

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

**Date of report:** 10-5-2017

<b>Auditor Information</b>			
<b>Auditor name:</b> Christine D. Wakefield			
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<b>Telephone number:</b> 616-527-2510 ext 1124			
<b>Date of facility visit:</b> February 27 – March 2, 2017			
<b>Facility Information</b>			
<b>Facility name:</b> Maryland Correctional Institute for Woman (MCIW)			
<b>Facility physical address:</b> 7943 Brock Bridge Road, Jessup, Maryland 20794			
<b>Facility mailing address:</b> <i>(if different from above)</i> P.O Box 535 Jessup, MD 20794			
<b>Facility telephone number:</b> 410-379-3800			
<b>The facility is:</b>	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> State	<input type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
<b>Facility type:</b>	<input checked="" type="checkbox"/> Prison	<input type="checkbox"/> Jail	
<b>Name of facility's Chief Executive Officer:</b> Warden Margaret M. Chippendale			
<b>Number of staff assigned to the facility in the last 12 months:</b> 89			
<b>Designed facility capacity:</b> 887			
<b>Current population of facility:</b> 752			
<b>Facility security levels/inmate custody levels:</b> Maximum, Medium, Minimum, Pre Release and Work Release			
<b>Age range of the population:</b> 18 - 60			
<b>Name of PREA Compliance Manager:</b> Cynthia Briscoe		<b>Title:</b> Assistant Warden	
<b>Email address:</b> Cynthia.briscoe@maryland.gov		<b>Telephone number:</b> 410-379-3803	
<b>Agency Information</b>			
<b>Name of agency:</b> Maryland Department of Public Safety & Correctional Services			
<b>Governing authority or parent agency:</b> <i>(if applicable)</i> State of Maryland			
<b>Physical address:</b> 300 E. Joppa Road, Towson Maryland, 21286			
<b>Mailing address:</b> <i>(if different from above)</i>			
<b>Telephone number:</b> 410-339-5000			
<b>Agency Chief Executive Officer</b>			
<b>Name:</b> Steven Moyer		<b>Title:</b> Secretary	
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<b>Agency-Wide PREA Coordinator</b>			
<b>Name:</b> Dave Wolinski		<b>Title:</b> Agency PREA Coordinator	
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## **AUDIT FINDINGS**

### **NARRATIVE**

A Prison Rape Elimination Act Audit of the Maryland Correctional Institution for Women (MCIW) was conducted Monday, February 27<sup>th</sup> thru March 2<sup>nd</sup>, 2017 to determine compliance with the Prison Rape Elimination Act standards. I, Christine Wakefield, was assisted by Barbara Storey and Todd Butler, each a DOJ certified PREA Auditor.

Mrs. Storey and I would like to share upfront that we were impressed throughout the audit by the staff professionalism and their willingness to make us feel welcomed at MCIW. All staff was accommodating and hospitable throughout the audit, and worked tirelessly throughout our time spent at MCIW to comply with all requests and recommendations made by us, the audit team, prior to and during the onsite portion of the audit. Mrs. Storey and I would also like to recognize Lieutenant Yolanda Gregory and Officer G. Charles for their hard work and dedication ensuring that the entire audit process ran efficient and smooth.

#### **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 among the auditors with each reviewing the documentation for their assigned standards and using the auditor tool as a guide. Six weeks prior to the onsite visit, the facility was provided with *Audit Notices* 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 MCIW.

#### **Entrance Interview Monday, February 27<sup>th</sup>, 2017:**

The onsite facility audit and tour began Monday, February 27, 2017 with Barb, Christine and Todd present for the meet and greet. There was a facility greeting from Assistant Warden/Facility PREA Manager Cynthia Briscoe, along with 7 other key MCIW staff. Warden Margaret Chippendale was away from the facility at the time of this audit; Assistant Warden Briscoe acted on behalf of Warden Chippendale. The audit team introduced themselves, explained the purpose and outline of the audit process, and the facility tour was then explained along with the audit team's expectations and requirements for a successful audit. Following the initial meeting, Todd Butler departed the facility with Maryland Department of Public Safety and Correctional Services (MDPSCS) - Agency PREA Coordinator Dave Wolinski in order to visit the Internal Investigative Division (IID) and the Training and Human Resources Departments, as they are off site.

#### **Facility Tour**

After the entrance meeting the audit team was given a tour of all areas of the facility; including all general population housing units, disciplinary segregation, administrative segregation, protective custody, educational/vocational building which includes the library, administrative building, control rooms, visitation, intake, medical, mental health, the baby bonding room for new mothers and their babies, food service, recreation yard, Maryland Enterprises (MCE) and maintenance. During the onsite tour of the facility, we did observe that the *Audit Notice* was 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 our tour, 80 informal interviews were conducted with various female inmates and 40 informal interviews were conducted with correctional staff throughout the entire facility. It was very obvious throughout our tour that staff and inmates were very well aware of the Prison Rape Elimination Act and the various available reporting processes that accompany it. Each one of the female inmates had an obvious understanding of PREA, expressed feeling safe at MCIW and also knew that they or a representative could report an incident if the need ever arose. 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 male staff announce “male 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. Both auditors were impressed with the Maryland Enterprises building, which is a place of employment for the MCIW inmates. Cameras were plentiful and very well placed throughout the entire MCE building, in each and every section. It is fair to say that the placement of the cameras in this building allows for 100% viewing of the inmates on the main floors, with the exception of areas where privacy is needed. PREA information throughout the facility was clearly posted, both in English and Spanish. Posters listed the steps that could be taken to report sexual abuse or sexual harassment incidents, provided contact information for the prisoners to report these incidents and also cited Maryland DPSCS zero tolerance policy related to sexual abuse and sexual harassment. In the units the PREA hotline number was also painted on the wall above each of the phones and 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 Housing Unit 192- A, B, C and D, privacy curtains were in place in all shower areas, toilets were in cells only, with no direct view into the cells. It should also be noted that cameras were in the process of being installed in all 4 of the wings located in this building while the audit was taking place, cameras were placed in a way that will provide extra safety and security for staff and inmates, yet provide MCIW inmates with the privacy needed to shower, change clothing and use the toilet. In the remainder of the housing units, the showers contained barriers and were off to the side which also allows for inmate privacy. Video surveillance equipment will eventually be placed in the rest of the MCIW housing units and rec yard. 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 heavy 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 done at different times each day. It was also evident that male staff was loudly announcing their presence prior to entering the female housing units.

### **Formal Interview Process**

At the entrance interview MCIW had prepared a packet that included a complete list of all inmates housed at MCIW as well as staffing lists, including corrections staff assigned to each shift. The random inmates and staff that 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. MCIW staff helped to direct auditors toward LGBTI inmates in order to conduct specialized interviews. Conducting the interviews in this manner ensured that the auditors were able to gather sufficient information throughout MCIW 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 27 inmates.

Specialized inmate interviews related to Disabled and Limited English Proficient Inmates(1) , LGBTI Inmates (5), Inmates Who Reported Sexual Abuse and Inmates Who Disclosed Sexual Victimization During Risk Assessment Screening were conducted (1). MCIW 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 (3), Human Resources Staff (1), Sane/Safe Staff (1), 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 (5), 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 MCIW 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 sexual safety, etc., Inmates shared that assemblies were being held related to PREA and songs were even being taught that contained the PREA hotline phone number, which help inmates to remember the number if ever needed. Youthful inmates are not housed at MCIW and a telephone interview was conducted with the supervisor in charge of the SANE/SAFE Program at Mercy Hospital, who would treat any MCIW inmate taken in for a forensic examination. There were no transgender inmates at MCIW.

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

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

### **Files Reviewed**

Following the IID visit, Mr. Wolinski took Todd to visit the agency's head human resources office. During the tour of HR, Todd was able to randomly review 23 current employee personnel files in order to verify criminal background checks are being conducted prior to employing staff and the agency affirmatively asks applicants about sexual abuse and sexual harassment during their application process. The agency keeps documentation verifying this in each employee's personnel file. While in HR, Todd was able to conduct an interview with the senior HR employee present at this time. During the interview the agency's stance regarding hiring well-qualified staff as well as the agency's process for screening applicants was articulated. When asked questions regarding specific facility practices, it was indicated the local HR office assigned to each facility would be the appropriate area to answer those questions. Todd was unable to further discuss these issues any further because he was unable to meet with the facility's local HR staff despite repeated requests. I spoke with a local HR representative and she directed me back to the agency HR and indicated that all employee hiring and promotional information is maintained at the agency HR office.

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

### **Exit Interview**

When the audit was completed, the audit team conducted an exit briefing on March 1<sup>st</sup>, 2017. 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 continued to be in contact with MCIW audit staff in order to request further documentation and to have questions answered that arose during the report writing process. MCIW staff were extremely accommodating and provided auditors with all documents requested and did their very best to answer questions expeditiously as they arose. Agency PREA Coordinator Dave Wolinski began working immediately to correct minor deficiencies found in 6 of the PREA standards and has remained in constant contact with auditors via email, providing the updates being made to gain compliance in these areas.

## DESCRIPTION OF FACILITY CHARACTERISTICS

The Maryland Correctional Institution for Women (MCIW) is located in Jessup, Maryland. The original facility was constructed between 1938 and 1940. The new Administration Building was added in 1968, and the 192-bed unit opened in 1986. The entire facility is primarily of brick construction and has 35 acres within a double fence, with razor ribbon wire. Perimeter security is further enhanced by four security towers, one portable tower, a front sally port, and a rear sally port adjacent to the dining room. Beyond the fences is a perimeter road. A parking lot for staff is located near the front entrance of the institution.

### **Physical Plant Description**

*The Visitor Registration Building* (Post 26) is located outside the two perimeter fences and was opened in June 1993. It is used for all pedestrian entry and exit, with the exception of construction contractors. All pedestrians are processed through a metal detector and logged in and out. During visiting hours, visitors wait in this building until the inmate arrives in the visiting room.

*The Administration Building*, which is a one-story structure, contains most of the administrative and support space within the facility. The main entrance leads into a lobby with an adjacent visiting room and control area. The main control area is separated from the lower portion of the building by an electronically controlled security door. This secure area contains the offices of the Warden and Assistant Warden, the Chief of Security, and the Mailroom. At the end of the entrance corridor is a suite of offices, presently occupied by the Personnel Department, Key Control, Administrative Captain's and Intelligence Office. Also located in this area are the Institution's computer server and the uniform/tactical room. Along the corridor are two boardrooms, the larger of which is used as the Institution's Emergency Operations Center, and the other small boardroom as the Command Center. The building has miscellaneous supply and equipment rooms, including a secured area which contains the Institution's telephone system and other systems.

*The lower portion of the Administration Building* has meeting rooms, the Maintenance Manager's and Dietary Manager's Office, and the Family Life Resource Center. Adjacent to this corridor is the entrance to the inmate strip search room, as well as the inmate access door to the visiting room. Located in this segment of the building are the Chaplain and Volunteer Activity Coordinators Office, commissary and several classrooms. A separate area is utilized as a dining room for members of the Canine Partners for Life and their dogs. A large gymnasium and office are also located in the building. The inmate dining rooms, kitchen and several food storage areas are located parallel to the gymnasium.

*New Support Services Building* - The old Administration Building and Horgan Building was replaced by the New Support Services Building that officially opened November 2005. It houses the offices of the custody supervisors, audit coordinator, Administrative Remedy Process (ARP) Coordinator, Environmental Safety and Compliance Officer, Fire and Safety Officer, the adjustment hearing office, Training Coordinator, and a boardroom. The next area, known as the treatment area, houses the psychology and social work offices, classrooms, and a boardroom. Just past this area is the mental health area where special needs inmates, including suicide precaution inmates, are housed. At the end of the building, on the same side, are property and traffic. Across the hall is the intake area, which includes housing. Next is the infirmary, and last, at the front of the building, are the medical offices and the dispensary. The other side of the building houses Maryland Correctional Enterprise shops (MCE). The shops include a sew shop, cut shop, mail and distribution shop, and the data entry shop.

*The Multipurpose Building*, opened in June, 1994, is a one-story brick structure located across from the Administration Building. It houses Case Management offices and records storage on the North side. Education classrooms are on the South side, with a library in the center area of the building, along with an officer's station.

*Housing Units* - There are three permanent population-housing units located at MCIW.

