act of alleged sexual misconduct, ensure that a complaint is immediately filed according to established procedures for reporting misconduct; (3) If applicable, ensure that appropriately trained employees take action to preserve the scene of and any evidence related to an alleged incident of sexual misconduct; and (4) Ensure the safety of a victim of sexual misconduct, through a coordinated response to a complaint of sexual misconduct that includes: (a) Immediately stopping an incident in progress; (b) If applicable, immediate medical attention; (c) Appropriate action to provide immediate and continued personal protection; (d) Referral for medical and mental health care follow-up; and (e) Non-medical or mental health related counseling and support services.

Executive Directive Inmate on Inmate Sexual Conduct – Prohibited OSPS.200.0004 – Section B(3) The head of a unit, or a designee, is responsible for ensuring that: An individual (staff or inmate) reporting, participating in the investigation or resolution of, or who is a victim of alleged inmate on inmate sexual conduct is monitored for a minimum of 90 days from the date the incident was reported to detect actual, or feared, retaliation and if retaliation is identified or feared take action to stop the actual or feared retaliation that may include: (a) Provision of available medical or mental health services or counseling; (b) Changes to inmate housing assignments and staff work assignments; and (c) Continued monitoring as deemed appropriate; Section D states a supervisor, manager, or shift commander shall: (1) Take reasonable actions to eliminate circumstances that may result in or contribute to an incident of inmate on inmate sexual conduct;

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

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

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

evidence related to an alleged incident of sexual misconduct; and (4) Ensure the safety of a victim of sexual misconduct, through a coordinated response to a complaint of sexual misconduct that includes: (a) Immediately stopping an incident in progress; (b) If applicable, immediate medical attention; (c) Appropriate action to provide immediate and continued personal protection; (d) Referral for medical and mental health care follow-up; and (e) Non-medical or mental health related counseling and support services.

Executive Directive Inmate on Inmate Sexual Conduct – Prohibited OSPS.200.0004 – Section B(3) The head of a unit, or a designee, is responsible for ensuring that: An individual (staff or inmate) reporting, participating in the investigation or resolution of, or who is a victim of alleged inmate on inmate sexual conduct is monitored for a minimum of 90 days from the date the incident was reported to detect actual, or feared, retaliation and if retaliation is identified or feared take action to stop the actual or feared retaliation that may include: (a) Provision of available medical or mental health services or counseling; (b) Changes to inmate housing assignments and staff work assignments; and (c) Continued monitoring as deemed appropriate; Section D states a supervisor, manager, or shift commander shall: (1) Take reasonable actions to eliminate circumstances that may result in or contribute to an incident of inmate on inmate sexual conduct;

(4) Ensure the safety of a victim of inmate on inmate sexual conduct, through a coordinated response to a complaint of inmate on inmate sexual conduct that includes: (a) Immediately stopping an incident in progress; (b) If applicable, immediate medical attention; (c) Appropriate action to provide immediate and continued personal protection; (d) Referral for medical and mental health care follow up; and (e) Non-medical or mental health related counseling and support services. Section F states, processing a complaint (3)a(ii) A supervisor, manager, shift commander, or unit head receiving a complaint under §.05E or .05F(2) of this directive shall immediately: (ii) Safeguard the victim from further harm.

Executive Directive Assessment for Risk of Sexual Victimization and Abusiveness OSPS.200.0005 – under inmates protected as a result of screening, Section C (1) a, when making decisions related to housing, bed, work, education, and program assignments with the goal of separating inmates who are determined to be at high risk of being sexually victimized from inmates who are determined to be at high risk of being sexually abusive.

(b): When making individualized determinations as 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 provided the PREA Intake Screening questions 1-18, as well as the instructions for PREA Intake Screening Instrument.

Interviews with the PREA compliance manager 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.

## Standard 115.63: Reporting to other confinement facilities

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

#### 115.63 (a)

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

#### 115.63 (b)

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

#### 115.63 (c)

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

#### 115.63 (d)

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

### Auditor Overall Compliance Determination

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

(a): Maryland DPSCS Executive Directives OPS.050.0001, section 5(E)(6) and OPS.200.0005, section 5(E)(6) states, if a complaint of alleged inmate sexual conduct is received by a supervisor, manager, shift commander, or head of the unit at a facility other than the facility where the alleged inmate on inmate sexual conduct occurred, the managing official responsible for the facility receiving the complaint immediately, but not later than 72 hours of being notified of the incident shall notify the managing official of the facility where the incident occurred.

The agency Directives OPS.050.001 and OPS.200.0005, also state the requirement of the facility head to make notification to head of the facility where the abuse occurred. In addition, the directives indicate that the facility will make the notification and document the notification no later than 72 hours after receiving the information.

MCI-J provided a completed Notice of Incident (PREA Standard 115.63) form to support that the agency does have a required reporting process and form in which to document such notifications. The form was appropriately completed and forwarded from warden to warden, along with a documented phone call within 72 hours of the initial reporting of the incident.

(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.

The review of records confirmed that notifications from facility head to facility head of alleged incidents are reported within 72 hours and appropriately referred and investigated as required.

## Standard 115.64: Staff first responder duties

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

#### 115.64 (a)

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Separate the alleged victim and abuser?  
 Yes  No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence?  Yes  No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence?  Yes  No
- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence?  Yes  No

#### 115.64 (b)

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

### Auditor Overall Compliance Determination

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

(a)-(b): Maryland DPSCS Executive Directives OPS.050.0001 and OPS.200.0005, state that the first correctional officer responding to an incident of sexual misconduct shall (a) ensure the safety of a victim of sexual misconduct by immediately stopping an incident in progress, if necessary arranging for separation of the victim from the abuser and if applicable, immediately, if qualified, provide medical attention or arranging for appropriate medical attention. The directive further requires preservation of evidence detailing the instruction that is to be given to the victim and detaining and ensuring the alleged abuse also does not contaminate or destroy evidence. The agency directives contain clear direction related to staff First Responders and staffs interviewed were able to articulate their responsibilities as they relate to properly managing an incident of sexual abuse as directed by the standard. In addition, MCI-J staffs carry a "Think PREA act FAST" pocket size card and PREA pocket guide which both give detailed instruction with regard to staff responsibilities relating to sexual assault incidents.

(b): Executive Directive OPS.050.0001 states the responsibilities of non-security staff with regard to an incident of sexual misconduct. The directive requires that first responders who are not security staff shall immediately request security staff to the incident location, as well as requires the first responder to ensure the safety of the inmate and the preservation of evidence until security staffs arrive. Additionally, the PREA In-Service Training module for staff coincides with the requirements as listed in the agency's directives. The agency also provided the Health Care Procedure in the Event of Sexual Assault. This document outlines the procedure that will be taken by Health Care 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 staffs were able to articulate the steps which would be followed as a first responder as required by this standard.

Agency directives detail the responsibilities of First Responders for both security and non-security staff and interviews confirmed that staffs have knowledge of first responder duties, as well as resources to assist them when responding to a sexual misconduct.

## Standard 115.65: Coordinated response

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

### 115.65 (a)

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

### Auditor Overall Compliance Determination

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

The agency provided Executive Directive – Sexual Misconduct – Prohibited OSPA.050.0030 and, Executive Directive - Inmate on Inmate Sexual Conduct – Prohibited OSPA.200.0004. Both directives explain the details and responsibilities when 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.

During an interview, the PREA compliance manager stated that staff are trained on how to initially respond to incidents of sexual abuse/harassment and will take appropriate actions. She also indicated that staffs have been issued PREA booklets that they can carry and are part of their uniform inspection.

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

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

### 115.66 (a)

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

### 115.66 (b)

- Auditor is not required to audit this provision.

## Auditor Overall Compliance Determination

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

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 and 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).

## Standard 115.67: Agency protection against retaliation

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

#### 115.67 (a)

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

#### 115.67 (b)

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

### 115.67 (c)

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

### 115.67 (d)

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

### 115.67 (e)

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

#### 115.67 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

Retaliation monitoring of inmates who report allegations of sexual abuse is being documented by the appropriate PREA Staff members. A monitoring tracker was provided for documentation purposes by the appropriate PREA Staff. During the on-site audit, the agency furnished 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.

(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.

(c)(e): Executive Directive – Sexual Misconduct- Prohibited OSPS.050.0030 section .05B(3)(a-b) indicates that and 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 have an investigation conducted.

(d): Executive Directive – Sexual Misconduct- Prohibited OSPS.050.0030 section .05B(3)(c) does address continued monitoring as deemed appropriate.

## Standard 115.68: Post-allegation protective custody

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

#### 115.68 (a)

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

#### Auditor Overall Compliance Determination

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

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

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

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

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

The interviews with random staff and the PREA compliance manager indicated that they would separate the victim from the perpetrator and that they have multiple options for separation. They indicated segregation would be a last resort, but that they would still receive as many privileges as possible while temporarily housed in segregation.

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

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

#### 115.71 (a)

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

#### 115.71 (b)

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

#### 115.71 (c)

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

#### 115.71 (d)

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

#### 115.71 (e)

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

#### 115.71 (f)

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

#### 115.71 (g)

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

#### 115.71 (h)

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

#### 115.71 (i)

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

#### 115.71 (j)

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

#### 115.71 (k)

- Auditor is not required to audit this provision.

### 115.71 (I)

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

### Auditor Overall Compliance Determination

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

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

Executive Directive OPS.050.0001, Sexual Misconduct-Prohibited, section (G)(1) states “An IID investigator, or an investigator designated by the IID, shall conduct a prompt, thorough and objective investigation of every complaint of alleged sexual misconduct according to applicable statutory, regulatory, case law, contract, Department procedures, or other reasonably accepted standards,” with regard to investigations of sexual abuse and sexual harassment involving staff. Likewise, Maryland DPSCS Executive Directive OPS.200.0005, Inmate on Inmate Sexual Conduct-Prohibited, section (G)(1) sates, “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,” for investigations of inmate on inmate sexual abuse and sexual harassment.

Interviews were conducted with two detectives from the Maryland DPSCS, Intelligence and Investigative Division (IID). During the interview process it was determined that emergent abuse issues are addressed immediately. The detectives reported that allegations involving the collection of forensic evidence require the detectives to respond immediately to either the facility or the hospital where the inmate is located. In these circumstances, the investigation starts immediately. Detectives indicated that in instances where the sexual abuse or sexual harassment allegation does not include the collection of forensic evidence; the investigation would not be delayed more than a couple of days.

During the on-site review, it was determined that MCI-J reported 11 allegations of sexual abuse/harassment in the past twelve months. Investigation reports were obtained and reviewed for audit purposes. During a review of the investigative reports it was determined that 11 investigations of alleged sexual abuse/harassment were conducted. Based on the above, the facility has demonstrated compliance with Provision 115.71(a).

(b): Maryland DPSCS Executive Directive IIU.110.0011, Investigating Sex Related Offenses, 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.

Executive Directive OPS.050.0001, Sexual Misconduct-Prohibited, section (G)(2) states, in part "To the extent possible, but in every case where the allegation of alleged sexual misconduct involves sexual abuse, the investigator assigned to investigate the allegation shall have received specialized training," regarding staff on inmate allegations of sexual abuse and sexual harassment. Likewise, Maryland DPSCS Executive Directive OPS.200.0005, Inmate on Inmate Sexual Conduct-Prohibited, section (G)(2) states, in part "To the extent possible, but in every case where the allegation of alleged inmate on inmate sexual conduct 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," regarding allegations of sexual abuse and sexual harassment.

The investigators interviewed stated the specialized training included a variety of topics including techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, witness and offender interviews, and referrals for prosecution. A printout titled "*PREA: Specialized Training for Investigators*" was obtained during the on-site audit phase. This document indicates all of the IID investigative detectives who have completed the required investigative training regarding allegations of sexual abuse and sexual harassment.

Allegations of sexual abuse and sexual harassment, criminal and administrative, are conducted by the Intelligence and Investigative Division (IID). The IID is quite large and has many detectives stationed throughout the state. The Code of Maryland Regulations (COMAR) 12.11.01 requires investigators assigned to the Maryland DPSCS, Intelligence and Investigative Unit to be certified as a police officer in accordance with COMAR 12.04.01. Likewise, when performing duties associated with the IIU, the investigator may exercise the authority of a police officer. This includes an alleged violation of criminal law committed by an inmate, a visitor, a non-agency employee, or another individual that may affect the safety or security of a Department facility.

The agency provided the training module required of all IID detectives before conducting sexual abuse and sexual harassment investigations, which is specialized. However, at times PREA allegations received at the IID unit are referred back to the facility.

MCI-J reported eleven allegations of sexual abuse/harassment in the past twelve months. Seven out of eleven allegations were investigated by investigators who have had specialized training. The training records obtained during the on-site audit phase indicate that the IID investigators who conducted this investigation have completed seven hours of "*PREA: Specialized Training for Investigators*." In one instance the inmate indicated that he made a false allegation, in another the inmate indicated that no investigation was necessary, and one investigation was ongoing. There was only one instance where it was unclear that the investigator had received specialized training. Based on the above, the facility has demonstrated compliance with Provision 115.71(b).

(c): Maryland DPSCS Executive Directive IIU.110.0011, Investigating Sex Related Offenses, section (D)(6)(c) requires the investigator to “collect and preserve evidence.” Section (D)(2) references the recovery of physical evidence from the victim and indicates that a forensic medical examination via a SAFE, SANE, or licensed health care professional. Section (G) addresses interviewing the victim.

Executive Directive OPS.050.0001, Sexual Misconduct–Prohibited, section (G) states, “An IID investigator, or an investigator designated by the IID, shall conduct a prompt, thorough and objective investigation...” In accordance with section (G) investigators are to collect and preserve evidence, interview victims, witnesses, and suspected perpetrators, conduct and use of polygraph examinations, identifying suspects, preserving an individual’s personal dignity, legal rights, and maintaining confidentiality.

Executive Directive, OPS.200.0005, Inmate on Inmate Sexual Conduct-Prohibited, section (G) states, “An IID investigator, or an investigator designated by the IID, shall conduct a prompt, thorough and objective investigation...” In accordance with section (G) investigators are to collect and preserve evidence, interview victims, witnesses, and suspected perpetrators, conduct and use of polygraph examinations, identifying suspects, preserving an individual’s personal dignity, legal rights, and maintaining confidentiality.

During interviews with investigators who conduct sexual abuse and sexual harassment investigations; investigators reported that direct and circumstantial evidence is collected. Investigators reported that interviews of the victim, witnesses, and possible suspects are conducted. Additionally, investigators would also collect additional evidence including but not limited to video, photographs, written statements, medical and mental health records, log books, and relevant infractions or tickets. and any other documentation or records related to the case. Any SAFE kit results received from the Maryland Crime Lab would also be gathered.

A review of the investigative reports demonstrated the processes outlined in the agency policies noted above. Interviews with agency investigators demonstrated knowledge of the requirements of the provision. Based on the above, the facility has demonstrated compliance with Provision 115.71(c).

(d): Maryland DPSCS Executive Directive IIU.110.0011, Investigating Sex Related Offenses, section (H)(6) requires the investigator to work with the prosecutor to develop a case for criminal prosecution.

During interviews, neither investigator indicated that they would conduct compelled interviews. Investigation staff indicated 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.

Investigation documentation collected during the on-site review did not indicate that compelled interviews were conducted. There is no evidence to suggest that compelled interviews are conducted. Based on the above, the facility has demonstrated compliance with Provision 115.271(d).

(e): Maryland DPSCS Executive Directive IIU.110.0011, Investigating Sex Related Offenses, section (E)(1) states, “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. Section (E)(2) 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.” Executive Directive, OPS.050.0001, Sexual Misconduct–Prohibited, section (G)(6) states, “A victim of alleged sexual misconduct may not be compelled to submit to a polygraph or other truth-telling examination as a condition for proceeding with

an investigation of alleged sexual misconduct. Executive Directive, OPS.200.0005, Inmate on Inmate Sexual Conduct-Prohibited, section (G) states, "A victim of alleged inmate on inmate sexual conduct may not be compelled to submit to a polygraph or other truth-telling examination as a condition for proceeding with any investigation of alleged inmate on inmate sexual conduct."

During interviews, investigators indicated that the credibility of victims, suspects, and witnesses is based on the evidence obtained during the investigation pertaining to that individual. Investigators also indicated that under no circumstances would an inmate who alleged sexual abuse be required to submit to a polygraph examination or truth-telling device as a condition for proceeding with an investigation. Based on the above, the facility has demonstrated compliance with Provision 115.71(e).

(f) Maryland DPSCS Executive Directive IIU.110.0011, Investigating Sex Related Offenses, effective section (D)(6)(b) requires investigators to "Determine if employee action or lack of action contributed to the occurrence," regarding allegations of sexual abuse or sexual harassment. Section (D)(7) requires investigators to document the investigation in a comprehensive investigative report. This includes a thorough description of the physical, testimonial, and documentary evidence; explains the reasoning behind credibility assessments and includes facts and findings.

During interviews, investigators reported that all aspects of an allegation are 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.

MCI-J reported 11 allegations of sexual abuse/harassment during the past 12 months. During a review of the investigation files for MCI-J it revealed no substantiated incidents. All allegations fell within the unfounded, unsubstantiated, or ongoing categories. The contents of the investigation followed the directives contained in agency policy and corroborates the information gleaned from investigator interviews. Based on the above, the facility has demonstrated compliance with Provision 115.71(f).