Two housing units, *A-Building and B-Building*, were constructed between 1999 and 2000. In October 2000, MCIW began housing inmates on medium, minimum, and pre-release security status. A-Building and B-Building are located in the southernmost portion of the complex. The buildings are two-story brick structures which contain a central control center with an East and West pod. Each pod consists of 56 cells, all of which have been doubled-bunked, thus making the maximum housing capacity of each building 224 inmates. There are six showers and two washers and dryers on each level of each pod. The washers and dryers are out in the open and in clear view. Each building also contains a multipurpose room/office on each level, along with offices designated for unit management. A boiler room is located in the basement area of each building. All cells have exterior windows, solid swinging doors, stainless steel combination toilet and washbasin fountain units, and stationary beds. Each pod has a large recreation area equipped with tables and chairs, two wall-mounted televisions (one on each end of the recreation area), and telephones which have been placed around the lower level of each pod for inmate access.

*The 192 Building* was built in 1986 and is located west of the Administration Building. It is a two-story brick structure, which contains a central control center, with four wings, designated A thru D. The 192 Building is designated as a maximum-security housing unit. Each wing consists of 48 cells, all of which have been double-bunked. The maximum housing capacity is 366 (A-Wing = 96; B-Wing = 96; C- Wing = 78; D- Wing = 96). The building also contains a multipurpose room/office and a supervisor's office. A boiler room is on the lower level, below Segregation. D-Wing houses admission status, which are inmates that have not yet been classified. C & D Wing construction is identical to the other wings, with the exception of the cell doors having a slot, which allows the passing of food trays, mail, etc. The 192 Building contains inmate telephones that are located in the recreation areas for use by the general population. There are also two telephones located in the C- Wing front day room for use by administrative segregation, protective custody, and classified administrative segregation status inmates. An enclosed recreation yard is adjacent to the outside of C- Wing.

Located behind Horigan, there are two metal-frame buildings that have been constructed for *Central Receiving* and a *supply warehouse*. There is a trailer located directly across from the Support Building which houses two classrooms, the tool control officer, fleet coordinator, transitional coordinator, and the programs activity coordinator. The trailer was renovated and opened in 2010 to provide more classroom and office space for the institution.

### **MCIW Facility Staffing**

MCIW has approximately 318 employees who may have contact with inmates. MCIW reported that they currently have 5 supervisor and 36 officer vacancies. They reported having 310 volunteers and individual contractors who also may have contact with inmates. Their staffing levels in all areas appeared appropriate for the amount of prisoners, programs and activities at the facility. Staff are assigned and deployed throughout the facility which allows MCIW to ensure that all areas are effectively monitored and the observation, safety and security of inmates is effective. Although MCIW has several vacancies, there was no evidence of staffing pressures affecting housing or programming decisions or having an impact on inmate sexual safety.

### **Video Surveillance**

MCIW has 60 operational cameras located in the facility: visit room, visitor registration building, support services building hallways, medical hallways, mental health unit hallways, multi-purpose building hallways; there are none in observations cells or areas that could view an inmate in the state of undress. Cameras were extremely well placed and visible in MCE and installed with overlapping fields of vision. Housing Units A thru D in building 192 was going through the process of camera installation during the audit process and was expected to be complete and available in April 2017.

During our interview with AW Briscoe she indicated as funds become available, they will continue installing cameras in the rest of the housing units and continue to enhance areas in the rest of the facility they feel are in need. The cameras were all visible and installed with overlapping fields of vision, including stairwells and corridors, recreation/dayroom area and will provide sufficient coverage of all areas. All camera footage is monitored by both female and male staff at MCIW. Cameras were checked during the tour and no cameras were in observation cells, showers or areas where inmates may be in a state of undress and viewed by the opposite gender.

### **MCIW Programs and Services**

Programs and services are well integrated into MCIW institutional operations. Through the utilization of community and in-house resources, MCIW offers an assortment of unique programming addressing issues such as Al-Anon, Alcoholics Anonymous, Narcotics, Chemically Dependent Anonymous, Civil Legal Workshop, Mediation, Baby Bonding, Book Club, Canine Partners for Life, Children's Day, Clothesline Project, Family Day, Girl Scouts Beyond Bars, Good Will, Grief & Forgiveness, Sister-2-Sister Mentoring Program, Storybook Project, and VOICE. MCIW also offers the following Resident Committees: W.H.O. Women helping others, W.H.A.T Women Having Amazing Talent, W.O.W Women of Wisdom, I.W.I.S.H Incarcerated Women Inside Seeking Help, S.C.R.E.A.M Stopping Criminal Recovering and Maintaining, I.L.C. Inmate Liaison Committee and M.O.M.S. Mothers Offering Mutual Support. MCIW Also offers High School classes and conducts GED testing, and provides higher education through Goucher College where students can earn an Associate's degree in Sociology.

### **Miscellaneous**

MCIW is in the process of preparing for their American Correctional Association (ACA) accreditation. The audit is scheduled for November 2017. MCIW's last PREA Audit was conducted in 2014. MCIW's Inmate count was 761 inmates on the date of our arrival and 756 on the date of our departure on March 2, 2017.



## **SUMMARY OF AUDIT FINDINGS**

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

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

115.67: Maryland Correctional Institute for Women has not provided proof that retaliation monitoring of inmates who report allegations of sexual abuse is being conducted.

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

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

115.81: Maryland DPSCS policy complies with sections a-d of this standard. However, agency policy does not speak of informed consent.

## **SUMMARY OF CORRECTIVE ACTION PERIOD**

During the Corrective Action Period, the agency, as well as the Maryland Institute for Women completed all the required updates and changes to their policies and procedures and forwarded all supportive documentation to the audit team for review. At this time, Maryland Correctional Institute for Women is in full compliance. Refer to each individual standard in this report for the details and specifics on how each standard was found to be compliant.

Number of standards exceeded: 0

Number of standards met: 43

Number of standards not met: 0

Number of standards not applicable:

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

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

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

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

The Maryland Correctional Institute for Woman (MCIW) provided Institutional Directive MCIW ID. 020.0026-1 which supports and upholds all agency standards. The directive clearly explains that MCIW has a zero tolerance for any acts of sexual abuse, assault, misconduct or harassment. The directive is well detailed and provides definitions of prohibited behaviors, requirements for training and education of staff and prisoners. It also covers staffing plans, rounds, screening for risk, reporting and responding duties and discipline and treatment for victims of sexual abuse and sexual harassment.

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

Specifically, Mr. Wolinski reviews the information gathered in order to look for trends or pockets of allegations to determine whether changes need to be made to policy or practice within a particular location or facility. Mr. Wolinski indicated there are 22 PREA Compliance Managers within the MDPSCS. He regularly interacts with them through email and telephone calls as well as during site visits to the facilities.

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

(c): MCIW provided documentation indicating Assistant Warden Cynthia Briscoe as the facility's PREA Compliance Manager. Assistant Warden Briscoe reports to the facility Warden Margaret Chippendale. During my interview with Assistant Warden Cynthia Briscoe, she indicated that PREA can be very time consuming however, the facility has developed a thorough system that allows MCIW to uphold each PREA standard and the many processes that go along with it. AW Briscoe stated she has sufficient time and authority to assure the facility is in compliance with PREA standards.

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

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

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

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

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

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

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

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

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

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

(a): MDPSCS Staffing Analyst and Overtime Management establishes a staffing plan for the facilities to comply with on a regular basis and states that all facility staffing plans are reviewed annually. Maryland Executive Directive OPS.115.0001, effective September 4, 2015 assigns responsibilities and authorizes a procedure manual for the MDPSCS to manage security staffing and overtime at a correctional and detention facility. While the agency policy does not specifically address all of the sub-sections of this standard, it is evident that MCIW 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. MCIW did provide their March 16, 2016 completed facility staffing plan. In addition, MCIW has provided documentation outlining their enhanced coverage with video monitoring throughout most of the institution. The facility was undergoing camera installation at the time of this audit. AW Briscoe shared during my interview with her that those areas which do not yet have video monitors; a plan is in place to install video monitoring in these areas in the near future. Through interviews of MCIW administration and review of the staffing plan and bi-annual reviews, it is evident that the facility is in compliance with all sections of this standard.

(b): The Assistant Warden reported during our interview that "collapsed positions" are considered based on the safety and security of the facility and inmates; in addition, she provided a detailed explanation from the Facility Staffing Plan Summary outlining the information that is considered and what steps 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. She also indicated that each shift submits a daily staffing plan at the conclusion of each shift, which will indicate if any positions need to be closed and if so why.

She did state 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 posts 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. MCIW provided documented justification for 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 MCIW does review staffing plans at least on an annual basis. During my interview with AW Briscoe she did indicate that she 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 MCIW prisoner sexual safety. As evidence to support the standard, MDPSCS provided their Staffing Analysis and Overtime Management Manual which echoed the requirements set forth in the executive directive listed below. Specifically, the purpose outlined in the manual states, "to establish policy and procedures to ensure safe, secure and efficient staffing of DPSCS facilities." Section VI also reaffirms the managing official shall maintain a current Facility Staffing Plan (FSP) approved by the Commissioner and the managing official, or designee, shall ensure the staffing plan reflects the most efficient use of officers to accomplish the mission of the facility by annually performing a review of the FSP.

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

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

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

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

While the agency policy does not required a review of the Facility Staffing Plan be conducted with the agency PREA Coordinator, OPS.115.0001, section .05, does require a review of a facility staffing plan be conducted and reported to the Executive Director's Office using the required form (agency directive attachment) for review and approval by the Executive Director or designee. The agency PREA Coordinator, Mr. David Wolinski indicated that he and the Major assigned to assist each facility within the agency with the annual review of the facility's staffing plan discuss each of the facility staffing plans. He then sends an email to the facility indicating he has reviewed the staffing plan and provides comments and/or direction when necessary. The MCIW PREA Compliance Manager indicated that Mr. Wolinski does send an email with regard to his review of the Facility Staffing Plan and she is in contact with him regularly regarding PREA compliance; however, she could not locate the email due to a system malfunction after the new facility electronic mail program was installed.

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

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

#### **Standard 115.14 Youthful inmates**

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

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion**

**must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Maryland Correctional Institute for Women does not house juvenile offenders. According to MCIW ID.020.0026-1, page 4. All youthful offenders are currently housed at the Patuxent Institution located in Jessup, Maryland. During my interview with AW Brisco, she indicated that the MDPSCS is in the process of constructing a new facility which will house juvenile offenders.

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

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

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

(a): MCIW 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 my interview with AW Briscoe she pointed out that the majority of staff working at MCIW are female staff and it would be close to impossible that the facility would ever have to deviate from this standard. According to AW Briscoe MCIW has an 85% female to 15% male staff ratio and cross-gender searches do not occur at MCIW. This is also the case in the Medical and Mental Health areas of the facility. As further evidence to support this standard, the facility provided MCIW's Institutional Directive MCIW ID.020.0026.1. In section A # 14 it states that frisk, pat and strip searches of female inmates must be conducted by correctional officers of the same gender, except in exigent circumstances when deemed so. In the event this occurs, approval must FIRST come from the Warden, Assistant Warden, or Chief of Security. Documentation must be provided in these circumstances and is **mandatory**.

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

(b): During random and formal interviews with both staff and inmates, it was reported that cross gender pat down searches do not occur at MCIW. It was pointed out multiple times during staff interviews because of the 85% female staffing ratio at MCIW, this is never an issue and even in exigent circumstances a female staff person is available. Because of the large number of female staff assigned to MCIW, inmates at this facility have full access to programming and out of cell activities. The inmates that were interviewed stated it is very rare that programming is ever cancelled and if a program is cancelled there are always other opportunities to partake in outside of the cell.

As further evidence to show support of this standard, Maryland DPSCS and MCIW offered Executive directive OPS.110.0047, Search Protocol-Inmates, effective April 15, 2015. It states in section E(3) a frisk search of a female inmate shall be conducted by female corrections officers, exempt a managing official or a designee may, based on exigent circumstances, authorize a male officer to conduct a frisk search on a female inmate provided the officer does not touch the breast or genital area of the inmate. Also, MCIW Directive .020.0026.1 indicates that cross-gender, transgender and intersex searches of inmates will be conducted by a female correctional officer in accordance with OPS. 110.0047.

(c): The facility reported zero instances of cross gender searches occurring in the last 12 months at MCIW. During interviews with random staff and inmates, it was clear that cross gender searches of ANY kind do not occur at MCIW. Even within medical, a female physician will be the primary physician conducting examinations, as well as any necessary visual body cavity searches on female inmates. According to AW Briscoe and other supervisory staff interviewed, if there ever was an occurrence of a male staff member needing to perform any type of search on an MCIW inmate, it would first have to be consented to and then it would be documented appropriately.