(g): Maryland DPSCS Executive Directive IIU.110.0011, Investigating Sex Related Offenses, effective section (D)(7) states, "Document all aspects of the investigation in a comprehensive investigative report that: (a) Thoroughly describes, physical, testimonial, and documentary evidence; (b) Explains the reasoning behind credibility assessments; (c) Includes facts and findings; and (d) When appropriate, has related documents attached; and (e) Is maintained according to an established retention schedule, which requires that the report is maintained as long as the employee is employed by the Department or the inmate is under the authority of the Department plus five years."

Executive Directive, OPS.050.0001, Sexual Misconduct-Prohibited, section (G)(4) states, "Upon completing an investigation of a complaint of alleged sexual misconduct, the investigator shall: (a) Thoroughly document all aspects of the investigation in a written report so as to best support subsequent administrative action and, if appropriate, referral for criminal prosecution," with regard to incidents of staff on inmate sexual assault or sexual harassment. Executive Directive, OPS.200.0005, Inmate on Inmate Sexual Conduct-Prohibited, section (G)(4) states, "Upon completing an investigation of a complaint of alleged inmate on inmate sexual conduct, the investigator shall: (a) Thoroughly document all aspects of the investigation in a written report so as to best support subsequent administrative action and, if appropriate, referral for criminal prosecution," with regard to incidents of inmate on inmate sexual abuse or sexual harassment.

The Maryland DPSCS conducts both administrative and criminal investigations. The Code of Maryland Regulations (COMAR) 12.11.01 requires investigators assigned to the Maryland DPSCS, Intelligence and Investigative Unit (IIU) to be certified as a police officer in accordance with COMAR 12.04.01. Likewise, when performing duties associated with the IIU, the investigator may exercise the authority of a police officer. This includes an alleged violation of criminal law committed by an inmate, a visitor, a non-agency employee, or another individual that may affect the safety or security of a Department facility. Therefore, the requirements outlined above in section (f) of this standard apply here as well.

MCI-J reported eleven allegations of sexual abuse/harassment in the past twelve months. Eight out of eleven allegations were investigated by investigators from IID. In one instance the inmate indicated that he made a false allegation, in another the inmate indicated that no investigation was necessary, and one investigation was ongoing. Based on the above, the facility has demonstrated compliance with Provision 115.71(g).

(h): Maryland DPSCS Executive Directive IIU.110.0011, Investigating Sex Related Offenses, effective section (H)(6) states, "If appropriate, work with the prosecutor to develop the case for criminal prosecution." Executive Directive, OPS.050.0001, Sexual Misconduct–Prohibited, section (G)(4)(d) states, "If the incident possibly involves criminal activity, refer the case to the appropriate office responsible for prosecuting criminal violations in the jurisdiction where the incidence occurred." Executive Directive, OPS.200.0005, Inmate on Inmate Sexual Conduct-Prohibited, section (G)(4)(d) states, "If the incident possibly involves criminal activity, refer the case to the appropriate office responsible for prosecuting criminal violations in the jurisdiction where the incidence occurred."

During interviews, investigators indicated that investigations containing sufficient evidence to merit prosecution are referred to the prosecuting attorney's office for prosecution. One investigator stated, "When the evidence proves beyond a reasonable doubt that a crime occurred it is referred for prosecution." The other investigator stated, "When there is credible supporting evidence the crime did occur it is presented to the Attorney General's Office for review and further indictment to the Grand Jury.

MCI-J reported 11 allegations of sexual abuse/harassment during the past 12 months. A review of the investigation files for MCI-J revealed no substantiated incidents. All allegations fell within the unfounded, unsubstantiated, or ongoing categories. Therefore, there were no substantiated allegations of criminal conduct to be referred for prosecution. Based on the above, the facility has demonstrated compliance with Provision 115.71(h).

(i): Maryland DPSCS Executive Directive IIU.110.0011, Investigating Sex Related Offenses, effective section (D)(7)(e) regarding investigation reports states, "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 of the inmate is under the authority of the Department plus five years."

Executive Directive, OPS.050.0001, Sexual Misconduct–Prohibited, section (G)(4)(e) "File and maintain the report of investigation for a period of five years after the alleged perpetrator is no longer an employee." Additionally, Executive Directive, OPS.200.0005, Inmate on Inmate Sexual Conduct-Prohibited, section (G)(4)(e) "File and maintain the report of investigation for a period of five years after the alleged perpetrator is no longer an employee."

There is also a memorandum dated, July 9, 2014, that establishes a retention schedule that is in compliance with Provision 115.271(i). This memorandum ensures provides guidance to ensure that all investigative reports are retained electronically for as long as the employee is employed by the

department or the inmate is under the authority of the Department plus five years. According to the memo all investigation are to be retained in an electronic file within the Maryland DPSCS server.

Agency policies provide the retention framework. Given that the entire investigation file was provided to the audit team, it is evident that the agency retention polices are followed. Based on the above, the facility has demonstrated compliance with Provision 115.71(i).

(j): Maryland DPSCS Executive Directive IIU.110.0011, Investigating Sex Related Offenses, effective section (F) states, "An investigation under this directive may not be terminated based on victim or suspect departure employment or custody." Executive Directive, OPS.050.0001, Sexual Misconduct-Prohibited, section (G)(5) states, "The Departure of an employee alleged to have committed sexual misconduct or the victim of sexual misconduct from the Department is not a basis for terminating an investigation of alleged sexual misconduct." Executive Directive, OPS.200.0005, Inmate on Inmate Sexual Conduct-Prohibited, section (5) states, "The departure of an inmate alleged to have committed inmate on inmate sexual conduct or the victim of inmate on inmate sexual conduct from the Department is not a basis for terminating an investigation of alleged inmate on inmate sexual conduct."

During interviews one investigator indicated that regardless of employment status investigations referencing staff will be completed. Another investigator stated, "It doesn't matter if they resign prior to the end of the investigation, it will be completed." Likewise, both investigators indicated that investigations would be processed through to completion in the event that the alleged victim or alleged abuser leaves the facility.

MCI-J reported 11 allegations of sexual abuse/harassment during the past 12 months. During a review of the investigation files, it was determined that all investigations were completed. It was noted that one inmate indicated that he had made a false allegation, in another the inmate indicated that no investigation was necessary, and one investigation was indicated as ongoing. All investigations reached some form of resolution. Based on the above, the facility has demonstrated compliance with Provision 115.71(j).

(k): No outside agencies conduct investigations on behalf of the agency. Therefore, this portion of the standard is not applicable. All investigations are handled by the Maryland DPSCS, Intelligence and Investigative Division who has the authority to launch criminal investigation up to and including referral for prosecution. Therefore, this facility has addressed the requirements as outlined in this report. Based on the above, the facility has demonstrated compliance with Provision 115.71(k).

(l): No outside agencies conduct investigations on behalf of the agency. Therefore, this portion of the standard is not applicable. All investigations are handled by the Maryland DPSCS, Intelligence and Investigative Division. Based on the above, the facility has demonstrated compliance with Provision 115.71(l).

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

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

#### **115.72 (a)**

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

### Auditor Overall Compliance Determination

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

(a): Maryland DPSCS Executive Directive IIU.110.0011, Investigating Sex Related Offenses, Section (H)(2)(a)-(c) states, in part, "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: (a) Substantiated meaning an allegation that was investigated and determined to have occurred; (b) Unsubstantiated meaning an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred; or (c) Unfounded meaning an allegation was investigated and determined to not have occurred."

The Code of Maryland Regulations (COMAR) 12.02.27.14 regarding inmate discipline states, "The hearing officer shall decide the outcome of a case based on a preponderance of evidence." COMAR 12.11.04.09, Office of the Secretary – Evidence Standards states, "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."

During interviews, investigative staff stated, "the preponderance of evidence" is the standard of evidence required to substantiate allegations of sexual abuse or sexual harassment. Investigators also indicated that this is covered in the investigator training.

The facility provided eleven investigative files for review. A review of the investigative files indicated the agency does not impose a standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. Based on the above, the facility has demonstrated compliance with Provision 115.72(a).

## Standard 115.73: Reporting to inmates

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

#### 115.73 (a)

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

### 115.73 (b)

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

### 115.73 (c)

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

### 115.73 (d)

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

### 115.73 (e)

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

### 115.73 (f)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

(a): Maryland DPSCS Executive Directive IIU.110.0011, Investigating Sex Related Offenses, 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." OPS.050.0001 Sexual Misconduct, Section (H)(1) states, "When notified by an investigator under §.05G(4)(c) of this directive, if the allegation was sexual abuse, the head of the unit responsible for the victim inmate shall ensure that the victim inmate is notified of the investigator's determination that the allegation was substantiated, unsubstantiated, or unfounded." OPS.200.0005 Inmate on Inmate Sexual Misconduct, Section (H)(1) states, "(1) When notified by an investigator under §.05G(4)(c) of this directive, if the allegation of inmate on inmate sexual conduct included sexual abuse, the head of the unit responsible for the victim inmate shall ensure that the victim inmate is notified of the investigator's determination that the allegation was substantiated, unsubstantiated, or unfounded."

MCI-J reported 11 allegations of sexual abuse/harassment during the past 12 months. All allegations fell within the unfounded, unsubstantiated, or ongoing categories. Inmate notifications are generated on a departmental memorandum. These memorandums are signed by the assistant warden, the inmate, and staff person who witnessed the inmate's signature. Eight of the investigation reports contained a signed notification indicated the outcome of the investigation. One investigation was still on going at the time of the audit. Another investigation indicated that the inmate was concerned about a shakedown, satisfied with discussing the matter with facility administration, and declined to have the investigation continue further. Only one investigation did not have the signed notification; however, the summary of the report indicates that all notifications were made.

Investigator interviews indicated that an inmate who makes an allegation of sexual abuse are to be informed as to whether the allegation has been substantiated, unsubstantiated, or unfounded following an investigation. Based on the above, the facility has demonstrated substantial compliance with Provision 115.71(a).

(b): The Maryland DPSCS conducts both administrative and criminal investigations. The Code of Maryland Regulations (COMAR) 12.11.01 requires investigators assigned to the Maryland DPSCS, Intelligence and Investigative Unit (IIU) to be certified as a police officer in accordance with COMAR 12.04.01. Likewise, when performing duties associated with the IIU, the investigator may exercise the authority of a police officer. This includes an alleged violation of criminal law committed by an inmate, a visitor, a non-agency employee, or another individual that may affect the safety or security of a Department facility. Therefore, the requirements outlined above in section (f) of this standard apply here as well.

Maryland DPSCS Executive Directive IIU.110.0011, Investigating Sex Related Offenses, establishes policies and procedures for investigators conducting an investigation of an allegation of misconduct that involves a sex related offense. Per policy, the Maryland DPSCS is responsible for conducting administrative and criminal investigations of inmate sexual abuse.

MCI-J reported eleven allegations of sexual abuse/harassment in the past twelve months. Nine allegations were completed by IID investigators. Two allegations did not require an investigation due to false allegation. The other indicated that the inmate was concerned about a shakedown, satisfied with discussing the matter with facility administration, and declined to have the investigation continue further.

During interviews one inmate indicated that he had reported sexual abuse on three separate occasions. However, these incidents did not happen at MCI-J. He indicated that all matters were investigated, he had documentation, and that he felt safe at MCI-J. Based on the above, the facility has demonstrated compliance with Provision 115.73(b).

(c): Maryland DPSCS Executive Directive IIU.110.0011, Investigating Sex Related Offenses, section (H)(5)(c) states, "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 of the following conditions involving the employee: (i) The employee is not assigned to the inmate's housing unit; (ii) The employee is no longer employed at the inmate's facility; (iii) If known, that the employee was indicted on a charged with a sex related offense occurring at the facility; iv If known, that the employee was convicted of a charge related to a sex related offense occurring at the facility;" regarding staff on inmate sex related offenses.

Additionally, OPS.050.0001, Sexual Misconduct, Section (H)(2) states, "Except when an allegation of sexual abuse is determined to be unfounded, the head of the unit responsible for the victim inmate shall, for as long as the inmate is under the authority of the Department, ensure that the inmate is notified of that (a) The employee is no longer assigned to the inmate's housing unit; (b) The employee is no longer assigned at the inmate's facility; (c) If aware, the employee is criminally charged for an offense related to the sexual abuse that occurred within the facility; and (d) If aware, the employee is convicted on a charge related to the sexual abuse that occurred within the facility."

MCI-J reported eleven allegations of sexual abuse/harassment during the past 12 months. Nine allegations fell within the unfounded, unsubstantiated, or ongoing categories. Inmate notifications are generated on a departmental memorandum. These memorandums are signed by the assistant warden, the inmate, and staff person who witnessed the inmate's signature. Based on the above, the facility has demonstrated compliance with Provision 115.73(c).

(d): Maryland DPSCS Executive Directive IIU.110.0011, Investigating Sex Related Offenses, section (H)(5)(d) 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 following conditions involving the perpetrator: (i) If known, that the perpetrator was indicted on a charge related to a sex related offense occurring at the facility; and (ii) If known, that the perpetrator was convicted of a charge related to a sex related offense occurring at the facility;" regarding inmate on inmate sex related offenses.

Additionally, OPS.200.0005, Inmate Sexual Misconduct, Section (H)(2) states "(2) Except when an allegation of inmate on inmate sexual conduct is determined to be unfounded, the head of the unit responsible for the victim inmate shall, for as long as the victim inmate is under the authority of the

Department, ensure that the victim inmate is notified of the following situations concerning the inmate who sexually abused or is alleged to have sexually abused the victim inmate: (a) If aware, the accused inmate is in any way charged with a crime related to the sexual abuse that occurred within the facility; and (b) If aware, the accused inmate is convicted on a charge related to the sexual abuse that occurred within the facility.”

MCI-J reported eleven allegations of sexual abuse/harassment in the past twelve months. Nine allegations were completed by IID investigators. One allegation did not require an investigation due to false allegation. The other indicated that the inmate was concerned about a shakedown, satisfied with discussing the matter with facility administration, and declined to have the investigation continue further. Based on the above, the facility has demonstrated compliance with Provision 115.73(d).

(e): Maryland DPSCS Executive Directive IIU.110.0011, Investigating Sex Related Offenses, section (H)(3) states, “The investigator shall document victim notification under §.05H(2) of this directive in the investigative report recording: (a) The name of the individual who notified the victim; (b) The date, time, and location that the victim was notified; and (c) How the victim was notified.”

OPS.050.0001, Sexual Misconduct, Section (H)(3) states, “A record of a notification made under §§.05H(1) and (2) of this directive shall be maintained in the victim inmate’s base file and include the following information: (a) Case number; (b) Content of the notification; (c) Date of the notification; (d) Location where the notification was made; (e) Printed name and signature of the employee making the notification; and (f) The inmate’s signature acknowledging notification or, if the inmate refuses to sign for the notification, “Refused to Sign” and the employee’s signature.

Additionally, OPS.200.0005, Inmate Sexual Misconduct, Section (H)(3) states. “A record of a notification made under §§.05H(1) and (2) of this directive shall be maintained in the victim inmate’s base file and include the following information: (a) Case number; (b) Content of the notification; (c) Date of the notification; (d) Location where the notification was made; (e) Printed name and signature of the employee making the notification; and (f) The inmate’s signature acknowledging notification or, if the inmate refuses to sign for the notification, “Refused to Sign” and the employee’s signature.

MCI-J reported 11 allegations of sexual abuse/harassment during the past 12 months. Nine allegations fell within the unfounded, unsubstantiated, or ongoing categories. Inmate notifications are generated on a departmental memorandum. One allegation did not require an investigation due to false allegation. The other indicated that the inmate was concerned about a shakedown, satisfied with discussing the matter with facility administration, and declined to have the investigation continue further. These memorandums are signed by the assistant warden, the inmate, and staff person who witnessed the inmate’s signature. Notifications are placed in the investigation file. Based on the above, the facility has demonstrated compliance with Provision 115.73(e).

(f): Maryland DPSCS Executive Directive IIU.110.0011, Investigating Sex Related Offenses, section (5)(f) states, “The victim reporting requirements under §§.05H(5)(c) and (d) of this directive shall terminate at the time the victim inmate is released from Department custody.” This directive specifically states the victim reporting requirements under this directive shall terminate at the time the victim is released from Department custody. Based on the above, the facility has demonstrated compliance with Provision 115.73(f).

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

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

#### 115.76 (a)

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

#### 115.76 (b)

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

#### 115.76 (c)

- Are disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories?  Yes  No

#### 115.76 (d)

- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Law enforcement agencies (unless the activity was clearly not criminal)?  Yes  No
- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Relevant licensing bodies?  Yes  No

#### Auditor Overall Compliance Determination

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

(a): Agency and facility policy address disciplinary sanctions for staff who violate agency sexual abuse and sexual harassment policy. Pursuant to OPS.050.0001, Sexual Misconduct-Prohibited, section (I)(1) states, "An employee is subject to disciplinary action, up to and including termination of employment,"

and Section (I)(2) states, "An employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to: (a) A penalty under the Standards of Conduct, up to and including termination of employment with the Department." This policy encompasses sexual abuse, sexual favor, sexual harassment, sexual misconduct, and voyeurism.

MCI-J reported 11 allegations of sexual abuse/harassment during the past 12 months. None of these allegations were substantiated. Thus, there were no instances within the last 12 months requiring disciplinary sanctions against staff for violating agency or facility sexual abuse or sexual harassment policies. Based on the above, the facility has demonstrated compliance with Provision 115.76(a).