As evidence MCIW presented MDPSCS, executive directive OPS.110.0047, Search Protocol-Inmates, effective April 15, 2015. This directive states in section E(4)( i) that staff are to document frisk searches in accordance with requirements under §§.05C(1)(b) and C(3) of the same directive. §§.05C (1) (b) and C (3) of this directive requires documenting any items recovered during inmate searches. Nothing was found in policy requiring staff to document in writing any instances of cross gender frisk searches as required in this section of the standard. Section F(6)(b) states correctional employees conducting strip searches shall log or report the search in accordance with established procedures. Because there were no instances of cross-gender searches of female inmates reported, no documentations were reviewed. Again, MCIW staff indicated it would be documented if it occurred.

(d): During the tour of MCIW it was clear that the male staff commonly announce their presence when entering a housing unit. This is also documented in housing unit logbooks. While conducting random and specialized interviews with inmates, they also confirmed and that knocking and announcing “male on the tier” is the common phrase being used, on all three shifts, and this is being announced each time male staff enters a housing unit. During the audit tour it was obvious that inmates had sufficient privacy to change clothes and shower without direct cross-gender viewing by staff. All inmates interviewed indicated they felt they had enough privacy to perform these acts as well.

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

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



allegation of sexual misconduct. Also presented was MCIW Directive .020.0026.1. In section A, #13 it states that a person of the opposite gender entering a housing unit must conduct the Gender Announce Practice, it must be documented by the officer on post and the Officer in Charge (OIC). This practice is mandatory.

(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 expressed that this is taught to them at the academy and in training all throughout the year at MCIW. During an interview with the Facility PREA Manager, she stated that MCIW has never had a Transgender inmate at MCIW, however if they ever do intake a Transgender inmate, PREA standard will be followed and the appropriate steps will be taken by MCIW staff as dictated in MCIW ID.020.0026.1.

MCIW does show support of this practice in the institutions facility policy. # 15, #16, and #18 of MCIW ID.020.0026.1 states that Transgender and intersex inmates are to be searched by a female correctional officer in accordance with OPS.110.0047., A strip search of a transgender or intersex inmate may not be conducted for the sole purpose of determining the inmates genital status. If an inmate's genital status is unknown, it is to be determined through: a. Conversation with the inmate, B. A review of available medical records: or, c. Pat of a broader medical examination conducted in private by a licensed medical professional. #18 prohibits staff from searching or physically examining a transgender or intersex inmate for the sole purpose of determining the inmate's genital status.

Also, Maryland DPSCS, executive directive OPS.110.0047, Search Protocol-Inmates, effective April 15, 2015, states in section F(3), Strip searches of transgender and intersex inmates, states a strip search may not be conducted for the sole purpose of determining the inmate's genital status. Subsection (b) states when circumstances allow, staff should consult with a transgender or intersex inmate before conducting a search to determine the inmate's preference in the gender of the officer conducting the search. There is no indication these searches are occurring at MCIW. All staff clearly indicated this is not allowed and does not occur. There were no transgender inmates at MCIW.

(f): MCIW's Training Officer presented the PREA training module which is given annually to all MCIW 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. Furthermore the facility conducts training specifically related to "Managing Female Offenders". In this training proper searches are also addressed. As further evidence to show support of this standard the Maryland Police and Correctional Training Commissions Lesson Plan for security custody and control, dated November 2, 2015 was presented. This lesson plan covers searches of inmates, including cross-gender and transgender inmates. The lesson plan gives clear and detailed instruction on how to conduct these searches and includes a video on transgender searches. Training records were reviewed for randomly selected MCIW staff. Of those selected, all have had training covering PREA, LGBTI inmates and training covering searches of inmates, including cross-gender and transgender inmates. All staff interviewed also confirmed that they have had this training and complete it annually. Staff also indicated they receive a PREA refresher training on "fat Mondays" which occurs on a monthly basis.

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

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

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

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

The Maryland Corrections Institute for Woman (MCIW) requires that prior to being placed in to general population, each Inmate is provided with an orientation to the facility. Inmates are provided a copy of the inmate handbook in English or Spanish (whichever applies) for information and orientation purposes. The handbook includes information on PREA, access to health services, the grievance system, medical co-pays, etc. It also requires that if the inmate declares illiteracy, the handbook will be read to the inmate, or as appropriate, other orientation tools may include the showing of videos (in English and Spanish as required) and the completion of intake forms. In addition, non-English speaking inmates will be provided with interpretive services. A signed acknowledgement form is to be obtained from the inmate(s) and forwarded to case management for inclusion in his/her base file. MCIW presented auditors with evidence showing an inmate with limited English proficiency was provided PREA education in Spanish.

Auditors interviewed an inmate that had limited English proficiency. Upon talking with her, it was apparent that she had received and understood her PREA education in Spanish and she acknowledged being asked all relevant questions related to PREA during her risk screening. Agency Head – Special Assistant Martha Danner stated in her interview that the MDPSCS utilizes contracted interpretive services, videos, pamphlets and posters and are readily available at the facilities in both English and Spanish, and for other languages interpreter services is utilized.

(c): MCIW reported no instances of interpreters being utilized in the last 12 months. MCIW presented 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. MCIW Inmate files were reviewed and signed acknowledgements were present.

During the tour of the facility, both English and Spanish PREA documents were present and available. Interviews with random facility staff confirmed that inmates would not be used as interpreters and that interpreter services were available. Staff did state if it was an emergent situation and if information was needed right away, they would utilize an inmate to get details needed to better understand the situation. The agency showed that I Speak Cards are available to the facilities and are utilized to assist with determining the appropriate interpreter service needed to communicate with inmates.

There were no hearing impaired or vision impaired inmates housed at MCIW at the time of this audit, however MCIW did show that the appropriate tools are available for these types of disabled inmates in order to promote effective communication.

To show further support of this standard, MCIW 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, MCIW 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**

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

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

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

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

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

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

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

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

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

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

(b): Again, reviews of employee records show the applications utilized by the DPSCS directly ask applicants whether they have been the subject of sexual harassment in past. During the interview with Ms. Alston-Hatcher, 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): During the interview with Ms. Alston-Hatcher, she verified that background checks are performed on every applicant before offering a position, and they do consider pertinent civil or administrative judgments when determining whether or not to hire or promote anyone who may have contact with inmates, including contractors. 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. MCIW reported 36 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 MCIW do require that a criminal background check is completed prior to enlisting the services of any contractor. This was confirmed during the interview with Ms. Alston-Hatcher. 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 MCIW 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 my 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 MCIW. Ms. Alston-Hatcher 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. Ms. Alston-Hatcher 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 Ms. Alston-Hatcher 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 Human Resources Officer Karen Alston-Hatcher, she indicated 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**

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

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

(a-b): The Agency Head interview was conducted with Ms. Martha Danner, who is the Special Assistant to Deputy Secretary John Michael Ziegler. Ms. Danner indicated there have been no new facilities or substantial expansions or modifications of existing facilities. 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; separation of male and female housing; all cells are single occupancy – no double celling; glazed doors and walls where visibility and control is critical; shower stalls have partial height partitions to permit visual supervision without violating privacy; access to proper safe and behavior management cells; Strategically located supervision control and nursing stations; provision of normalized environment through effective and extensive daylighting and proper material and color choices.

MCIW reported there have been no substantial expansions or modifications to buildings on the premises since 2010; this was also apparent during the audit tour. MCIW is however in the process of upgrading their video monitoring systems. Cameras are obvious and in abundance in MCIW's Maryland Correctional Enterprises building (MCE).

MCIW is currently in the process of installing more video surveillance technology within housing unit 192 – A, B, C and D; Documentation was provided detailing the placement of cameras in these housing units, and documentation does take into consideration inmate privacy and inmate sexual safety. During the audit tour I observed the installation process of these cameras taking place. Also, upon speaking with the facility's Physical Plant Manager he pointed out the cameras that had already been installed and explained the coverage that will now be available in Housing Units 192 – A, B, C and D. It was apparent the placement of these cameras will greatly improve staff observation of inmates and eliminated blind spots where sexual abuse could occur. During my interview with the Assistant Warden, she indicated that the facility will continue adding video surveillance as funds become available, and it is their goal to have video surveillance available throughout the entire facility in order to enhance the sexual safety of the inmates at MCIW.

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

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

☐ Does Not Meet Standard (requires corrective action)

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

(a): Maryland DPSCS utilizes a specialized unit within its Department to conduct such investigations. Staff assigned to the Internal Investigative Unit (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.

MCIW Facility Directive MCIW .020.0026 requires immediate action to be taken once staff has been made aware of an incident of sexual assault, abuse or misconduct to ensure physical evidence is not destroyed. The directive provides steps that shall be taken to ensure that evidence is preserved and the victim protected. The PREA in-service training curriculum trains staff on responding responsibilities, which includes preserving and protecting a crime scene until appropriate steps can be taken to collect any evidence. Interviews with MCIW staff indicate they are aware of evidence preservation and all stated in some fashion that they would secure the crime scene, involve supervisors, medical and mental health staff, ensure any forensic exams are completed by SANE/SAFE staff and refer the incident to IID for investigation. Staff 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/MCIW does offer all victims of sexual abuse access to forensic medical examinations off site at Mercy Medical Center at no cost to the inmate. These examinations are performed by SANE/SAFE staff. Debra Holbrook, the SANE/SAFE Administrator at Mercy Medical Center was contacted. Ms. Holbrook stated that all forensic exams are conducted for MCIW 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. MCIW 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 MCIW 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.

MCIW Facility Directive MCIW.020.0026.1 requires that forensic medical examinations will be offered to all victims of sexual abuse and that examinations are conducted by a Sexual Assault Forensics Examiner (S.A.F.E) or a Sexual Assault Nurse Examiner (S.A.N.E) at Mercy Medical Center. The directive also indicates that treatment services are provided to every victim without financial cost and regardless of whether the victim names the perpetrator or cooperates with any investigation arising out of the incident.

(d)(e): DPSCS has contracted with Maryland Coalition Against Sexual Assault (MCASA) to provide these advocacy services statewide. The Maryland MCASA is the federally recognized state sexual assault coalition. Its core members are the state's 17 rape crisis and recovery centers, but it also represents the voices of many other professionals and service providers working with sexual assault survivors. MCASA provides policy advocacy, technical assistance, training, outreach, and prevention. MCASA's Sexual Assault Legal Institute (SALI) provides direct legal services for victims and survivors of sexual violence. As further evidence showing support of this standard, the following directives were presented: Maryland DPSCS directive IIU.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, section .05(D)(3) states, if the victim requests, coordinate with the managing official, or a designee, to arrange for a victim advocate to accompany the victim to provide support for the victim through the medical forensics examination and investigatory interviews.

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. MCIW reported there was 1 instance of sexual abuse within the audit period. An interview was conducted with this inmate who however the nature of her complaint did not arise to the level of a forensic exam/advocacy assistance. This inmate did confirm that she was referred to Mental Health right away and she did talk with them.



MCIW's Facility Directive MCIW.020.0026.1 indicates in the event the inmate is going to the hospital, medical provider must ask inmate if she wants a victim advocate to accompany her during the exam, if so the hospital is notified to make arrangements for the victim advocate.

During a phone interview with Mercy Hospitals SANE/SAFE Supervisor, she indicated that during business hours there is always a victim advocate available and if after hours, Turn Around Service is contacted and they provide the victim advocate if one is desired by the inmate. MCIW also has an appointed victim advocate at the facility.

(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 Mercy Hospital. During a phone interview with Mercy Hospitals SANE/SAFE Supervisor, she indicated that during business hours there is always a victim advocate available and if after hours, Turn Around Service is contacted and they provide the victim advocate if one is desired by the inmate.

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

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

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

(a): During the past 12 months, MCIW reported 7 allegations of sexual abuse/sexual harassment were received and indicated 7 were administratively investigated further. MCIW also reported that one investigation was referred for prosecution. IID investigation logs were reviewed and the logs did verify the 7 complaints that were submitted by MCIW. It should be noted; the inmate involved in the one complaint that was referred for prosecution had been discharged from custody and was not available to be interviewed.

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

When asked how an investigation is completed, the agency head responded that when an allegation is received by the agency, it is assigned to the agency's IID who then determines whether to investigate criminally or to assign it to the facility as an administrative investigation. The investigation is then conducted with a final determination detailed in the report which is retained by the agency.

To show further support of this standard, MCIW presented auditors with the following directives: 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.

MCIW Facility Directive 020.0026.1 requires all allegations of staff sexual misconduct or Inmate on Inmate sexual abuse investigations or any PREA related criminal and administrative investigations will be conducted by the Internal Investigation Division (IID). The directive also requires the perpetrator suspected of committing a sexual crime shall be managed in accordance with established policy and procedures pending a complete investigation and disciplinary process, inclusive of criminal charges, if applicable.

(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.

### **Standard 115.31 Employee training**

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

☐ Does Not Meet Standard (requires corrective action)

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

(a): All staff interviewed during the on-site audit at MCIW indicated they have annual PREA training. Staff also indicated they are receiving refresher PREA training all throughout the year on "Fat Mondays", which exceeds the requirement of this standard. It was clear during random and formal interviews that the MCIW staff was very well 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 very confident in being able to recite what steps they would take in the event they were directly involved in a complaint or instance involving sexual abuse or sexual harassment.

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

Maryland DPSCS Executive Directive OSPS.050.0030 "Sexual Misconduct-Prohibited" covers the applicable definitions and elements as covered in standard 115.31 (a) 1-10. The directive indicates that the head of a unit, or a designee, responsible for the custody and security of an inmate, in addition to responsibilities under section .05 paragraph B of this directive, shall ensure that, among other requirements, each employee attends approved training related to preventing, detecting, and responding to acts of sexual misconduct. Maryland DPDS Executive Directive OSPS.200.0004 continues policy for the DPSCS prohibiting inmate on inmate sexual conduct and assigns responsibility and procedures for reporting, responding to, investigating, processing, and resolving a complaint of inmate on inmate sexual conduct.

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

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

- Maryland Police and Correctional Training Commissions Lesson Plan for Correctional Entrance Level Training Program.

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

(b): DPSCS has an approved lesson plan titled, “Managing the Female Offender”. This training is tailored towards staff working at a facility that houses female inmates. MCIW Facility Directive.020.0026.1, section A, #11- indicates: the facility training department offers annual PREA training to all facility staff to include staff, all non-custody staff and any staff having contact with inmates. MCIW’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 MCIW staff are receiving the training tailored towards female offenders, however, if an MCIW 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 detainees. MCIW houses women inmates. There were training records provided showing that MCIW staff have completed the “Managing the Female Offender” training course. All MCIW staff, including contracted staff, also receives additional refresher PREA training on a monthly basis.

(c): MCIW reported that in the past 12 months 274 staff who has contact with inmates received the necessary PREA Training. MCIW’s Training Officer presented me with training records showing that all MCIW staff are in fact PREA trained. If staff are off on leave and miss this training, the staff member must receive this training prior to being permitted to have inmate contact. MCIW 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): MCIW training documentation provided to auditors, showed all staff from the Maryland Correctional Institution for Woman completed the mandatory in-service training for PREA and Sexual Harassment as indicated by their personal signatures. During the on-site audit several staff was selected at random and their training records reviewed. All staff reviewed had completed in-service training within the last 12 months and had also received the refresher training that is conducted on a monthly basis and is referred to

as “Fat Monday training”. The agency uses a computer based program to track employee training records. The program was maintained only by approved staff and was very detailed and informative.

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

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

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

(a): MCIW provided auditors with the institutions “Volunteer and Orientation Guide” dated July 28<sup>th</sup>, 2016. Page 21 of this guide is entitled Prison Rape Elimination Act and outlines the volunteer/contractor’s responsibilities as they relate to PREA including how one would report such incidents. Medical and Mental Health staff at MCIW is 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, and they also participate in the facility refresher training conducted on “Fat Mondays”. Mental Health and Medical training records were provided by MCIW confirming that these staff have completed PREA training. Medical and Mental Health staff interviewed, all indicated they also submit their documentation directly to their employer, Wexford Health. During the interview with a facility volunteer and they did state that prior to being able to have contact with the inmate population, she completed PREA related training which left her with a clear understanding of what PREA was and her 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: “Means an individual assigned to or employed to or employed by the Department in a full-time, part-time, temporary, or contractual position regardless of job title or classification which includes contractors, interns, volunteers and employees of the Maryland Department of Education, Labor, Licensing and Regulation and Baltimore City Public Schools.”

(b): MCIW indicated that they have 568 volunteers/contractors that are cleared to provide service inside MCIW. The volunteer that was interviewed indicated the PREA training they received did clearly explain the agency’s zero tolerance policy and it detailed the exact steps they needed to take in order to report any PREA related incidents. Training records for volunteers/contractors are maintained at the facility and 21 different volunteer files were reviewed during the audit. MDPSCS provided a copy of the brochure titled “Sexual Assault Prevention and Reporting, Staff Information Brochure”. This brochure is provided to all volunteers and contractors and outlines their requirements and gives the necessary PREA education that each volunteer/contractor would need in order to manage PREA issues as they arise. The department also provided a copy of the DPSCS Volunteer Program Administrative Manual which outlines the training required for all volunteers prior to beginning any assignment within the MDPSCS. Executive Directive ADM.170.0002 “Volunteer, Intern and Contractor Contact and Personal Information” establishes policy and responsibilities for a DPSCS volunteer, intern and contractor to ensure that contact and personal information on file with the department is accurate.

(c): MCIW presented auditors with the signature sheets of volunteers and contractors who had been given the "Volunteer and Orientation Guide". The signature of these individuals signifies that they received PREA training and they understand the training they have received. MCIW maintains a volunteer/contractor PREA acknowledgement log and indicates the date PREA training/information was provided. These documents were reviewed and contained signed acknowledgments indicating they have been made aware of PREA and their responsibilities as they relate to PREA.

### **Standard 115.33 Inmate education**

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

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

(a): MCIW reported that 477 of 477 inmates who were admitted to MCIW in the past 12 months received PREA information at intake. As observed during the intake process, inmates are given the Maryland Division of Corrections Handbook and Orientation, along with a pamphlet, The Prevention of Sexual Abuse in Prison-What Inmate Need to Know. There is also an Inmate Receipt of Division of Corrections Handbook and Orientation in which the inmate signs indicating that they have received a copy of the Handbook and Orientation and understand that MCIW has a zero tolerance policy for sexual assault, rape, or any sexual contact between inmates and staff.

During random interviews with inmates during the tour, each inmate interviewed stated they had received PREA education. During formal interviews of inmates that had arrived at the facility in the last 12 months, each inmate indicated that she had received PREA education upon the day of arrival at MCIW and this education included the facilities zero tolerance policy and how to report sexual abuse and sexual harassment.

MCIW provided the following directives to show further support of this standard: MCIW inmate handbook 2017, page 20 informs inmates of a hotline that has been established to eliminate prison rape and sexual abuse from inmate to inmate or staff to inmate and how this can be reported. The handbook also directs inmates to information that is posted in each housing unit; these postings were observed during the facility tour. The intake staff that were interviewed also stated that immediately upon arrival to MCIW, inmates do receive information related to the agency's PREA zero tolerance policy and the inmates receive pamphlets with reporting instructions and are also shown a video which includes how reports of sexual abuse and sexual harassment can be made.

Maryland DPSCS Facility Directive DCD 200-1 establishes the rights of Division of Corrections inmates. The directive mandates that each warden ensure that newly received inmates are provided information about inmate rights, general institutional schedules, procedures and institutional plans. The orientation may be provided through group sessions or by giving the inmate an orientation package. It further mandates that special assistance shall be provided to inmates with language or reading problems. The orientation materials or handbooks shall also be made available to the inmates for reference in the library or a designated area.

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

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

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

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

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

(b): Intake staff were interviewed and reported that upon arrival at MCIW, well exceeding the 30 day requirement, each inmate received at MCIW is provided with an inmate handbook and shown the PREA video before leaving the intake area. The inmate handbook was reviewed and covers PREA education as indicated. During interviews with inmates it was confirmed that they are viewing PREA video which details PREA including the inmates right to be free from sexual abuse, sexual harassment and retaliation. The video was also viewed by auditors while in this area.

Before leaving the intake area, inmates sign an acknowledgement form indicating they have received information on PREA. To further support this standard the facility presented MCIW's Facility Directive MCIW.020.0026, which indicates at intake inmates will view the PREA video and sign off on the PREA Acknowledgment Form, which will be placed in the inmate's base file. The acknowledgment form indicates that an MCIW staff member has counseled the inmate about PREA and MCIW's zero tolerance policy regarding sexual harassment and explains prevention, reporting and response to sexual abuse and harassment. Additionally, each inmate will be given a handbook which includes information about sexual abuse/assault which includes: prevention, intervention, self-protection, reporting and treatment and counseling. 32 random base files were reviewed and signed PREA education was present in each one.

(c): 32, randomly selected, inmate files were reviewed. All files contained PREA education/training signed acknowledgements forms. All prisoners interviewed reported they received some sort of PREA information. MCIW prisoners also indicated that the facility holds assemblies that are for PREA.

I also learned from inmates during the interview process that the facility teaches a song to the inmates that contain the phone number to the PREA Hotline, so the inmates memorize the phone number in the event they ever need it.

(d): All staff interviewed at MCIW was aware that interpreter services were available and provided for inmates at MCIW if needed. MCIW reported no instances where these services were utilized in the past 12 months. MCIW Facility Directive MCIW ID .020.0026-1 requires that if the inmate declares illiteracy, the inmate handbook will be read to the detainee, or as appropriate, other orientation tools may include the showing of videos (in English and Spanish as required). Non-English speaking detainees will be provided with interpretive services. A signed acknowledgement form is to be obtained from the inmate and forwarded to case management for inclusion in her base file. Statewide language interpretation services contracts have been awarded to Telephonic Language Interpretation, Vital Written Documents Translation, and Onsite Language Interpretation, which is utilized by MCIW if needed.

(e): All inmate files reviewed while at MCIW did contain signature sheets of inmates indicating the inmate received PREA Education. MCIW Facility Directive MCIW ID .020.0026-1 requires that PREA education/training acknowledgements 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. The Maryland Correctional Institute for Woman handbook for inmates 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 intake area, food service, medical and all housing units.

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

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

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

(a)(b): Upon formally interviewing an IID Detective Sergeant and informal interviews with administrative staff, detectives and a training supervisor, it was evident based on their knowledge the detectives assigned to conduct investigations into sexual abuse and sexual harassment allegations have been thoroughly trained to do so and received specialized training on how to conduct sexual abuse investigations in a confinement setting.

All allegations of sexual abuse and sexual harassment, criminal and administrative, are conducted by the IID unit and the detectives assigned to these investigations. The IID is quite large and has many detectives stationed throughout the state, and generally all detectives are former police officers with experience in conducting investigations prior to being hired as an IID detective. The agency provided the training module required of all IID detectives before conducting sexual abuse and sexual harassment investigations.



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

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

To further support this standard, MDPSCS presented auditors with the following directives and documentation: Title 12 DPSCS, subtitle 04 Police Training Commission, Chapter 01 General Regulations provides the minimum standards for entrance level training for police officers which includes training on criminal investigations. Maryland Correctional Services Code Ann. § 10-701 establishes the power of investigators within the Maryland Correctional Services to be able to exercise the powers of a peace or police officer on state owned or property controlled by the department. This code also establishes that an investigator in the Investigative Unit shall meet the minimum qualifications required and satisfactorily complete the training prescribed by the Maryland Police Training Commission.

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

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

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

(c): MDPSCS provided documentation during the site visit that all 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; Cross Cultural, Fraternization Academy, Interpersonal Communication, LGBTI, Managing the Female Offender Gender Response, PREA Academy, PREA Contractor, PREA In-Service, PREA Investigator, Security Custody Control, Sexual Harassment Academy, Sexual Harassment In-Service, Sexual Harassment Contractor and PREA Training.

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

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

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

(a)(c)(d): Maryland Correctional Institute for Woman 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 MCIW are full-time contractual employees.

MCIW 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. Medical and Mental Health staff also stated that they participate in PREA refresher training which is offered monthly at MCIW during "fat Monday" training.

To further support this standard I reviewed Executive Directive DPSCS.020.0026 which establishes policy for the department concerning sexual abuse and sexual harassment of an inmate. This directive (section .05 paragraph B(2) requires that the department ensures compliance in areas of PREA, including Medical and Mental Health Care as required by this standard. Also, Maryland DPSCS Executive Directive OSPS.050.0030 "Sexual Misconduct-Prohibited" mandates that each employee attends approved training related to preventing, detecting, and responding to acts of sexual misconduct.

Under the applicable directive "Employee" is defined as " an individual assigned to or employed by the Department in a full-time, part-time, temporary, or contractual position regardless of job title or classification which includes: contractors, interns, volunteers and employees of the Maryland Department of Education, Labor, Licensing and Regulation and Baltimore City Public Schools." This would include medical and mental health staff, whether direct employees or contractual employees.

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

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

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

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

(a)-(g): All inmates transferring into the Maryland Correctional Institute for Women (MCIW) are screened immediately upon arriving at the facility, well within the 72 hours permitted in this standard. This was further supported after review of 12 inmate files whom had recently rode into MCIW. 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 10 of the separate criteria required by this standard. Once the intake process is complete, each inmates PREA Intake Screening is then forwarded to the appropriate case manager, who then reviews the form for necessary programming and placement.