(b): Maryland DPSCS Executive Directive OPS.050.0001, Sexual Misconduct-Prohibited, section (I)(1) states, "An employee is subject to disciplinary action, up to and including termination of employment," and Section (I)(2) states, "An employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to: (a) A penalty under the Standards of Conduct, up to and including termination of employment with the Department." It should be noted that this policy is inclusive of violations of sexual abuse, sexual favor, sexual harassment, sexual misconduct, and voyeurism.

The facility also provided Standards of Conduct & Internal Administrative Disciplinary Process (Standards of Conduct) as supporting documentation. Standards of Conduct indicate, Third Category Infractions are the most serious and include, unprofessional personal relationship or contacts with inmate, offender or client and shall result in termination from State service.

MCI-J reported 11 allegations of sexual abuse/harassment during the past 12 months. None of the allegations against staff were substantiated. Thus, there were no instances within the last 12 months requiring disciplinary sanctions against staff for violating agency or facility sexual abuse or sexual harassment policies.

Agency policy includes termination for acts that would be a violation of this provision. Likewise, the Standards of Conduct state, "unprofessional personal relationship or contacts with inmate, offender or client" shall result in termination. Therefore, based on the above, the facility has demonstrated compliance with Provision 115.76(b).

(c): Agency policy addresses disciplinary sanctions for staff who violate agency sexual abuse and sexual harassment policy. Pursuant to OPS.050.0001, Sexual Misconduct-Prohibited, section (I)(1) states, "An employee is subject to disciplinary action, up to and including termination of employment," and Section (I)(2) states, "An employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to: (a) A penalty under the Standards of Conduct, up to and including termination of employment with the Department." This policy encompasses sexual abuse, sexual favor, sexual harassment, sexual misconduct, and voyeurism.

In the past 12 months, the MCI-J reported that zero staff have violated agency sexual abuse or sexual harassment policy. Likewise, there have been zero staff who were terminated (or resigned prior to termination) for violating agency sexual abuse or sexual harassment policies. MCI-J reported four allegations of staff on inmate sexual abuse or harassment during the past 12 months. All investigations were determined to be unsubstantiated, unfounded, or ongoing. Thus, there were no instances within the last 12 months requiring disciplinary sanctions against staff for violating agency or facility sexual abuse or sexual harassment policies.

Though neither the agency nor facility policy specifically state that discipline shall be “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.” These policies adhere to the overall intent of the standard in the way the agency enforces rules and regulations and administers discipline. The policies are inclusive of sexual abuse, sexual favor, sexual harassment, sexual misconduct, and voyeurism. Thus, the language is intended to cover the “nature and circumstances” of the violation. Likewise, the Standards of Conduct state, “unprofessional personal relationship or contacts with inmate, offender or client” shall result in termination.” Therefore, based on the above, the facility has demonstrated compliance with Provision 115.76(c).

(d): Maryland DPSCS Executive Directive OSPS.050.0001, Sexual Misconduct-Prohibited, section (l)(2) states, “An employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to: (a) A penalty under the Standards of Conduct, up to and including termination of employment with the Department; (b) Criminal prosecution; and (c) If applicable, notification of a relevant licensing authority.”

Furthermore, the Code of Maryland Regulations (COMAR) 12.11.01 requires investigators assigned to the Maryland DPSCS, Intelligence and Investigative Unit (IIU) to be certified as a police officer in accordance with COMAR 12.04.01. Likewise, when performing duties associated with the IIU, the investigator may exercise the authority of a police officer under in accordance with the Annotated Code of Maryland. This includes an alleged violation of criminal law committed by an inmate, a visitor, a non-agency employee, or another individual that may affect the safety or security of a Department facility. All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated, if not for their resignation, shall be reported to law enforcement agencies unless the activity was clearly not criminal, and to any relevant licensing bodies. Given that an allegation is referred to an IIU investigator, allegations are reported to law enforcement agencies in accordance with provision 115.76(d).

In the past 12 months, the MCI-J reported that zero staff have violated agency sexual abuse or sexual harassment policy and there have been zero staff who were terminated (or resigned prior to termination) for violating agency sexual abuse or sexual harassment policies. MCI-J reported four allegations of staff on inmate sexual abuse or harassment during the past 12 months. All investigations were determined to be unsubstantiated, unfounded, or ongoing. Thus, there were no instances within the last 12 months requiring disciplinary sanctions against staff for violating agency or facility sexual abuse or sexual harassment policies. Based on the above, the facility has demonstrated compliance with Provision 115.76(c).

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

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

### **115.77 (a)**

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with inmates?  Yes  No

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

### 115.77 (b)

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

### Auditor Overall Compliance Determination

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

(a): Maryland DPSCS Executive Directive OPS.050.0001, Sexual Misconduct-Prohibited, defines an employee 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. This includes contractors, interns, volunteers, and employees of the Maryland Department of Education, Maryland Department of Labor, Licensing and Regulation, and Baltimore City Public Schools.

Section .05(l)(2) states, "An employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to: (a) A penalty under the Standards of Conduct, up to and including termination of employment with the Department." Likewise, Section (l)(3) states, "A contractor determined to have committed sexual misconduct is: (a) Considered to be in violation of terms or conditions of a contract or other agreement establishing the relationship between the contractor and the Department or agency; (b) Subject to sanctions according to provisions of the contract or agreement; (c) Is subject to criminal prosecution; and (d) If applicable, notification of a relevant licensing authority."

In the past 12 months, MCI-J reported that zero contractors have violated agency sexual abuse or sexual harassment policy. Likewise, there have been zero contractors who were reported to law enforcement agencies and relevant licensing bodies for violating agency sexual abuse or sexual harassment policies. Additionally, MCI-J reported zero allegations of contractor on inmate sexual abuse or harassment during the past 12 months. Thus, there were no instances within the last 12 months requiring prohibited contact.

The Code of Maryland Regulations (COMAR) 12.11.01 requires investigators assigned to the Maryland DPSCS, Intelligence and Investigative Unit (IIU) to be certified as a police officer in accordance with COMAR 12.04.01. Likewise, when performing duties associated with the IIU, the investigator may exercise the authority of a police officer under in accordance with the Annotated Code of Maryland.

This includes an alleged violation of criminal law committed by an inmate, a visitor, a non-agency employee, or another individual that may affect the safety or security of a Department facility. Given that an allegation is referred to an IIU investigator, allegations are reported to law enforcement agencies in accordance with provision 115.77(a). Based on the above, the facility has demonstrated compliance with Provision 115.77(a).

(b): Maryland DPSCS Executive Directive OPS.050.0001, Sexual Misconduct-Prohibited, section .04(b)(6) defines an employee 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. This includes contractors, interns, volunteers, and employees of the Maryland Department of Education, Maryland Department of Labor, Licensing and Regulation, and Baltimore City Public Schools.

OPS.050.0001, section (I)(2) states, "An employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to: (a) A penalty under the Standards of Conduct, up to and including termination of employment with the Department." Likewise, section (I)(3) states, "A contractor determined to have committed sexual misconduct is: (a) Considered to be in violation of terms or conditions of a contract or other agreement establishing the relationship between the contractor and the Department or agency; (b) Subject to sanctions according to provisions of the contract or agreement; (c) Is subject to criminal prosecution; and (d) If applicable, notification of a relevant licensing authority."

In the past 12 months, the MCI-J reported that zero volunteers have violated agency sexual abuse or sexual harassment policy. Likewise, there have been zero volunteers who were reported to law enforcement agencies and relevant licensing bodies for violating agency sexual abuse or sexual harassment policies. Additionally, MCI-J reported zero allegations of volunteer on inmate sexual abuse or harassment during the past 12 months. Thus, there were no instances within the last 12 months requiring prohibited contact. Based on the above, the facility has demonstrated compliance with Provision 115.77(b).

## Standard 115.78: Disciplinary sanctions for inmates

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

### 115.78 (a)

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

### 115.78 (b)

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

### 115.78 (c)

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

#### 115.78 (d)

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

#### 115.78 (e)

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

#### 115.78 (f)

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

#### 115.78 (g)

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

#### Auditor Overall Compliance Determination

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

(a): The Code of Maryland Regulations (COMAR) 12.02.27 establishes a formal disciplinary process for administrative or criminal findings of resident-on-resident sexual abuse. Executive Directive OSPS.200.0005, Inmate on Inmate Sexual Conduct-Prohibited, section I(2) states, "An inmate: (a) Determined to have committed sexual conduct is subject to: (i) A penalty established under Inmate Disciplinary Process; and (ii) If applicable, criminal prosecution."