During an interview with Case Management, she indicated the case manager will interview the inmate again and go over the PREA Intake Screening which was completed at Intake, as well as conduct a reassessment of the inmate for risk of victimization within 30 day of inmates' arrival. As a triple check of the process, the case manager supervisor then reviews the new arrival inmate files to ensure the 72 hour and 30 day PREA Screenings were appropriately completed upon intake and placement. Furthermore, if an inmate discloses during the intake process that she was ever either a victim or perpetrator of sexual abuse, she is then automatically referred to Medical and/or Mental Health Services. All of which was evidenced through the 2 Case Management staff interviews and review of 12 random inmate files of inmates who had recently rode into MCIW. In further support of the standard, the Case Manager also provided 8 examples of emails with inmate referrals to Mental Health upon finding evidence that an inmate disclosed being either a victim or perpetrator of sexual abuse.

Of the 27 random inmate interviews, 16 of which had ridden into the facility in the past 2 years and also indicated that they were seen within hours of their arrival at MCIW and assessed at both intake and reassessed within 30 days of arrival by their assigned case manager and during both assessments they were asked questions related to PREA. Any reassessments required due to a referral, request, incident of sexual abuse, or additional information received that bears on the inmate's risk of sexual victimization or abusiveness are completed when necessary by the case manager; as indicated in the PAQ, there were ten such incidents and auditor review of inmate files confirmed that reassessments were being completed as required. During the tour, there were 80 inmates interviewed and all were aware of PREA and indicated that they were asked questions related to PREA during intake and upon arrival to their housing unit. The PREA Screening process at MCIW exceeds the requirements of this standard as there are three checks by various

levels of staff that ensure that each inmate understands their rights with regard to PREA, as well as to ensure proper screening and placement as required by the standards to ensure the inmates' sexual safety.

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

(h)-(i): Staff and inmate interviews support that the facility meets the requirements of this standard; Staff indicated during formal interviews that prisoners would not be disciplined for refusing to answer questions during the assessment process. There was no evidence found during the audit which would indicate that an inmate would be disciplined for refusing to answer or disclose information related to this screening. In addition, interviews with staff support that only specifically classified staff are allowed to access inmate classification files, this was also confirmed due to the inmate files being maintained in the case managers offices which are in a locked area outside of the housing unit.

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

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

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

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

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

(a-g): During staff interviews with the Case Manager and Case Manager Supervisor, they both indicated that all incoming inmates are reviewed and assessed individually; if an inmate comes in with obvious signs of vulnerability, staff will ensure the prisoner is properly placed in order to ensure the inmate's safety from becoming a victim of sexual abuse. The facility has an excellent process using the PREA Screening tool and electronic offender system in which three staff at different levels are conducting a check of the inmates' assessments for individual placement for each inmate. 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 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.

(a-b): MCIW Case Management staff provided a thorough explanation of the facility's electronic offender tracking system. The information for Risk of Victimization and Abusiveness gathered from the PREA Screening tool during intake is reviewed and entered into this system by the Case Manager. Through interviews of staff and review of inmate files, there was evidence that a prisoner is not only assessed at intake along with a review of the assessment by the Case Managers, but also re-assessed within 30 days of arrival, and again if more information is received at any time regarding an inmate being involved in any incidents of sexual abusiveness. MCIW utilizes a Case Management team who reassesses the prisoners risk level and determines proper housing/bunking placement within the facility in order to ensure a safe environment for all inmates.

(c, d, e): In addition, according to PPREA Coordinator Briscoe, if there were transgender or intersex inmates at MCIW, staff would consider where transgender and intersex prisoners 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 are 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 that placement does not present management or security problems. Based on section .05, item C, of the facility's directive, along with Case Manager and Case Manager Supervisor's interviews and documentation reviewed confirms there is a process in place to ensure that placement and programming for transgender and intersex inmates is reassessed at least twice yearly.

(f): As observed during the tour, MCIW housing units have individual showers only; the showers have either stall doors or curtains, which only expose approximately a foot up from the ground. *All inmates* interviewed stated that the showers available provided them with privacy, as was also witnessed by the auditor. In addition, the showers are placed in the housing unit so as to ensure 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 very evident that inmates are not placed in specific facilities or units based solely on the identification of being lesbian, gay, bisexual, transgender, or intersex. Staff stated placement of inmates is assigned based on overall needs, and safety and security of the inmate using the standardized risk assessment screening. In interviews with 5 separate lesbian inmates, each one reported feeling accepted and treated equally at MCIW and reported that they are not placed in any one particular location based on their sexual identity.

Overall review of MCIW's processes with regard to placement of inmates through use of the PREA Screening Tool and staffs' diligent assessment and reassessments of inmates to ensure their safety, along with providing more than adequate showering facilities which provide ALL inmates privacy and safety when showering supports that MCIW meets the requirements within this standard.

### Standard 115.43 Protective custody

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

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

(a-d): MCIW has reported zero instances of victims being placed in segregation for the time frame of the audit period as 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. AW Briscoe indicated during her interview, 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, MCIW presented MDPSCS Case Management Manual DOC.100.0002, Section 18 "Special Confinement Housing". Section E(1) indicates that Protective custody housing is appropriate only when required for the protection of the inmate. Every effort shall be made by case management staff and the managing official to find suitable alternatives to protective custody housing. Alternatives may include, but are not limited to:

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

(a, b): During an interview with Case Management it was stated that If protective custody housing is utilized or recommended by the Case Management team the supporting rationale shall be documented on a Case Management Assignment Sheet. During an interview with the Segregation Captain, she indicated that if an inmate was ever placed in segregation for reasons related to being a victim of sexual abuse, that inmate would have access to all of the programming she would normally have in general population. There were no instances reported of inmates being placed in segregation based on being a victim of sexual abuse.

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

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

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

#### **Standard 115.51 Inmate reporting**

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

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

(a): Upon touring the Maryland Correctional Institute for Women (MCIW), auditors observed the PREA Hotline phone number posted in both English and Spanish above all of the inmate phones in the facility and upon testing the connection to the Hotline, the phone number and connection was operating appropriately during our visit at MCIW. During 79 random and 27 formal interviews, inmates communicated various ways that they could report sexual abuse and sexual harassment. The inmates expressed being able to file a complaint via a grievance type system and also stated they would utilize the PREA hotline in the event a PREA related issue ever arose. Inmates stated they felt comfortable being able to approach staff to report a complaint and also expressed knowing they could have a third party lodge a complaint on their behalf and do so anonymously. During interviews, inmates stated they knew of individuals that had utilized the hotline and received timely staff response related to their phone call.

During random staff interviews each of the 34 staff were able to recite the different options inmates have available to them to report any incident of sexual abuse or sexual harassment. The staff also knew they could utilize these options as well if they ever needed to make a report, but most felt completely confident in being able to approach a supervisor.

I reviewed Maryland DPSCS Executive Directives OSPS.0510.0030, effective date June 26, 2015, section 5(E) and OSPS.200.0004, effective date November 13, 2015. In section 5(E) it 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 DPSCS employee.

(b): The MDPSCS has established a PREA Hotline which is used to report incidents of inmate on inmate, or staff on inmate sexual misconduct and harassment, related retaliation or staff neglect. The hotline is monitored through Life Crisis Center Inc., which is a vendor contracted with the MDPSCS. Procedures were established December 2, 2013 detailing how the hotline will be monitored and ensures that all PREA related calls are documented and information is forwarded to the Internal Investigation Division (IID).

I reviewed MDPSCS Executive Directives OSPS.050.0030, 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.

(c): MDPSCS Executive Directives OSPS.050.0030, 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 the appropriate written format used to document a misconduct if an incident has been witnessed by the staff person. 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. During all 34 staff interviews they knew each of the various ways an inmate could make reports of abuse. The 27 inmate interviewed also knew of the different reporting mechanisms available to them, as well as the ability of a third party to make a report on their behalf.

(d): Interviews with staff and inmates all support that both inmates and staff know of their obligation and ability to report instances both personally, through third parties, in writing, verbally and through anonymous options and knew that these reports would remain private.

PREA Postings were prevalent throughout the facility with reporting options, as well as in the prisoner handbook and intake processing paperwork. In addition to the several postings, the PREA hotline number was posted above all inmate phones throughout the institution. There was evidence through observation of postings and interviews with staff and inmates that the requirements of this standard are being met. MDPSCS Executive Directives OSPS.050.0030, effective date June 26, 2015, section 5(F) and OSPS.200.0004, effective date November 13, 2015, section 5(E) indicate that staff have an obligation to immediately report the complaint to a supervisor, manager, shift commander or head of the facility. The same directive indicates that the complaint filed is confidential and may be filed anonymously as well.



### Standard 115.52 Exhaustion of administrative remedies

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

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

(a-g): The Maryland Department of Public Safety and Correctional Services (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, item F, states that an inmate may not seek to resolve a complaint through the Administrative Remedy Process (ARP) for issues that include (#5) rape, sexual assault, sexual harassment, sexual abuse, sexual misconduct, inmate on inmate sexual conduct or other areas afforded protection by standards established under the authority of the Prison Rape Elimination Act (PREA) and related Department procedures, which shall be addressed according to Department procedures for reporting, investigating, resolving and documenting PREA related incidents.

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

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

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

(a): MCIW provided documentation to support that inmates are provided access to outside victim advocates mailing addresses and phone numbers for emotional support services related to sexual abuse in the MCIW PREA Audit Report

Handbook. The victim advocate and rape crisis hotlines provided are local services which provide emotional support, including victim advocacy and a help line for the aftermath of a sexual assault. These advocacy services were contracted by the agency through Maryland Coalition Against Sexual Assault (MCASA).

In addition, contact was made with Mercy Hospital and there are advocates on duty from 8:00 a.m. until 4:00 p.m. and advocates “on call” during “off duty” hours who will provide these services to the inmates upon request. The Warden has also designated, Mia Cohen, a licensed Mental Health Professional Counselor, as a victim advocate at the facility. As confirmed through an interview with Ms. Cohen, she does provide the services of a victim advocate whenever needed; she also stated that she will return to the facility when she is “off duty” in order to provide these services when necessary, as requested.

Maryland DPSCS Executive Directive OSPS.050.0030, effective date June 26, 2015, section .05-Responsibility/Procedures states that 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). There was no applicable instance of an inmate needing outside resources, however during the random interviews with inmates, they did know they could have access to outside support services and their information would remain anonymous.

(b): The contract for Maryland Coalition Against Sexual Assault (MCASA) states that MCASA will develop procedures to meet PREA Standard 115.53. The contract specifies that they will communicate the limits of confidentiality to inmates in conjunction with the Department’s PREA Coordinator. As indicated through the interview with the facility designated advocate, as well as through the MCIW Handbook inmates are informed of the limits of confidentiality when reporting incidents to victim advocates.

(c): The agency provided electronic mail showing contact and attempt to enter into an agreement with the Maryland Coalition Against Sexual Assault (MCASA). The MCASA is a federally recognized state sexual assault coalition and its core members are the state’s 17 rape crisis and recovery centers. The MCASA provides policy advocacy, technical assistance, training outreach and prevention. The agency provided documentation showing an agreement with MCASA to provide support services, along with documents which include all of the rape crisis and recovery centers contracted with MCASA throughout Maryland.

Interviews with staff and inmates all support that the facility has provided contact information for outside victim advocacy, as well as the facility designated victim advocate. In addition, it is evident that inmates are aware of the limits of confidentiality when reporting incidents to the victim advocates.

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

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

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion**

**must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

The MDPSCS 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. Maryland DPSCS Executive Directives OSPS.050.0030, effective date June 26, 2015, section 5(E) and OSPS.200.0004, effective date November 13, 2015, section 5(E) state that a complaint may be submitted by a third party on behalf of the victim or other individual who has knowledge of the alleged sexual misconduct.

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

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

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

(a): MDPSCS does require all MDPSCS staff to report immediately any suspected or actual incidents of sexual abuse and sexual harassment, as well as retaliation against inmates or staff who reported such incidents. However the contracted employee's policies are in direct contradiction of the agency's directives of this standard, causing them to be non-compliant.

Executive Directive OSPS.050.0030, section .04 defines the term employee to include paid staff, contractors, interns, and volunteers. Section .05, 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 .05, also 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). During interviews with random staff including medical and mental health staff, each employee knew of their responsibility to report all incidents of sexual abuse, sexual harassment and retaliation.

The Wexford Health Sources Incorporated "P-314 Procedure in the Event of Sexual Assault" requires their employees, who are contracted health care employees with the agency, receive informed consent from the inmate prior to reporting abuse allegations for incidents occurring outside the institutional setting or for any occurrences that happened under the age of 18. Also, Wexford Health staff members are required to report all reported acts of sexual abuse and sexual harassment to the appropriate facility staff immediately upon receiving such information.

(b): During interviews with the 34 random staff, it was clear that staff practiced confidentiality and knew that in the event they had to report an incident of abuse, it would be to their direct supervisor only.

In further support of this standard, I reviewed the Executive Directive OSPS.050.0030 and it 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.

(c): As indicated in section (a), the contractor does allow reporting without informed consent from the inmate in the event the incident occurred within an institutional setting. The sample document provided titled "Limits of Confidentiality" addresses the fact that issues related to sexual abuse within the correctional setting cannot be kept confidential. During interviews Medical and Mental Health staff did know of their responsibility to report all instances of sexual abuse.

(d): The law covers all applicable reporting requirements, including the mandatory reporting requirements of the individual if under the age of 18. The facility does not house youthful inmates, therefore the under the age of 18 requirement does not apply. OSPS.050.0030 Section .05 requires that IIU 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. During the interview with AW Briscoe, she indicated in the event there is an incident involving a vulnerable adult, the facility and the agency report the incident to the department of social services. MCIW does not house juveniles.

(e): All 34 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. Health Care staff also indicated they were aware of their reporting requirements with regard to PREA. AW Briscoe also indicated that all allegations of sexual abuse and sexual harassment are reported immediately up through the Warden and are then assigned to be investigated. Section .05(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 (1)(c) states that a complaint of alleged sexual misconduct may be submitted by a third party on behalf of the victim or other individual who has knowledge of the alleged sexual misconduct.

The agency provided supporting documents to include a full listing of all Maryland County Child Protective Services Phone Numbers and agency names. Also, provided was the Limits of Confidentiality form that each inmate signs when receiving treatment from medical or mental health services. This form indicates that the treatment provider must report any information that presents a threat to the inmate, others in the facility, safety of the institution, and/or public safety. The form also states that issues related to sexual abuse within the correctional setting cannot be kept confidential.

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

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

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion**

**must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Supporting documentation showed that the MDPSCS and MCIW takes adequate measures to ensure inmates subject to substantial risk of imminent sexual abuse are provided immediate protection through use of the PREA Intake Screening instrument, as well as through specific and detailed procedures outlined in the agency's directives and Case Management manual. Interviews with the Agency Head, Assistant Warden, and several random Staff all indicate that any time a staff member becomes aware that an inmate is at risk of imminent sexual abuse they will remove the inmate from the situation and protect them by following all the applicable procedures. The agency and facility meet the requirements of this standard. The following directives were reviewed and support this standard:

Maryland DPSCS Executive Directive COS.200.0005, section.05(C)(1), states that screening information shall be considered (a) when making decisions related to housing, bed, work, education, and program assignments with the goal of separating inmates who are determined to be at high risk of being sexually victimized from inmates who are determined to be at high risk of being sexually abusive. (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.

MDPSCS Executive Directive – Sexual Misconduct Prohibited OSPS.050.0030 – Section D, states in part, that a supervisor, manager, or shift commander shall: (4) Ensure the safety of a victim of sexual misconduct, through a coordinated response to a complaint of sexual misconduct that includes: (a) Immediately stopping an incident in progress; (b) If applicable, immediate medical attention;

(c) Appropriate action to provide immediate and continued personal protection; (d) Referral for medical and mental health care follow-up; and (e) Non-medical or mental health related counseling and support services. Section F(3)(a)(ii), states that if a sexual misconduct is actively taking place, staff shall safeguard the victim from further harm.

MDPSCS Case Management Manual, Special Confinement Housing, page 108, specifically addresses Protective Custody. The manual states that Special Confinement Housing may be used to ensure the safety of an individual inmate, further the policy indicates that Protective Custody housing is appropriate only when required for the protection of the inmate and that every effort shall be made to find suitable alternatives to protective custody housing.

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 that 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.

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

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

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

(a): Upon interviewing Assistant Warden Briscoe, she did indicate if they received a report from an inmate alleging abuse at another agency or facility, Warden Chippendale would contact the head of that facility to report the alleged incident, therefore they agency is in compliance with this standard. It seems the agency's executive directives contradict standard. After review of Maryland DPSCS Executive Directives OSPS.050.0030, effective date June 26, 2015, and OSPS.200.0004, effective date November 13, 2015, it states, if a complaint of alleged sexual misconduct is received by a supervisor, manager, shift commander, or head of the unit at a facility other than the facility where the alleged sexual misconduct occurred, the head of the unit responsible for the facility receiving the complaint *shall immediately notify the Intelligence and Investigative Division (IID) of the complaint.*

Section (7) states, an *IID representative* notified under section .05(E)(6) of this directive *shall immediately*, if the facility where the alleged sexual misconduct occurred is not a Department facility, *notify the official responsible for the facility where the alleged misconduct occurred and document the notification.* If the facility where the alleged sexual misconduct occurred is a Department facility, notify the appropriate Department official with responsibility for the facility where the alleged sexual misconduct occurred to ensure that the complaint is addressed according to requirements established under this directive and document the notification.

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

(b) Section .05(E)(6-7) of the directive indicates the notification will be made immediately upon receiving the complaint. Immediately does not indicate that the appropriate notification will be made within 72 hours; however, MCIW indicated there was one instance reported regarding allegations of sexual abuse that occurred at another facility. An interview with the Assistant Warden Cynthia Briscoe, who was acting for Warden Chippendale, indicated that the notification to the IID would be the same day as the receipt of notification, which would be well within the 72 hours requirement; however, the agency policy states that the facility head shall notify the IID who will then notify the other facility head, which does not meet section (a) of this standard, in addition, the agency's policy states "immediately", which could be left to one's perception of "immediate"; section (b) of this standard specifically requires notification within 72 hours. (c) Assistant Warden Briscoe indicated that all reports of this nature are documented appropriately. Section .05 (E)(7)(a-b) both indicate that the Intelligence and Investigative Division (IID) will make the notification and document the notification.

(d) While MCIW's processes support this standard, review of the agency's directive, along with the interview of the agency PREA Coordinator, it has been determined the agency's process does not directly follow the requirements of section (a) and (b); therefore, not meeting this standard.

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

**Corrective Action Plan – RESPONSE** - The agency updated and submitted Executive Directive OPS.050.001 and OPS.200.0005 as evidence that appropriate changes have been made requiring the facility head to make notification to head of the facility where the abuse occurred. A Notice of Incident form was also created and submitted. **115.63 is complaint at this time.**

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

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

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

(a): The agency directives did not contain any verbiage related to all Staff First Responder Duties. The documentation provided only indicates the first responder steps that a supervisor, manager, shift commander or head of the unit receiving a complaint will take; however, the directive does not mention all staff and/or custody staff, only that they will report immediately.

Based on the directive's lack of clear and specific instruction for all staff, including custody and support staff, the agency does not meet this section of the standard.

While the agency's directive is lacking, all of the MCIW facility staff interviewed indicated that they had been trained in the steps to take as a first responder and were able to articulate their responsibilities as they relate to properly managing an incident of sexual abuse as directed by the standard.

MDPSCS Executive Directives OSPS.050.0030, effective date June 26, 2015, and OSPS.200.0004, effective date November 13, 2015, states that a supervisor, manager, or shift commander shall: (4) Ensure the safety of a victim of sexual misconduct, through a coordinated response to a complaint of sexual misconduct that includes:

(a) Immediately stopping an incident in progress; (b) If applicable, immediate medical attention; (c) Appropriate action to provide immediate and continued personal protection; (d) Referral for medical and mental health care follow-up; and (e) Non-medical or mental health related counseling and support services. (115.64 a)

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

(a-b): While the agency's directive nor the PREA training specify the requirements of a "non-security staff person" as required in section (b) of this standard, interviews with several random non-security staff, as well as medical staff, who all attended PREA training, indicated the steps they would take as a first responder, to include notifying security staff.

Additionally, the Sexual Assault Treatment policy, as well as the Wexford Health *P-314 Procedure in the Event of Sexual Assault* was provided and does outline the procedure that will be taken by Wexford health care staff in the event of treating a victim of sexual assault. The medical staff interviewed showed proficiency of this standard as demonstrated through their answers to the questions of being a first responder. All were able to articulate the steps that would be taken as a first responder including notification of custody staff. The agency also provided the training lesson plan for *Prison Rape Elimination Act* staff training.

The section, "Your Responsibility and Responding," outlines the steps all staff are required to take as first responders as required by section (a) of this standard; however, there is no reference to the specific responsibilities of non-security staff as first responders. Section (b) of this standard requires that non-security staff first responders shall request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff.

**Corrective Action Plan – RESPONSE** - The agency updated and submitted Executive Directive OPS.050.001 and OPS.200.0005 as evidence that shows what first responder duties are, which includes non-security staff. The PREA In-Service training module for staff coincides with these updates. **115.64 is complaint at this time.**



### Standard 115.65 Coordinated response

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

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

MCIW and MDPCS provided Executive Directive – Sexual Misconduct – Prohibited OSPA.050.0030 and Executive Directive - Inmate on Inmate Sexual Conduct – Prohibited OSPA.200.0004 which both explain the process of reporting/processing a complaint, preserving evidence and protecting alleged victim, investigating a complaint, and providing medical and mental health care, as well as the facility and agency leadership's roles are in the process.

In addition, an Inmate Sexual Assault Allegation Decision Tree for Medical Decisions was provided by the agency; this document outlines the steps taken by medical staff when receiving an allegation of sexual assault. The agency's directives together with the Inmate Sexual Assault Allegation Decision Tree for Medical Decisions are an institutional plan that supports that both the agency and facility meet this standard. During my interview with AW Briscoe she indicated the facility does have a written facility plan in place which helps to direct staff as to what steps need to be taken in response to an incident of sexual abuse and this plan is available to MCIW staff including Mental Health and Medical staff. AW Briscoe indicated that staff refers to the facility plan as a decision tree and staff know to direct their attention to the decision tree in the event of an incident of sexual abuse. The decision tree assures that staff is utilizing a thorough step by step approach when dealing with PREA incidents.

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

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

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

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

Also submitted was Maryland State Personnel and Pension 3-302 Management Rights -stipulating management's rights as provided by law. Items 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.

Todd Butler conducted the agency head interview with Martha Danner, Special Assistant to the Deputy Secretary, John Michael on February 27, 2017. In regard to the agency's response addressing protecting alleged victims from abusers, the agency head indicated that current collective bargaining agreements are effective until December 2017. These agreements, and Maryland law, allow the agency to reassign staff at any time, or to place staff on leave pending an investigation. This allows the agency full latitude to keep alleged inmate victims separate from staff that have been identified in a complaint. Supporting documents provided do not include any language which would conflict with standards 115.72 or 115.76; therefore, the agency meets this standard.

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

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

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

(a, c, e): As support of an established plan, the Agency provided directives, IIU.110.0011 Investigating Sex Related Offenses, and Executive Directive – Sexual Misconduct- Prohibited OSPS.050.0030. 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 includes information to support sections (a), (c) and (e) of this standard. All of the above referenced directives indicate that either the agency head or the investigator shall 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. Also, included in section .05(H) are multiple protection measures the agency follows depending upon the allegations and alleged victim.

Todd Butler conducted the agency head interview with Martha Danner, Special Assistant to the Deputy Secretary, John Michael on February 27, 2017. During the interview Ms. Danner responded to the question pertaining to the agency's efforts to protect inmates from retaliation by stating that those making allegations are immediately separated from the alleged abuser(s). The facility's Warden or Security Chief are charged with ensuring that retaliation does not occur within his/her facility at any time.

(b, c, e): Executive Directive – Sexual Misconduct- Prohibited OSPS.050.0030 section .05B(3)(a-b) indicates that an individual, staff or inmate, reporting, participating in the investigation or resolution of, or who is the victim of alleged sexual misconduct is monitored for 90 days against retaliation and if retaliation is detected will take action which may include, application of available medical or mental health services or counseling; changes to inmate housing assignments and staff work assignments; and continued monitoring as deemed appropriate. AW Briscoe indicated that MCIW will assure the inmate that is making an allegation of either sexual abuse or sexual harassment, is separated from that individual during the course of the investigation, and if the investigation was found to have merit, arrangements would be made to appropriately place that inmate to assure no further victimization could occur. AW Briscoe also stated the institution was monitoring inmates for retaliation, for at least 90 days, following a report of sexual abuse. Upon interviewing the prisoner that had reported sexual abuse, she did indicate feeling protected and if anyone had threatened her or acted inappropriately because of her report, she definitely would have went to a staff person. This inmate stated she had no further issues with the staff person following her complaint.