In the past 12 months, MCI-J reported five allegations of inmate on inmate sexual abuse. Four out of five investigations were determined to be unfounded. There were zero administrative findings of inmate

on inmate sexual abuse. Likewise, there were zero criminal findings of guilt for inmate on inmate sexual abuse. One investigation appeared to be ongoing.

There are no disciplinary records to rely upon when evaluating this provision. However, the agency does have policies in place to ensure residents are subject to a formal disciplinary process following an administrative or criminal finding that the inmate engaged in inmate on inmate sexual abuse. Based on the above, the facility has demonstrated compliance with Provision 115.78(a).

(b): The Code of Maryland Regulations (COMAR) 12.02.27 establishes a formal disciplinary process for administrative or criminal findings of resident-on-resident sexual abuse. Section .35 contains the "Adjustment History Sentencing Matrix" which categorizes the penalty after the administrative hearing process. Section .35(G) states, "Severity of Sanction. The severity of a sanction plotted in a sanction cell is determined by: (1) The category of a defendant inmate's rule violation; and (2) The adjustment history of the defendant inmate." Additionally, depending on the combination or adjustment history, and rule violation sanctions can be optional or mandatory. Therefore, sanctions are commensurate with the nature and circumstances in that consideration is given to the type of violation and adjustment history. It should be noted that according to COMAR 12.02.27 a variety of sanctions could be levied.

In the past 12 months, MCI-J reported zero administrative findings of inmate on inmate sexual abuse. Likewise, there were zero criminal findings of guilt for inmate on inmate sexual abuse. Thus, there are no disciplinary records to rely upon when evaluating this provision. However, the agency does have policies in place to ensure sanctions are commensurate with the nature and circumstances of the abuse committed, disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories. Based on the above, the facility has demonstrated compliance with Provision 115.78(b).

(c): The Code of Maryland Regulations (COMAR) 12.02.27 establishes a formal disciplinary process for administrative or criminal findings of inmate on inmate sexual abuse. Section .18(B)(6) 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."

In the past 12 months, MCI-J reported zero administrative findings of inmate on inmate sexual abuse. Likewise, there were zero criminal findings of guilt for inmate on inmate sexual abuse. Thus, there are no disciplinary records to rely upon when evaluating this provision. However, a mechanism is in place to ensure consideration for an inmate's mental disabilities in accordance with this provision. Based on the above, the facility has demonstrated compliance with Provision 115.78(c).

(d): Maryland DPSCS Executive Directive OPS.200.0005, Section (I)(2) states inmates "(a)Determined to have committed sexual conduct is subject to: (i)A penalty established under Inmate Disciplinary Process; and (ii)If applicable, criminal prosecution. (b) If therapy, counseling, or other intervention designed to address and correct underlying reasons or motivation for sexual conduct is available, may be required to participate in available therapy, counseling, or other intervention as a condition of participation in other forms of programming or inmate benefits that are otherwise subject to sanctioning under the Inmate Disciplinary Process."

In the past 12 months, MCI-J reported zero administrative findings of inmate on inmate sexual abuse. Likewise, there were zero criminal findings of guilt for resident-on-resident sexual abuse. Thus, there are no disciplinary records to rely upon when evaluating this provision. However, a mechanism is in

place to ensure consideration for a resident's mental disabilities in accordance with this provision. Based on the above, the facility has demonstrated compliance with Provision 115.78(d).

(e): Maryland DPSCS Executive Directive OPS.200.0005, Section (I)(2)(c) states inmates, "May be disciplined for sexual conduct with staff only if it is determined that the staff did not consent to the sexual conduct." In the past 12 months, MCI-J reported zero allegations or incidents of inmate-on-staff sexual abuse. Thus, there are no disciplinary records to rely upon when evaluating this provision. However, a mechanism is in place to ensure residents may be disciplined upon finding that staff did not consent to such contact. Based on the above, the facility has demonstrated compliance with Provision 115.78(e).

(f): Maryland DPSCS Executive Directive OPS.050.0001, Sexual Misconduct-Prohibited, Section (I)(5) states "a complaint of alleged sexual misconduct made in good faith based upon a reasonable belief that the alleged sexual misconduct occurred may not be considered a false report or lying, even if the required investigation does not establish sufficient evidence to substantiate the allegation." Additionally, Maryland DPSCS directive OPS.200.0005, Inmate on Inmate Sexual Conduct-Prohibited, Section (I)(4) states, "A complaint of alleged inmate on inmate sexual conduct made in good faith based upon a reasonable belief that the alleged inmate on inmate sexual conduct occurred may not be considered a false report or lying, even if the required investigation does not establish sufficient evidence to substantiate the allegation of inmate on inmate sexual conduct."

Furthermore, a review of the investigation documentation did not reveal any disciplinary action taken against inmates who filed a report in bad faith. Hence there are no disciplinary records to rely upon when evaluating this provision. Based on the above, the facility has demonstrated compliance with Provision 115.78(f).

(g): The agency has policies in place to that prohibit sexual conduct, specifically define sexual abuse, and discipline abusers where coercion is found. Maryland DPSCS Executive Directive OPS.200.0005, Inmate on Inmate Sexual Conduct-Prohibited, section .03(A) states, "The Department does not: (1) Tolerate inmate on inmate sexual conduct; and (2) Consider alleged or actual consent as a defense to an allegation of inmate on inmate sexual conduct." Furthermore, section .05(A)(1) states, "An inmate may not: Commit, participate in, support, or otherwise condone sexual conduct," prohibiting all inmate on inmate sexual contact consensual or otherwise. Section .04(B)(9) defines "Sexual abuse of an inmate by an inmate" and stipulates within the definition "does not consent, is coerced into the act by overt or implied threats of violence, or is unable to consent or refuse," with regard to if the activity falls under the definition of abuse. Regarding discipline, section .05(I)(2) states, "An inmate: (a) Determined to have committed sexual conduct is subject to: (i) A penalty established under Inmate Disciplinary Process; and (ii) If applicable, criminal prosecution."

In the past 12 months, MCI-J reported five allegations of inmate on inmate sexual abuse. Four out of five investigations were determined to be unfounded. There were zero administrative findings of inmate on inmate sexual abuse. Likewise, there were zero criminal findings of guilt for inmate on inmate sexual abuse. One investigation was noted as having been completed but the documentation indicating the outcome was not attached. However, the investigation summary description not this incident as being inmate on inmate sexual abuse and did not have an element of coercion.

There are no disciplinary records to rely upon when evaluating this provision. However, a mechanism is in place to ensure compliance with this provision. Based on the above, the facility has demonstrated compliance with provision 115.78(g).

## MEDICAL AND MENTAL CARE

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

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

#### 115.81 (a)

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

#### 115.81 (b)

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

#### 115.81 (c)

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

#### 115.81 (d)

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

#### 115.81 (e)

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

### Auditor Overall Compliance Determination

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

(a-c): Upon interviewing MCI-J 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 the inmate is generally seen within days of the report. The Case Manager stated that it is her job to screen all intake assessments and she is specifically looking for any sexual abuse victimization or perpetration. The Case Manager provided multiple referrals to show that this process is in fact taking place at MCI-J. In further support of this standard, a review of MDPSCS Executive Directive, COS.200.0005, which states if screening indicates that an inmate has experienced prior sexual victimization, whether it occurred in a facility or in the community, the inmate is offered a follow-up with medical or mental health practitioner within 14 days of the intake screening.

(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 requires that a referral be offered to an inmate if he reveals that he has been a perpetrator or a sexual assault. During an interview with mental health staff, she stated that when she receives referrals for either victimization or perpetration, whether it occurred in an institutional setting or in the community, inmates are seen by mental health staff generally within a day of receiving the referral.

(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 during an interview with the Classification employee who indicated that only individuals necessary are provided with the information.

(e): The DPSCS Medical Evaluations Manual states that all inmates shall be screened for prior experience of sexual abuse or perpetration of sexual abuse during prior institutionalization or in the community at the time of intake history and physical and appropriate referrals shall be made to mental health vendor as required by PREA. 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. Mental Health staff provided the Limits of Confidentiality form during an interview and stated that medical and mental health staffs explain their limits of confidentiality with regard to their reporting responsibilities of sexual abuse or victimization which occurred outside of the institutional setting; the medical and mental health heads indicated that they would obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting. MCI-J does not house inmates under the age of 18.

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

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

### 115.82 (a)

- Do inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment?  
 Yes  No

### 115.82 (b)

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

### 115.82 (c)

- Are inmate victims of sexual abuse offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate?  Yes  No

### 115.82 (d)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?  
 Yes  No

### Auditor Overall Compliance Determination

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

(a): During interviews, staff indicated that treatment for alleged resident 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 MCI-J 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 MCI-J staffs were well informed with what steps are to be taken as a first responder and to protect the victim. Staff stated they would separate the victim and alleged abuser to ensure safety and the victim would be either immediately transported to Metropolitan Transition Center Hospital or Mercy Medical Center depending on the severity.