(d): Executive Directive – Sexual Misconduct- Prohibited OSPS.050.0030, section .05B(3)(c), addresses continued monitoring as deemed appropriate, however it does not state that the agency will conduct periodic status checks as required by section (e) of this standard. In addition, neither the facility nor the Intelligence and Investigative Division (IID) could not provide any documentation supporting that periodic status checks are conducted. There was documentation provided by MCIW indicating retaliation monitoring was taking place, however the examples provided showed that MCIW was not monitoring appropriately and were ending at 60 days in investigations that were found to be insufficient.

(f): There was no documentation provided to support that the agency shall terminate monitoring if the agency determines that the allegation is unfounded as required by section (f) of this standard. MCIW's Pre-Audit Questionnaire (PAQ) reported that there were no instances of retaliation in the past 12 months. MCIW provided the method in which they would document the retaliation monitoring if any had been reported however the examples provided showed that retaliation monitoring was not being conducted appropriately and lacked any evidence of periodic status checks. Through interviews with facility investigation staff, it was reported that the IID conducts the retaliation monitoring and would maintain that documentation in the IID investigation file, however the interview with IID investigators determined that the facility was responsible for the retaliation monitoring. There seems to be some confusion or miscommunication between IID and facility related to the retaliation monitoring processes. Due to the lack of supporting documentation regarding the process of retaliation monitoring and periodic status checks, the agency/facility does not meet this standard.

**Corrective Action Plan: RESPONSE** - The agency created a new Retaliation Monitoring form and disseminated it to all facilities, including MCIW. On April 18<sup>th</sup>, 2017 Assistant Warden Cynthia Briscoe informed her facility that Building Supervisors were now responsible for maintaining a log indicating an inmate who has filed a PREA complaint is being monitored to ensure there is no retaliation. On August 11, 2017 MCIW submitted 6 examples to support that MCIW is using the new form and to show that MCIW is conducting retaliation monitoring as required by this standard. **115.67 is complaint at this time.**

### Standard 115.68 Post-allegation protective custody

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

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

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 indicated by AW Briscoe, segregation is used as a last resort to protect a victim of sexual abuse. If an inmate were placed in segregation, that inmate would have all privileges available in GP and would be reviewed at least every 30 days. MCIW reported zero instances of segregating an inmate who alleged sexual abuse.

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.

In further support of this standard, I reviewed MDPSCS Case Management Manual, DOC.100.0002, Section 18 "Special Confinement Housing" Section E(1), which 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).

### Standard 115.71 Criminal and administrative agency investigations

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

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

(a): Upon interviewing IID Detective Sergeant Ann Nicodemus, she indicated an investigation is generally initiated within 24 hours of receiving the allegation. In rare circumstances, an investigation may be delayed to day two or three if a detective is not readily available. However, she stated there is always an IID detective on call, 24/7 so there is rarely a time when a detective wouldn't be readily available.

To further support this standard I reviewed MDPSCS directive IID.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, which specifically states this directive applies to personnel assigned to conduct an investigation of all allegations of misconduct that involves a sex related offense.

Furthermore, Section .03(A) states, in part, the Department shall promptly, thoroughly and objectively investigate each allegation of employee or inmate misconduct involving a sex related offense. Also, Agency OSPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015, states a complaint of alleged sexual misconduct may be submitted by a third-party on behalf of the victim or other individual who has knowledge of the alleged sexual misconduct.

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

(b): During the facility visit, the IID division secretary provided a printout of all the IID investigative detectives who have completed the required investigative training regarding allegations of sexual abuse and sexual harassment. All IID investigative detectives have completed the training. Additionally, all allegations of sexual abuse and sexual harassment, criminal and administrative, are conducted by the IID unit and the detectives assigned to these investigations. The IID is quite large and has many detectives stationed throughout the state, and generally all detectives are former police officers with experience in conducting investigations prior to being hired as an IID detective. The agency provided the training module required of all IID detectives before conducting sexual abuse and sexual harassment investigations. While interviewing IID Detective Ann Nicodemus, she indicated she not only received the training as required by DPSCS policy, she also trains facility staff on how to assist with investigations.

Ms. Nicodemus indicated the specialized training she received regarding investigation sexual abuse and sexual harassment was in addition to the general PREA training all staff received. To further support this standard, I reviewed MDPSCS directive IID.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, which 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.

(c): Upon interviewing IID Detective Sergeant Nicodemus, she stated facility staff is trained to secure the area an alleged assault occurred until IID staff arrives to process the area as a crime scene. During this time, access to the scene is limited and documented who entered and why. IID staff process the area for any physical evidence including DNA. Additionally, DPSCS policy requires alleged victims to be sent to a nearby hospital for a forensic exam to be conducted by SANE/SAFE certified staff.

This directive specifically addresses the credibility of a victim, witness, and suspect. However the remainder of the section regarding interviews speaks directly about the requirement of the investigator to conduct interviews and follow-up interviews of the victim only. Agency directive OSPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015, states An IID investigator, or an investigator designated by the IID, shall

conduct a prompt, thorough and objective investigation of every complaint of alleged sexual misconduct according to applicable statutory, regulatory, case law, contract, Department procedures, or other reasonably accepted standards related to interviewing victims and witnesses.

Additionally, agency directive OSPS.200.0004, Inmate on Inmate Sexual Conduct-Prohibited, effective November 13, 2015, states an investigator, or designee, shall conduct a prompt, thorough, and objective investigation of every complaint of alleged inmate on inmate sexual conduct according to applicable statute, regulatory, case law, contract, Department or agency procedures, or other reasonable accepted standards related to interviewing victims and witnesses. Although agency investigations demonstrate a practice of interviewing the suspected perpetrators during an investigation, nothing in agency directive requires an interview with suspected perpetrators.

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

(d): Under the follow-up activities section of this directive, the investigator is required to work with the prosecutor to develop a case for criminal prosecution. IID staff indicated during interviews, that whenever a complaint contains potentially criminal allegations, Miranda and Garrity are implemented appropriately in order to ensure the information gathered during the investigation does not jeopardize a criminal investigation.

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

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

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

(f)(2): Subsection .05(D)(7) states the investigator shall document all aspects of the investigation in a comprehensive investigative report that thoroughly describes physical, testimonial, and documentary evidence and that explains the reasoning behind credibility assessments and includes facts and findings. IID Detective Sergeant Nicodemus articulated during her interview that all aspects of an allegation are considered and documented during an investigation. This includes whether or not staff actions or inactions were the possible cause of an incident.

The reports reviewed during the audit include complete descriptions of any physical evidence (when applicable) as well as testimonial evidence relied upon when making a final determination as to the merits of the investigation. In all there were seven allegations of sexual abuse/harassment within the past 12 months at MCIW. All seven were reviewed.

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

(h): Maryland DPSCS directive IID.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, section .05(H)(6) states that follow-up investigative activities include, if appropriate, the IID will work with the prosecutor to develop the case for criminal prosecution. Upon interview with IID investigative Detectives, it is clear that every potentially criminal allegation is investigated by sworn police officers with the authority to conduct criminal investigations.

Those investigations containing sufficient evidence to merit prosecution are referred to the prosecuting attorney's office for prosecution. IID staff conducts criminal investigations of any allegation that appears to be criminal. Any criminal allegation that is substantiated is then referred for prosecution. This was verified during the various conversations held with different IID staff as well as during the formal interview with IID Detective Sergeant Ann Nicodemus.

(i): Section .05(D)(7)(e) states the investigation is maintained according to an established retention schedule, which requires that the report is maintained as long as the employee is employed by the Department or the inmate is under the authority of the Department plus five years.

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

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

(l): No outside agencies conduct investigations on behalf of the agency. Therefore, this portion of the standard is not applicable. Upon interviewing AW Briscoe, Dave Wolinski and Investigative staff, all stated they go out of their way to cooperate with any outside investigators if they were to be assigned. MDPSCS IID are sworn peace officers and do primarily conduct all investigations within the MDPSCS.

**Corrective Action:** RESPONSE - The agency updated and submitted Executive Directive OPS.050.001 and OPS.200.0005 as evidence that the requirement to interview suspected perpetrators has been added. Investigations show that all suspects are being interviewed. **115.71 is complaint at this time.**

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

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

relevant review period)

☐ Does Not Meet Standard (requires corrective action)

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

Maryland DPSCS directive IID.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, specifically states, in part, upon concluding an investigation involving an inmate as a victim of a sex related offense, the investigative detective shall make their determination regarding substantiating the allegation based upon a preponderance of the evidence. Title 12 Department of Public Safety and Correctional Services, subtitle 11 Office of the Secretary, states under Decisions and Orders that the presiding officer shall use a preponderance of evidence as the standard of proof, unless the standard of clear and convincing evidence is required by regulation or statute.

There was some confusion initially regarding whether the agency utilizes an evidentiary standard of "preponderance of the evidence" or "beyond a reasonable doubt" when conducting criminal investigations. However, this was clarified by the IID Captain who assured all investigations conducted by the IID utilize "preponderance of the evidence" to determine the outcome of their investigations and that "beyond a reasonable doubt" comes in to play only if the case goes to trial. A review of several investigations showed that a "preponderance of evidence" was in the fact the standard being utilized and investigations appeared to have appropriate findings. During interviews with IID Detectives, they did state that the preponderance of evidence is used when determining the outcome of sexual abuse and sexual harassment investigations.

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

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

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

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

(a): When reviewing the investigations conducted within the 12 months prior to this audit, the investigator indicated how and when the inmate was notified of the outcome of the investigation, which included the appropriate finding as stipulated in this standard. Additionally, the auditor was provided written verification of the notification for all investigations reviewed. In further support of this standard I reviewed MDPSCS directive IID.110.0011, Investigating Sex Related Offenses, effective April 1, 2014, which 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.

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

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

(d): Agency directive does stipulate that the alleged abuser will be informed if the abuser has been indicted related to sexual abuse within the facility or that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

(e): Investigative staff indicated that all notifications were documented and retained as mandated.

(f): Agency directive does specifically state *the victim reporting requirements shall terminate at the time the victim is released from Department custody.*

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

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

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

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

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

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

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

(d): Maryland DPSCS directive OSPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015, outlines an employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to a penalty under the Standards of Conduct, up to and including termination of employment with the Department, criminal prosecution, and if applicable, notification of a relevant licensing authority. The agency indicated there were no instances of employee terminations in past 12 months. The agency did provide the most recent investigation available (2013) demonstrating compliance with the standard.

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

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

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

(a): MDPSCS indicated there were no instances of employee terminations in past 12 months. MDPSCS did provide the most recent investigation available (2013) demonstrating compliance with the standard. To further support this standard, I reviewed MDPSCS directive OSPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015. This directive states an employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct, and is subject to a penalty under the Standards of Conduct, up to and including termination of employment with the Department, criminal prosecution, and if applicable, notification of a relevant licensing authority.

(b): The agency had no instances of termination for this reason in the last 12 months. Agency documentation titled “Standards of Conduct & Internal Administrative Disciplinary Process” states, Third Category Infractions are the most serious and include, among other things, unprofessional personal relationship or contacts with inmate, offender or client. Third category infractions shall result in termination from State service. AW Briscoe indicated during her interview that volunteers and contractors are treated the same as any MDPSCS employee in regards of allegations related to sexual abuse and sexual harassment and appropriate measures would be taken in the event an incident arose and further contact with inmates would be prohibited.

(c): Maryland DPSCS directive OSPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015, outlines an employee who was determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to a penalty under the Standards of Conduct, up to and including termination of employment with the Department.

The agency directive does not specifically state the discipline shall be “commensurate with the nature and circumstances of the acts committed, the staff members disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.” However, the detail of the directive adheres to the overall intent of the standard in the way the agency enforces rules and regulations and administers discipline.

(d): Maryland DPSCS directive OSPS.050.0030, Sexual Misconduct-Prohibited, effective June 26, 2015, outlines an employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to a penalty under the Standards of Conduct, up to and including termination of employment with the Department, criminal prosecution, and if applicable, notification of a relevant licensing authority. IID staff did indicate that in the case of an employee being terminated due to sexual misconduct, it would absolutely be referred for prosecution and any relevant licensing bodies.

#### **Standard 115.78 Disciplinary sanctions for inmates**

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

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

(a): MCIW Facility Directive MCIW.020.0026.1 indicates the facility prohibits all sexual activity between inmates, inmates and staff, inmates and volunteers, inmates and contractors, inmates and volunteers and inmates and interns. The directive also indicates inmates are subject to formal disciplinary action following an administrative and/or a criminal finding that the inmate engaged in inmate-on-inmate coerced sexual abuse and/or non-consensual sexual conduct with staff.