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

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

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

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

#### **115.83 (a)**

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

#### **115.83 (b)**

- Does the evaluation and treatment of such victims include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody?  Yes  No

#### 115.83 (c)

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

#### 115.83 (d)

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

#### 115.83 (e)

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

#### 115.83 (f)

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

#### 115.83 (g)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?  Yes  No

#### 115.83 (h)

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

#### Auditor Overall Compliance Determination

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

(a-g): Interviews with staff supported that all treatment services as required by this standard are available and offered when needed. The services are offered either through Metropolitan Transition Center Hospital, which is a correctional hospital and is consistent with community level care, and/or Mercy Medical Center which is a community hospital. Staff indicated in the event that a inmate suffers any sexual abuse, follow-up services and further treatment is available, including any tests for sexually transmitted infections (subsections d and e are not applicable as this is an all-male facility). 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 would be immediately offered mental health services upon learning that the inmate is a known abuser and treatment would be 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 assistant warden and the case manager confirmed that the alleged abuser would be offered a mental health evaluation within 30-60 days of the alleged assault or abuse.



## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

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

#### 115.86 (a)

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

#### 115.86 (b)

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

#### 115.86 (c)

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

#### 115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse?  Yes  No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility?  Yes  No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse?  Yes  No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts?  Yes  No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff?  Yes  No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager?  
 Yes  No

#### 115.86 (e)

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

#### Auditor Overall Compliance Determination

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

(a) Maryland DPSCS Executive Directive COS.020.0027, Section .05(D) states, "Except for sex related offenses that are investigated and determined to be unfounded, a facility incident review team shall, within 30 days after an investigation of a sex related offense is concluded shall review the incident."

MCI-J reported one unsubstantiated incident requiring an incident review. There were also two unfounded allegations where an incident review was conducted. One other allegation would require an incident review; however, this investigation appeared to be ongoing. The documentation supports that incident reviews are being conducted. In fact, the documentation suggests that incident reviews are sometimes being conducted on unfounded investigations as well. Based on the above, the facility has substantially complied with the requirements of 115.86(a).

(b) Maryland DPSCS Executive Directive COS.020.0027, Section .05(D) states, "Except for sex related offenses that are investigated and determined to be unfounded, a facility incident review team shall, within 30 days after an investigation of a sex related offense is concluded shall review the incident."

A review of the investigation documentation indicates that incident reviews are completed within the 30-day limit. Based on the above, the facility has substantially complied with the requirements of provision 115.86(b).

(c): Maryland DPSCS Executive Directive COS.020.0027, Section .05(E) states, "The facility incident review team shall: (1) Consist of upper-level facility management officials designated by the facility managing official after consultation with the facility PREA Compliance Manager. (2) Have input from or access to line supervisors, investigators, and medical or mental health practitioners concerning the incident being reviewed."

A review of the incident review documentation indicates that many staffs participate in the incident review. All participants sign a participation sheet and a review of the participation sheets noted that typically 13-16 individuals participate on the review team. Members included the assistant warden, shift command, security staff, case management, and medical staff.

Per the warden, the facility does have a sexual abuse incident review team. The warden indicated that the review team includes upper level management official and allows for input from line supervisors, investigators, and medical or mental health practitioners.

A review of policy, incident review documentation, and an interview it appears that the review team does include all parties as indicated in provision 115.86(c). Based on the above, the facility has substantially complied with the requirements of provision 115.86(c).

(d) Maryland DPSCS Executive Directive COS.020.0027, Section .05(E)(3) states the facility shall, "Consider if the incident or allegation indicates a need to change policy or procedure to better prevent, detect or respond to sexual abuse." Section .05(E)(4) states the facility shall, "Consider if the incident or allegation was motivated by: (a) Race; (b) Ethnicity; (c) Gender identity; (d) Lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; (e) Gang affiliation; or (f) Other group dynamics at the correctional facility." Section .05(E)(5) states the facility shall, "Examine the location where the incident allegedly occurred to: (a) Determine if there are physical plant issues that may have contributed to the incident; and (b) Assess staffing levels in the area and the need for monitoring technology to augment or supplement staffing these areas." Additionally, Section .05(E)(6) states the facility shall, "(6) Prepare a report of findings for the managing official and PREA compliance manager, which includes, but is not limited to: (a) Identifying problem areas; (b) Necessary corrective action; and (c) Recommendations for improvement."

MCI-J reported one unsubstantiated incident requiring an incident review. There were two unfounded allegations where an incident review was conducted. One other allegation would require an incident review; however, this investigation appeared to be ongoing. A review of the Sexual Abuse Incident Reviews revealed that the form includes all elements which need to be considered during the review as required by 115.86(d)(1-5). Agency policy also requires all elements to be considered in the review and documented on the final review report. The documentation provided by MCI-J supports that incident reviews are being conducted with all required elements considered and documented in the report.

An interview was conducted with the warden. The warden indicated that the incident review meets on a monthly basis to discuss all events that have occurred each month and talk about whether or not an incident could have been preventable. The team uses information from the review to identify problems, blind spots, video monitoring, high traffic areas, training, and to keep staff informed. The warden advised that the review team does consider physical plant, staffing levels, monitoring technology. Likewise, the team also considers if the incident or allegation was motivated by race, ethnicity, gender identity, LGBTBI status or perceived status, gang affiliation and/or other group dynamics.

Through policy review, incident report reviews, and an interview with the warden it is evident that incident review reports are being completed. Furthermore, incident reports are also, at times, being completed in instances where the allegation proved to be unfounded.

(e): Maryland DPSCS Executive Directive COS.020.0027, Section .05(F) states, "The managing official shall: (1) Work with the facility's PREA Compliance Manager to: (a) Implement the facility incident review team's recommendations for improvement from the review team; or (b) If a recommendation is not implemented, document the reason for not adopting the recommendation. (2) Ensure that reporting requirements under this directive are performed. (3) Communicate, through the facility's PREA Compliance Manager, with the PREA Coordinator, or a designee, concerning PREA compliance and related issues necessary for Department PREA reporting requirements."

A review of the incident review team documentation was conducted. MCI-J reported one unsubstantiated incident requiring an incident review. There were also two unfounded allegations where an incident review was conducted. One other allegation would require an incident review; however, this investigation appeared to be ongoing.

Recommendations made by the review team included roll call trainings regarding proper strip search protocol. This appeared to be preventative measures related to an unsubstantiated harassment investigation. Another review team recommended an individual meeting with specific staff to advise of the obligation to report any PREA allegations immediately. This recommendation was related to an unfounded investigation where the inmate ultimately denied making the allegation. Based on a review of policy and incident review documentation; the facility has substantially complied with provision 115.86(e).

## **Standard 115.87: Data collection**

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

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

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

#### 115.87 (b)

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

#### 115.87 (c)

- Does the incident-based data include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice?  Yes  No

#### 115.87 (d)

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

#### 115.87 (e)

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

#### 115.87 (f)

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

#### Auditor Overall Compliance Determination

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

(a)/(c): Maryland DPSCS Executive Directive OSPS.020.0027, section .03(B) states, "The Department shall uniformly collect accurate data for every allegation of sexual abuse from each correctional facility under the authority of the Department to assess and improve effectiveness of sexual abuse prevention, detection and responsiveness." Section .05(B)(1) states, "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." Likewise, the definitions required by this provision are found in section .04(B).

Agency data is collected via a spreadsheet maintained by the Internal Investigative Division (IID). That tracks all investigations throughout the agency. The spreadsheet contains the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence form. Therefore, the facility has substantially complied with provision 115.87(a)/(c)

(b): Maryland DPSCS Executive Directive OSPS.020.0027, section .05(C) states, "The PREA Coordinator, or a designee shall: (1) Aggregate the incident-based sexual abuse data annually."

The agency submitted the most recent Survey of Sexual Violence (SSV), and a copy of the most recent Maryland DPSCS PREA Annual Report 2016 was reviewed. A review of the supporting documentation supports the aggregation of incident based sexual abuse data on an annual basis. Based on the above, the facility is in compliance with provision 115.87(b).

(d): Maryland DPSCS Executive Directive OSPS.020.0027, section .05(C) states, "The PREA Coordinator, or 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."

The agency submitted the most recent Survey of Sexual Violence (SSV), and a copy of the most recent Maryland DPSCS PREA Annual Report 2016 was reviewed. A review of the supporting documentation supports the aggregation of incident based sexual abuse data. The agency also provided a spreadsheet maintained by the Internal Investigative Division (IID). The spreadsheet tracks all investigations throughout the agency. The data aggregated in the annual report is derived from the spreadsheet maintained by the IID. Based on the above, the facility is in compliance with provision 115.87(d).

(e): Maryland DPSCS Executive Directive OSPS.020.0027, section .03(B)(1) states, "The Department shall uniformly collect accurate data for every allegation of sexual abuse from each correctional facility under the authority of the Department to assess and improve effectiveness of sexual abuse prevention, detection and responsiveness." Though the policy does not specifically state "every private facility with which it contracts for the confinement of its residents." This has been demonstrated by a review of the agency's annual reports where the inclusion of private facility data was noted.

(f): Maryland DPSCS Executive Directive OSPS.020.0027, section .03(B)(4) states, "By June 30 of each calendar year, report sexual violence data from the previous calendar year to the Department of Justice. The facility provided the most recent SSV submission for review. A review of this document demonstrates that the agency has substantially complied with this provision."

## Standard 115.88: Data review for corrective action

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

#### 115.88 (a)

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

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

#### 115.88 (b)

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

#### 115.88 (c)

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

#### 115.88 (d)

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

#### Auditor Overall Compliance Determination

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

(a): Maryland DPSCS Executive Directive OSPS.020.0027, PREA Investigations-Tracking and Review section .05(C) states the PREA Coordinator, or 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. (3) Ensure that all aggregated sexual abuse data is included in an annual report that: (a) Includes an assessment of the Department's sexual abuse prevention, detection, and response policies, practices, and training; (b) If applicable, identifies Department-wide problem areas or problems within specific correctional facilities; (c) Is used to facilitate corrective action at the Department and correctional facility levels" is included in the annual report. Likewise, Maryland DPSCS Executive Directive OSPS.020.0026, PREA

Federal Standards Compliance section .05(B)(7)(a) states, in part, that the Coordinator is responsible for the preparation and submission of the PREA-related reports including the annual report.

The Maryland DPSCS PREA Annual Report 2016 provides a review and analysis of the data collected from the previous year. The “Problem & Corrective Action Summary” noted several improvements over the previous twelve-month period. The report also provides recommendations and goals for the future. Based on the above, the facility is in compliance with provision 115.88(a).

(b): Maryland DPSCS Executive Directive OSPS.020.0027, PREA Investigations-Tracking and Review section .05(C)(3) states the PREA Coordinator, or designee shall, “Ensure that all aggregated sexual abuse data is included in an annual report that: (d) Compares the current calendar year’s data and activities with that available from previous years; (e) Assesses the Department’s progress in addressing sexual abuse,” is included in the annual report .

Maryland DPSCS Executive Directive OSPS.020.0026, PREA Federal Standards Compliance .05(B)(7)(a) states, in part that the Coordinator is responsible for the preparation and submission of the PREA-related reports including the annual report.

The Maryland DPSCS PREA Annual Report 2016 provides a comparison of all facility data between the 2016 and 2015. Any corrective actions are listed in the “Problem and Corrective Action Summary,” section of the report. Based on the above, the facility is in compliance with provision 115.88(b).

(c): Maryland DPSCS Executive Directive OSPS.020.0027, PREA Investigations-Tracking and Review section .05(C)(f) states the PREA Coordinator, or designee shall, “Is approved by the Secretary and made available to the public through the Department’s public website that redacts information,” regarding the preparation of the annual report for approval by the agency head.

A review of the Maryland DPSCS PREA Annual Report 2016 revealed that the annual report is signed and 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.

A copy of the Maryland DPSCS PREA Annual Report 2016 was obtained through the website. The website contains current and past annual reports. Hence this information is publicly available. Based on the above, the facility is in compliance with provision 115.88(c).

(d): Maryland DPSCS Executive Directive OSPS.020.0027, PREA Investigations-Tracking and Review section .05(C)(3)(f) states, “Is approved by the Secretary and made available to the public through the Department’s public website that redacts information: (i) That would present a clear and specific threat to the safety and security of a correctional facility before publication indicating the nature of the redacted information; and (ii) Related to personal identifiers.” Thus, agency policy requires that the redaction of information in accordance with the standard.

In reviewing the Maryland DPSCS PREA Annual Report 2016 there was no incident-based data included in the report. As a result, specific material redaction is not necessary. Based on a review of agency policy and the annual report, the facility is found to be in compliance with provision 115.88(d).

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

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

#### 115.89 (a)

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

#### 115.89 (b)

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

#### 115.89 (c)

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

#### 115.89 (d)

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

### Auditor Overall Compliance Determination

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

(a): Maryland DPSCS Executive Directive OSPS.020.0027, PREA Investigations-Tracking and Review section .05(C)(4) states, "Securely maintain incident-based and aggregate data ensuring only authorized personnel have access to the information."

The Electronic Retention of PREA Investigations memorandum dated July 9, 2014 states, "Effective May 9, 2014, all PREA Investigations from Calendar Year 2013 forward have been and will continue to be electronically retained on a shared Group Drive on a DPSCS server. Accessibility of the information will be limited to the Director of the Internal Investigative Unit and one (1) designee to ensure confidentiality." Agency policy and procedure limits access to the source material from which the annual report data is derived.

A visual confirmation of the PREA & PBMS Combined Case Tracking spreadsheet was provided for review. Additionally, investigation documentation was also reviewed during the audit. The reporting data is derived from the investigation information. The investigation data is secured in an electronic file with limited access in accordance with the Electronic Retention of PREA Investigations memorandum. Based on the above, the facility has substantially complied with 115.89(a)

(b): Maryland DPSCS Executive Directive OSPS.020.0027, PREA Investigations-Tracking and Review section .05(C)(3)(f) states, in part “(f) Is approved by the Secretary and made available to the public through the Department’s public website,” with regard to the publication of sexual abuse data. A review of the Department’s website supports that the DPSCS PREA Annual Reports are made available to the public. Based on the above, the facility is compliant with provision 115.89(b).

(c): Maryland DPSCS Executive Directive OSPS.020.0027, PREA Investigations-Tracking and Review section .05(C)(3)(f) states, “Is approved by the Secretary and made available to the public through the Department’s public website that redacts information: (i) That would present a clear and specific threat to the safety and security of a correctional facility before publication indicating the nature of the redacted information; and (ii) Related to personal identifiers.”

A review of the Maryland DPSCS PREA Annual Report for 2013, 2014, 2015, and 2016 supports that no personal identifiers are utilized in the annual reports. Based on the above the facility is in compliance with 115.89(c)

(d): A review of Maryland DPSCS Executive Directive OSPS.020.0027, PREA Investigations-Tracking and Review section was conducted. Section .05(C)(5) states, “Maintain sexual abuse data for at least 10- years from the date received.” The agency does collect sexual abuse data in accordance with provision 115.87. Data is retained for a minimum of 10 years.

A review of the Maryland DPSCS PREA Annual Report 2016 indicated that MCI-J reported 20 incidents of abuse or harassment in 2015, and 22 incidents of abuse or sexual harassment in 2016. The 2017 report had not been published on the agency website as of the date of the audit. Based upon the language in the Maryland DPSCS Executive Directive, and a review of the Maryland DPSCS PREA Annual Report 2016, the agency appears to be in compliance with provision 115.89(d).

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

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

#### 115.401 (a)

- During the three-year period starting on August 20, 2013, and during each three-year period thereafter, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (N/A before August 20, 2016.)  
 Yes    No    NA

#### 115.401 (b)

- During each one-year period starting on August 20, 2013, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited?  Yes  No

#### 115.401 (h)

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

#### 115.401 (i)

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

#### 115.401 (m)

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

#### 115.401 (n)

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

#### Auditor Overall Compliance Determination

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

(a)-(b) The agency has a scheduled plan for one-third of all facilities to be audited in the three year audit period.

(h) The Michigan Department of Corrections, who is in a consortium with MDPSCS, assigned PREA certified auditors to audit MCI-J. The auditors had access to all areas of the institution and were able to observe operations and the physical plant, as well as interview staff and inmates as required.

(i) Auditors were permitted to request and receive copies of any and all relevant documents (including electronically stored information) during all phases of the audit process.

(m) Auditors were permitted to randomly select and interview inmates and staff in private.

(n) Prior to the on-site audit, Notices were posted in order to inform inmates of the audit and the auditor contact information and address to allow inmates to contact the auditors with confidential information or correspondence in the same manner as if they were communicating with legal counsel. However, there was no correspondence received from any MDPSCS inmates. During interviews with MDPSCS inmates, they indicated that the Notice was posted and they knew they were able to send correspondence to the auditors in a confidential manner.

## Standard 115.403: Audit contents and findings

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

#### 115.403 (f)

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

#### Auditor Overall Compliance Determination

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

The auditor visited the agency website and observed final reports completed by this auditor and other consortium auditors during the second audit cycle.

## AUDITOR CERTIFICATION

I certify that:

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

### Auditor Instructions:

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

*Barbra A. Storey*

May 25, 2018

**Auditor Signature**

**Date**

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

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