MCIW reported on the PAQ that there were no instances of administrative or criminal findings in the past 12 months of inmate on inmate sexual abuse. AW Briscoe indicated that inmates are written misconducts in the event they are found to have engaged in inmate on inmate sexual abuse and the facility makes every effort to assure the victim is protected from any further interaction with the perpetrator. I also reviewed MDPSCS directive OSPS.200.0004, Inmate on Inmate Sexual Conduct-Prohibited, effective November 13, 2015, which states that an inmate may not commit, participate in, support, or otherwise condone sexual conduct. DPSCS Title 12, Chapter 27 details how inmate discipline is handled, including inmate sexual abuse.

(b): The agency directive does not specifically state the discipline shall be “commensurate with the nature and circumstances of the abuse committed, the inmate’s disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.” However, the detail of the directive appears to adhere to the overall intent of the standard in the way the agency enforces rules and regulations and administers discipline. AW Briscoe indicated that if an inmate was to be found guilty either administratively or criminally of inmate on inmate sexual abuse incident, the prisoner is not only subject to a new sentence, they could also receive an institutional misconduct which could result in sanctions for the prisoners. AW Briscoe stated the sanctions are proportionate to the nature and circumstances of the abuse committed and the prisoners mental health status is taken into consideration when determining these sanctions.

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

(d): MCIW Facility Directive MCIW.020.0026.1 states the facility shall offer therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for abuse. The facility shall consider whether to require the offending inmate to participate in such interventions as a condition of access to programming or other benefits. Mental Health staff interviewed did state that they do see inmates that have alleged sexual abuse and perpetrated sexual abuse and upon assessment of the inmate, it is then determined if further treatment or services are needed.

(e): DPSCS did not provide any documentation to support that the agency may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact. MCIW Facility Directive MCIW.020.0026.1 states inmates are subject to formal disciplinary action following an administrative and/or a criminal finding that the inmate engaged in inmate-on-inmate coerced sexual abuse and/or non-consensual sexual conduct with staff. No misconducts were written at MCIW in the past 12 months for any allegations investigated under PREA or against any inmate or sexual conduct with staff.

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

MCIW Facility Directive MCIW.020.0026.1 #28 and #29 prohibits disciplinary action for a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred, even if an investigation does not establish sufficient evidence to substantiate the allegation. No misconducts were written at MCIW in the past 12 months for any allegations investigated under PREA.

(g): Maryland DPSCS directive OSPA.200.0004, Inmate on Inmate Sexual Conduct-Prohibited, effective November 13, 2015, states that an inmate may not commit, participate in, support, or otherwise condone sexual conduct. MCIW Facility Directive MCIW.020.0026.1 indicates the facility prohibits all sexual activity between inmates. MCIW staff indicated that there were no reported instances of inmate on inmate consensual sexual conduct in the past 12 months. Staff reported that they would definitely respond to all instances as required under PREA standards and further investigate to determine if in fact it was consensual or sexual abuse.

**Corrective Action Plan:** RESPONSE - The agency updated and submitted Executive Directive OPS.050.001 and COMAR 12.03.01 Operation Inmate Discipline as evidence to address the discipline of inmates who engage in sexual contact with staff. **115.78 is complaint at this time.**

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

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

☐ Does Not Meet Standard (requires corrective action)

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

(a-c): Upon interviewing MCIW Case Management staff, it was stated that during the screening process, if an inmate discloses she has ever experienced sexual victimization, or ever been the perpetrator of sexual victimization, she 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 me with multiple referrals to show that this process is in fact taking place at MCIW. MCIW's intake and screening process is outstanding. In further support of this standard I reviewed 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 does not address that the "perpetrator" will be offered a follow-up with medical or mental health practitioner within 14 days of the intake screening.

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

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

The agency did not provide any documentation supporting that there is a requirement to receive informed consent. An interview with MCIW's Medical Head indicated that they would obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting. MCIW does not house inmates under the age of 18.

**Corrective Action Plan – RESPONSE** - The agency provided Wexford Health's Procedure in the Event of Sexual Assault, Mental Health Informed Consent form and the Department of Public Safety and Correctional Services Office of Clinical Services/Inmate Health Medical Records Manual, Chapter 1 – Consent to Treatment, as evidence to address the informed consent issue. **115.81 is complaint at this time.**

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

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

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

(a): An interview with medical staff indicated that follow-up treatment for alleged victims and perpetrators will be administered immediately and at no cost to the inmate. Timely and unimpeded access to medical treatment will be provided as necessary, as a result of any incidents, at no cost to inmate victims of sexual assault. The agency and MCIW has met all requirements of this standard. To further support this standard, I reviewed Executive Directive, OSPS.050.0030-Sexual Misconduct-Prohibited (effective June 26, 2015), which 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 MCIW staff were well informed with what steps they are to take in the event that there are no available mental health or medical staff on duty at the time of a report of sexual abuse. Staff stated they would separate the victim and assure that the on call medical or mental health staff was contacted. MCIW staff did state that there are medical staff available at the facility 24 hours per day.

(c-d): Security staff and non-security staff interviews indicate medical and mental health services are provided to victims at no cost to the victim. In further support of this standard, I reviewed MDPSCS Office of Clinical Services/Inmate Health, Medical Evaluations Manual, Chapter 13-Sexual Assault on an Inmate, which 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 and pregnancy (females). With regard to section (d) of this standard, the Executive Directive OSPS.200.0004, Inmate Sexual Misconduct, as well as the Medical Evaluations Manual, Chapter 13, requires that the victim shall be offered medical treatment at no financial cost regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

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

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

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

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

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

(h): The Medical Evaluations Manual, Chapter 13, section K, requires that the alleged abuser shall be offered a mental health evaluation within 30-60 days of the alleged assault or abuse.

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

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

☐ Does Not Meet Standard (requires corrective action)

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

(a-e): Agency directive DCD 110-22 Reduction in Violence indicates the Maryland Division of Corrections has a zero tolerance policy of acts or threats of ALL violence in its facilities. The directive states each Warden shall establish a "Reduction in Violence" committee for the purpose of reviewing and identifying strategies and initiatives to reduce levels of violence in the institution. The committee shall minimally be comprised of the following members: security chief, major, intelligence officer, training coordinator, case management, social worker, psychology, sergeant, CO II and chair of Incident Assessment Team. The warden shall review and approve any recommended actions or strategies and report monthly to the Assistant Commissioner – Security Operations via the Regional Commissioner. Facilities may conduct PREA Incident Reviews during these Reductions in Violence meetings.

MCIW has incorporated PREA sexual abuse incident reviews into this meeting and conducts a sexual abuse incident review at the conclusion of every sexual abuse investigation, regardless of the finding, including those that are determined to be unfounded.

The review team, as observed during a scheduled incident review meeting, is comprised of the Warden, PREA Compliance Manager, Chief of Security, Major, Captains, Lieutenants, Intelligence Officer, Investigator, Training Coordinator, Case Management and other custody supervisors, as well as medical and mental health staff and housing and custody staff.

Through specialized staff interviews with AW Briscoe, review of documentation and the observation of an actual Incident Review Team in progress; it is evident that MCIW conducts regular "Violence Reduction" incident reviews as required by the agency. These reviews are conducted meeting all of the same requirements as sexual abuse incident reviews. During the incident review, the auditor witnessed discussion which included any necessity for change in policy or procedure which would help prevent, detect and respond to sexual abuse, possible motivation for the incident such as race, ethnicity, gender identity, and/or gang affiliation. The review team also discussed the location of the incident with regard to possible physical plant issues that may have contributed to the incident and assessed staffing levels, as well as monitoring technology to augment or supplement staffing these areas.

The interview with AW Briscoe and review of an Incident Review report supports that the findings from the sexual abuse incident review are detailed in the report including any recommendations for improvement and corrective action, as well as any identified problems areas; these reports are submitted to the Warden and PREA Compliance Manager for review and approval. As required by this standard and the agency's directive, the Warden works with the PREA Compliance Manager to ensure that reporting requirements are performed, recommendations for improvement are implemented, or reasons for not implementing such recommendations are documented.

In addition, it is evident through interviews, discussion, incident reviews and daily operation at MCIW that the Warden and the PREA Compliance Manager communicate and work in conjunction with the PREA Committee to communicate PREA compliance and related issues necessary for the Department's PREA reporting requirements. MCIW administration and staff have shown that there is a tremendous effort by the facility as a whole to maintain a safe environment and protect inmates from sexual abuse and exceeds the requirements of this standard.



The Agency does have a directive in place mandating these incident reviews take place and it meets all requirements of this standard. Executive Directive COS.020.0027-PREA Investigations-Tracking and Review (effective March 20, 2014), section .05- Responsibility, states in part that a review team, consisting of upper level facility management, shall review all sex related offenses that are investigated, unless determined to be unfounded, within 30 days after the investigations is concluded and shall have input from line supervisors, investigators and medical and mental health practitioners concerning the incident.

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

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

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

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

(b),(c), (f): Subsection B of OSPS.020.0027 states the IIU shall uniformly collect and maintain data for each reported allegation of sexual abuse at correctional facility under the authority of the Department that, at a minimum, is necessary to respond to data reporting required by the Survey of Sexual Violence conducted by the Department of Justice. Subsection B-4 states by June 30 of each calendar year, report sexual violence data from the previous calendar year to the Department of Justice.

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

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

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

(f): Executive Directive COS.020.0027-PREA Investigations-Tracking and Review (effective November 13, 2015), states that the Department shall uniformly collect accurate data for every allegation of sexual abuse from each correctional facility under the authority of the Department.

With regard to section (a) of this standard which requires that a standardized instrument must be used to collect data for every allegation of sexual abuse, the agency's policy (section B), indicates that the IID shall develop the forms to be used for the collection of data for allegations of sexual abuse at the DPSCS correctional facilities. Section C, requires that the PREA Coordinator shall aggregate the incident-based sexual abuse data annually.

The DPSCS's PREA Reporting Incident-Based Data Collection requires that data collected shall be sufficient to answer all of the questions from the Bureau of Justice Statistics Survey on Sexual Violence; this document specifically lists the details of the data to be collected. Section C, also requires that the PREA Coordinator shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigative files and sexual abuse incident reviews.

The DPSCS's 2015 Survey of Sexual Victimization was reviewed and the survey supports that the agency has collected and aggregated the data as required by this standard, and has submitted this information to the United States Department of Justice/Bureau of Justice Statistics by June 30 as required. The DPSCS PREA Annual Report has also been reviewed, which supports that the agency obtains incident-based and aggregated data from all DPSCS facilities to include Threshold which is a private Pre-Release facility contracted by DPSCS. Annual reports for 2013, 2014, and 2015 were available and reviewed on the agency website. Staff interviews also support that sexual abuse statistics are tracked by IID. All sections of this standard (a-f) have been met.

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

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

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

(a)-(b): Special Assistant Martha Danner indicated during her interview that they look at stats, try to determine if there are trends that need to be addressed, including administrative staffing changes when necessary. AW Briscoe also indicated they are continually looking at incidents of all kinds to make improvements at the facility in order to curtail any future incidents. AW Briscoe stated when direction from the agency is received related to improvements and process changes, facility operating procedures are addressed and the changes are adhered to timely.

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

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

Executive Directive COS.020.0027-PREA Investigations-Tracking and Review (effective November 13, 2015), section .05-Responsibilities, requires that the data collected and aggregated is compiled into an annual report, as well as assessed by the Department to improve the effectiveness of its sexual abuse prevention, detection, and response, policies, practices and training to include identifying Department-wide problems, and facilitating corrective action.

In addition, as required by section (b-d) of this standard, the above listed Executive Directive also states that the annual report shall compare the current calendar year's data and activities with that available from previous years and shall be approved by the Secretary and made available to the public through the Department's public website.

This is also evidenced by review of the DPSCS PREA Annual Report, which was signed and approved by Stephen T. Moyer, Secretary of the DPSCS and was able to be found on the Department's website (<http://dpscs.maryland.gov/prea/docs/PREA-Report-2015.pdf>). Also, indicated in the Directive listed above in section 3f, the Department shall redact information that would present a clear and specific threat to the safety and security of a correctional facility, while indicating the nature of the redacted information.

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

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

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

(a)-(d): The agency IID conducts, collects and securely retains all data related to allegations of sexual abuse and sexual harassment occurring within the agency.

This was confirmed during an interview with the PREA Coordinator Dave Wolinski. The availability of the data is limited to IID staff and the agency's leadership/administration. The agency PREA Coordinator develops an annual report utilizing this data and posts it on the agency's website. No personal identifiers are utilized in the report; therefore, there is no need for redaction.

#### **AUDITOR CERTIFICATION**

I certify that:

- ☒ The contents of this report are accurate to the best of my knowledge.
- ☒ No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and

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

Christine D. Wakefield-Shepard

Auditor Signature

10-5-2017

Date